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THE AMERICAN INDIAN LAW CENTER: AN INFORMAL HISTORY

PHILIP S. DELORIA*

INTRODUCTION

In the fall of 1966, Dean Tom Christopher of the University of New Mexico School of Law noted the dearth of Indians in the legal profession and the lack of Indian applicants to the law school and decided to do something about it. He suggested to Fred Hart, a visiting professor from Boston College Law School, that Hart develop a program to increase the number of Indian law students and, hence, the number of Indian lawyers.¹ As Hart tells the story,² he initially declined the offer on the grounds that it was too remote from his field of commercial law and that, as an Easterner, he was unqualified to deal with the complex cultural problems such an undertaking would entail. Hart's wife Joan caused history to be made by insisting that the grounds Hart considered disabling were instead the very reasons for him to accept the challenge. The results of Joan Hart's uxorial ruling include the creation of the Special Scholarship Program in Law for American Indians, now called the Pre-Law Summer Institute; a virtual legal revolution in Indian affairs (as of 1993 an estimated 1500 Indian lawyers work in all fields of Indian affairs, well over half of whom were assisted by the Program); and the creation of the American Indian Law Center. Today, the American Indian Law Center, Inc., is an independent non-profit, Indian-controlled research and policy center, still located at the University of New Mexico, housed in the School of Law, and running the pre-law program. It is the oldest Indian policy studies organization in the nation.

THE SPECIAL SCHOLARSHIP PROGRAM

Professor Hart designed a pilot program consisting of an intensive summer session for 20-30 Indian students who would then be placed in law schools throughout the nation, including the University of New Mexico. The summer pre-law session would be followed by scholarship assistance for the students and informal counseling throughout their law

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1. Thomas W. Christopher & Frederick M. Hart, *Indian Law Scholarship Program at the University of New Mexico*, 2 U. TOL. L. REV. 691 (1970); see also, Heidi H. Estes & Robert Laurence, *Preparing American Indians for Law School: The American Indian Law Center's Pre-Law Summer Institute*, 12 N. ILL. U. L. REV. 278 (1992).

2. The story of the origin of the law program is part of the folklore of both the American Indian Law Center, Inc., and the University of New Mexico School of Law. This account was verified with Professor Hart to distinguish fact from myth-making as much as possible.

school careers. Seeking funding, he successfully approached Dick Frost of the Upward Bound Program at the Office of Economic Opportunity.³ The original concept was similar to Upward Bound, although at the next educational level, offering an eight-week summer session at the law school mainly for Indian students who had completed college but also including a few undergraduates.⁴ The program would help students decide whether they might like law school,⁵ and—in case they decided to attend—provide them with some experience in briefing cases, using the law library, surviving the Socratic method and other rigorous features of first year law school.

As any competent, responsible scholar would do, Professor Hart consulted the experts in Indian education, who told him that the simulated law school experience would present such a culture shock to Indian students that he should batten down and prepare for the worst, equipping the program with a cadre of social workers, psychiatrists and anthropologists. As a sensible scholar would do, Hart ignored the expert advice and conceived of the program as any other soundly designed educational enterprise: a program which would maintain high standards and yet be sensitive to and attempt to meet the needs of the students as individuals, whether those needs might arise from the students' cultural, economic, social or personal background. Professor Hart decided he needed to identify the barriers faced by Indian students—first to law school admission, and second to completion of law school. Then he simply had to design a program that would assist the program participants to overcome those barriers. Professor Hart identified numerous "lacks" constituting the major barriers to the admission of Indian students to law schools. They were the lack of: confidence on the part of the students in their ability to become lawyers and their ability to perform in law school; role models in the form of visible Indian lawyers; adequate preparation at lower educational levels, especially in writing; knowledgeable placement and counseling at the elementary, secondary and college level; knowledge of law school admissions on the part of the applicants; and the ability to perform well on standardized tests.

The principal formal barrier, however, was inherent in the admissions process itself as conceived at the time. Admissions criteria were based on standard American middle class assumptions and measurements: un-

3. Upward Bound was a well-established component of the Great Society which encouraged children of poor families to attend college by providing a mock-college session on a college campus to expose the students to the experience of attending college, followed by supportive and enrichment programs when the students returned to their high schools. According to the Hart-Christopher article, *supra* note 1, at 693 n.3, the Bureau of Indian Affairs contributed 10% of the program costs.

4. The program soon stopped recruiting other than college graduates. The combined "Headstart/Upward Bound" analogy taught that students lost the momentum and many of the benefits of the summer program if they had to return to college for another year before entering law school.

5. The program also soon abandoned the "look-see" aspect and sought students who had already decided they wanted to attend law school, of whom there were more than a sufficient number. This change indicated that, at least up to the point of the program's capacity 35-40, there was not a need to convince students to consider law school for the first time.

dergraduate grade point average; LSAT score; well-rounded undergraduate activities; volunteer work and so on. No one seriously thought that these criteria measured ultimate human value, or (in the *Duke Power*⁶ sense) that they measured precisely the qualities of the best law students or lawyers. But law schools needed some fair and reasonably objective bases for comparing applicants, many of whom were nearly equally qualified.

Minority groups had not as yet been able to convince law schools that their exclusion based on the standard criteria was needlessly damaging to them, to society, and to law schools. Nor had they been able to challenge the prevailing standards by demonstrating successfully that a class of students—Indian students, in this case—whose systemic disadvantages caused them to rate low by the standard criteria could demonstrate through alternative means their ability to succeed in law school. The summer program for Indian students, named the “Special Scholarship Program in Law for American Indians,” was able to offer an alternative basis for the admission to law school of Indian students who did not necessarily fit the mainstream standards—a performance test.⁷ It is largely overlooked in the history of legal education that this performance-based program for a minority was the first such program in the nation, predating the more famous CLEO⁸ program by one year.

Professor Hart made several decisions that were to prove to be key to the remarkable success of the program. First, he decided to stick to his area of expertise: legal education. The romance of working with Indian students would suggest other goals to tempt many do-gooders, but Hart is a legal educator. The fairness of the American legal system to Indian tribes; the responsibilities of the students to their communities; the development of new legal theories to advance Indian interests in the American legal and political system; the neo-colonial adventure of training a new generation of leaders of “emerging nations,” all beckon one who might establish a pre-law program for Indian students. Hart reasoned that these important questions probably should be addressed by the students themselves in the course of their law school careers and subsequent practice. But it was up to Indian families and communities to define their social responsibilities as Indian people. The program’s job was to make Indian students successful law students. The law school’s job was to make lawyers out of them. And, it was the students’ responsibility to decide whether to use their legal education to change

6. *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971) (Holding that an employer was prohibited by the Civil Rights Act from requiring a high school education or passing of a standardized general intelligence test as a condition of employment where neither standard was related to successful job performance and both operated to disqualify black applicants substantially more often than white applicants.).

7. Law schools are understandably wary of a performance standard since law school admissions, after the “first look,” is largely not a process for determining who can perform successfully in law school but who will be given the opportunity to do so.

8. The Council on Legal Educational Opportunity is a coalition of organizations operating pre-law summer programs at various law schools throughout the country. It targets the economically disadvantaged, mainly minorities.

society, to serve their tribes or, like the vast majority of their law school colleagues, to make a living.

Professor Hart also realized that, romantic aspirations notwithstanding, an eight-week summer program would not be able to serve successfully as an activist training center, or help a student overcome severe language difficulties or fully compensate for inadequate education up to the college level, and then still prepare students to survive in law school. Had there been any doubt on whether the program should be heroically remedial, the first few summer sessions made it clear that some students, regardless of their innate intelligence, would not make it in law school and would either have to choose another career or, if they were determined to enter law school and succeed, to seek intensive remedial work in another forum.⁹

The program's goal, then, was simply to produce successful Indian law students. If everyone else did *their* jobs, the Indian students would eventually become lawyers and serve their Indian communities and the nation. In order to achieve that goal, the program had to maintain its integrity, both with its student participants and with law schools. The students expected to receive the program's best efforts in the admissions process, but also recognized that the program was not going to place students who had no chance of success and who would experience failure unnecessarily. For the first few years of the program some students were told that the program could not recommend them for law school admission. Although this decision was made in the best interest of the student, it was threatening to the refunding prospects of the program given the natural bureaucratic tendency to measure program success by the number of placements. It was, however, deemed to be neither in the long-term interest of the program nor fair to the student to place her or him in law school only to fail. Making this judgment accurately with a student population possessing a unique profile of abilities was, of course, the skill that had to be developed overnight by the program staff.

The program also had to build relationships with law schools throughout the nation. Although some students in each summer's class had been admitted to a law school, many (sometimes more than half) had to be placed in a school to which they had not applied—a difficult task even in pre-*deFunis*¹⁰ days. Many other programs would have addressed this

9. The Federal Privacy Act, 5 U.S.C. § 552a (1988), rightly prohibits identifying students publicly, but it can be said that Indian affairs and many tribes have benefitted unexpectedly from two categories of program participants: summer students who did not subsequently attend or complete law school, but returned to their tribe and used their limited legal education from the summer program or a few semesters in law school in tribal government positions; and students about whom the program was wrong, i.e., who seemed to have no chance in law school but, by virtue of heroic motivation and determination, gained admission, graduated and went on to have productive careers.

10. *DeFunis v. Odegaard*, 416 U.S. 312 (1974) (Applicant denied admission to law school sought injunctive relief claiming admissions process violated his constitutional rights. The injunction was granted and appeals followed. Court declined to reach merits, declaring the case moot because petitioner was in his final quarter of law school when the case reached the Court.); *Regents of Univ. of Calif. v. Bakke*, 438 U.S. 265 (1978) (White male denied admission to medical school filed reverse discrimination suit and Court held that the special admissions program was illegal, but race could be considered in admissions process.).

issue by hiring a placement officer to learn about law schools and their admissions procedures as well as begin to build relationships with law school admissions officers throughout the nation. In another fortuitous choice, the Assistant Dean for Admissions at the University of New Mexico Law School undertook to place the summer program students. The Assistant Dean, Hunter Geer, was already a well-respected member of the fraternity of law school admissions officers, and his credibility in the field was credited to his judgments about the summer Indian students¹¹ as well. The program quickly gained a reputation among law schools for being accurate and honest in its recommendations, rather than shortsightedly running up the score with placements of students who would not be successful.¹²

With a good recruitment program, a rigorous academic program, and an honest placement effort, the program established its reputation among law schools and thereby helped remove the major barriers to law school admissions for Indians in a way that could not long be ignored. All of the students who were deemed able to survive in law school were placed, as has been the case in every summer since the first. This is not to say that all law schools opened up like Jericho. Even today some law schools have little concern for Indian students, either in the admissions process or during their law school careers if the students are admitted. Yet, the Special Summer Program in Law for American Indians breached the most important barrier by demonstrating the arbitrariness of traditional standards, shifting the burden to the holdout schools to defend their admissions criteria.

Having breached the walls, Hart and his colleagues, in consultation with knowledgeable people in Indian education, had then to consider the barriers to the success of Indian students in law school. The first and most significant such barrier, it was thought—accurately, as it turned out—was financial aid. Most Indian students who drop out of school do so for financial reasons. This was particularly true in the case of law students, since most of the Indian student population tended at that time to be older students with families, whose financial needs were relatively greater than those of their generally younger, unmarried non-Indian classmates. To help overcome this barrier, the program had a generous (for its time) financial aid package which was part of the Special Scholarship Program grant and administered by Hart and his staff, rather than by the individual schools or by the Bureau of Indian Affairs. This control of financial aid and the flexibility Professor Hart built into the program gave him the discretion to adapt the financial packages to each student and to meet emergency needs. From the beginning and until the last few years of the scholarship component of the program in 1986,

11. Not, of course, the "Indian summer students;" the program was held in June and July.

12. The Pre-Law Summer Institute now handles placement in-house using the services of the program director, Heidi Estes. The program's reputation with law schools for honesty has never been tarnished.

checks were mailed out monthly to students, not to tantalize them, but to keep in touch with the students over the school year. For example, many problems requiring informal counseling were revealed in chatty notes accompanying the monthly receipts that were returned by students from each financial aid check.¹³

The second presumed barrier to success in law school was based on a bit of conventional wisdom that may or may not be true, but is virtually a theorem of Indian education. That is, that culturally, Indians tend to be "shy," less willing than non-Indians to speak in class or to call attention to themselves in front of their classmates and become more embarrassed than non-Indians by mistakes made in class. If true, this pattern of shyness could certainly be crippling in the hazing process of the Socratic method, with its boot camp-like toughness. Whether this attribution is true, or more true of Indians than others, it is almost self-evident that if *any* student has eight weeks to experience the first semester of law school under dry-run conditions, he or she will find it easier under "game" conditions in the fall. The added advantage, it was presumed, was that undergoing this trial in the company of fellow Indians was somehow less traumatic than doing so in a school where one might be the only Indian student.

The company of fellow Indians was considered to be an important factor, but in a different sense was also thought to carry over into the school year as well. Indian law students experienced a unique sense of isolation; many were, in fact, the first Indians to attend their particular law school and were the only Indian students there at the time. Those who attended western law schools often felt that they had infiltrated the enemy's boot camp. The Law Center pre-law summer program built a cadre of Indian students in some schools like New Mexico, Oklahoma, Arizona State, and the University of California at Los Angeles.¹⁴ But as countless students have testified, the network from the summer program provided great comfort to many isolated Indian law students over the years and created a national sense of community among Indian lawyers tied together by the summer program experience.¹⁵ Had these people

13. The program characteristically uses the term "informal counseling." Typically, a student may have informed the program of an academic problem, and Professor Hart or the staff who later replaced him might have been able to discuss the problem with the student and suggest a strategy or, in some cases and always with the consent of the student, discuss the problem with the student's school administration. Sometimes tutoring was arranged and, in a few cases students were allowed to take a lighter than usual course load for a semester to aid in recovering from a personal problem.

14. The program has assisted students in more than 65 schools throughout the nation. A few schools, largely from states with large Indian populations, have maintained from the beginning a continuing policy of recruitment and retention of Indian law students. Others have a brief flurry of interest and recruitment, followed by a down period. The distinguishing factor proves to be a faculty member with an interest in Indian law who, after a flash, either loses interest or moves to another job or school.

15. At the national conference of the Indian Section of the Federal Bar Association, a meeting attended by upwards of 300 people each year, Mike Anderson (Creek, summer pre-law program 1981), then Executive Director of the National Congress of American Indians and presently Associate Solicitor for Indian Affairs of the United States Department of Interior, began his remarks to a seminar by identifying himself according to the year he attended the summer program.

attended separate law schools without the summer program, their ability to share experiences throughout the country and collaborate on similar legal problems would have been delayed indefinitely. In this sense, the summer program has played a role for the Indian bar similar to that of a state law school for a state bar.

The absence of a specific remedial focus enabled the program to attract students with a wide range of abilities, including a good number who would have gained admission and most likely succeeded without the program. This mix helped all of the students to approach law school with less of a sense of "affirmative action unworthiness." It also raised the level of performance throughout the summer program and made possible the sense of community enjoyed by virtually all of each year's entering group of Indian law students which has led to the remarkable sense of organization of the Indian bar throughout the nation.

After the first year as an Upward Bound pilot project, the program was funded by the Indian Desk of the OEO Community Action Program, the source of many innovative programs in social services, economic development and related fields during the salad days of the Office of Economic Opportunity (OEO).¹⁶ Finally, in 1971 funding responsibility was transferred to the Bureau of Indian Affairs Branch of Education, where it has remained ever since. Although the Special Scholarship Program in Law has been by far the most successful program ever funded by the Bureau of Indian Affairs, measured by graduation rate and certainly in terms of impact on Indian affairs, the program has never been included in the formal budget of any administration. During most of the period 1971-86, the program was funded out of general Higher Education funds. In 1986, funding for the program was cut off by then-Assistant Secretary of Interior Ross Swimmer, a Cherokee lawyer who had not participated in the program. Subsequently, through the volunteer lobbying efforts of Pawnee/Comanche lawyer Kevin Gover (summer program 1978; University of New Mexico School of Law, J.D. 1981) and his law firm, Gover, Stetson, and Williams, the summer program—stripped of the scholarship component and renamed the Pre-Law Summer Institute—has been placed in the Bureau of Indian Affairs budget by Congress every year.

The achievement resulting from Professor Hart's foundation has been remarkable. The overall design of the program has varied little from the original pattern set by Hart over the first three years. At the outset, Hart and Christopher conducted a brief survey and could find fewer than 25 Indian lawyers in the nation and about 15 Indian law students. Present estimates of Indian lawyers exceed 1,500; law students about 250. The impact has been impossible to measure because it has been so great. Indian lawyers, summer program alumni, are found throughout Indian affairs: tribal attorneys; tribal chairpersons; tribal chief justices, supreme

16. As one of the scattered remnants of OEO like the Job Corps, Headstart and the like, the old Indian Desk of the Community Action Program is now the Administration for Native Americans in the Department of Health and Human Services.

court justices, trial court judges (as well as a growing number of state and municipal judges); tribal attorneys general (and one state attorney general); and a United States Attorney (in the Carter Administration). Indian lawyers can be found throughout the Interior Solicitors Office, the Bureau of Indian Affairs, the House Subcommittee on Native American Affairs and the Senate Select Committee on Indian Affairs staffs. Indian lawyers have their own law firms and serve as executive directors and staff attorneys in many national and regional Indian advocacy organizations.¹⁷ Two Assistant Secretaries for Indian Affairs in the Interior Department have been summer program graduates, Tom Fredericks and Ada Deer, along with at least four Deputy Assistant Secretaries who have been summer program alumni or who were helped in law school with financial assistance.

The success of the Special Scholarship Program has helped to define several underlying policy issues in Indian affairs and in American Indian education which have yet to be addressed definitively. In the early years of the program, its remarkable success attracted many of the best students of their generation to law school. This phenomenon may have had the effect of delaying somewhat the entry of Indians into other important professions, raising the issue of the impact of successful programs on higher education and general social development of tribes, i.e., a talent drain away from professions with no analogous program.¹⁸ Had the Bureau of Indian Affairs quickly capitalized on the success of the law program and tried to replicate it for other professions, the available talent may have been more evenly distributed throughout the professions and disciplines needed by Indian tribes to assist with their development—but then the revolution in Indian law and politics may have been delayed.

The other unresolved policy problem concerns the definition of the class of people to be helped by Indian programs in society in general. Although the program from the early years understood that in eight weeks it could not accomplish miracles for students with limited English and limited education, it could draw on a pool of educated Indian students who maintained strong connections with their tribes and intended to return to tribal communities to work. As the years have gone by and competition for law school admission has increased, both the program and law schools have faced an increasing number of what could be called "descendants of Indians," i.e., people who claim Indian blood but have little connection with Indian tribes or even the Indians in their own families. The program can maintain its focus by relying on the natural filter represented by the Bureau of Indian Affairs definition of eligibility for services. Law schools have no such luxury. To this point, law schools have not been able to define a workable definition of the Indian population

17. Licensed attorney and member of the Sisseton Sioux Tribe, Creighton Robertson (summer program 1972) was recently elected Bishop of the Episcopal Diocese of South Dakota, demonstrating the difficulty of predicting at the outset all the anticipated benefits of a program.

18. A similar program for Indian medical students, INMED, has been in operation at the University of North Dakota since the 1970s, funded by the Indian Health Service.

they are aiming to reach. Some schools are earnestly seeking a definition which does not simply reward a fortuitous great-grandmother, while others are somewhat cynically unconcerned, content to accept any self-identified "Indian" at face value. The concern is based on more than the misuse of resources which should be available to Indian students. It is also directed at the consequences for legal education of law schools permitting students to gain admission by fraudulently claiming a status to which they are not entitled, raising serious questions about their future performance as lawyers.

THE FOUNDING OF THE AMERICAN INDIAN LAW CENTER

The launching of the Special Scholarship Program in Law for American Indians in 1967 had other effects as well. It sent a message throughout Indian country that the University of New Mexico School of Law, located—as the state's tourist brochures say—in the "Heart of Indian Country," indeed had an interest in Indian legal issues. Tribal governments in the region, particularly the Navajo Tribe and its judicial system, contacted the law school to determine the scope of its interest in Indian law and particularly in the development of tribal legal and governmental institutions. The law school took several small contracts to train tribal judges and court clerks. As interest in the law school's services mushroomed, however, a decision had to be made regarding the commitment the law school was willing to make to tribal governments. Professor Hart and Dean Christopher decided to create the American Indian Law Center to serve as an umbrella over the Special Scholarship Program and all other Indian service and research activities. At this time, in late 1968, the Johnson Administration was leaving office, and Hart and Christopher offered the first Directorship of the American Indian Law Center to the highly-respected Commissioner of Indian Affairs, Robert LaFollette Bennett, an Oneida Indian born and raised on his Wisconsin reservation (and, ironically, a Republican).¹⁹

Commissioner Bennett's contacts in the field led to additional projects from Indian tribes themselves and offers of assistance from several foundations to help launch the Law Center, notably the Donner Foundation and the Robert Wood Johnson Foundation. Bennett showed a particular interest in helping tribes develop tribal codes and in offering training programs for tribal judges, clerks and other court and government personnel. He also laid the groundwork for one of the most significant areas of activity throughout the Law Center's history, the development of tribal capacities in juvenile law, children's law, and family law. To help pursue these interests, Bennett hired Ms. Toby Grossman, a legal aid attorney from Albuquerque, who has, since joining the Law Center,

19. Commissioner Bennett had earned his law degree at night while stationed in Washington with the Bureau of Indian Affairs (BIA). During his lifelong career of service with BIA, Commissioner Bennett had become acquainted with virtually every tribal leader in the country and nearly every employee of the Bureau of Indian Affairs and the Indian Health Service.

attained national renown with her expertise in these areas. Building on Bennett's foresight, the Law Center has established and maintained leadership in juvenile justice, family law, children's law, social services; and related fields.

In addition to the work of Ms. Grossman, a number of Indian attorneys have provided leadership in the field of Indian family law and juvenile law while working at the Law Center. The Law Center has benefitted over the years from the work of such Indian lawyers as Thelma Stiffarm (Gros Ventre; summer program 1970), who was Assistant Director of the Law Center during the mid-70's and under whose leadership the Model Children's Code, the first in the nation, was developed; and Nancy Tuthill (Quapaw, summer program 1975), who worked with Ms. Stiffarm on the Model Children's Code, served as Assistant Director, Acting Director during my leave in 1980 and during my sabbatical in 1985-86. Ms. Tuthill remained with the Law Center until 1986. Ms. Tuthill further developed the Law Center's national leadership in various family law and related fields, expanding to include capacity building in the general area of social services administration.

After three years as Director of the Law Center, Commissioner Bennett retired in 1972, and appointed me in his place. I am a Standing Rock Sioux who joined the staff in 1971 to administer the Scholarship Program. Although Mr. Bennett had built the Law Center into a significant training and technical assistance institution, he had not made an irrevocable commitment to an overall direction. I was greeted with the opportunity to chart the direction of the Law Center for the future in broader fields of policy analysis. We were soon faced with the need to respond to developing issues and to evolve a comprehensive vision of Indian policy which has been the cornerstone of our contribution to Indian policy analysis over the years.

The basic problem with training and technical assistance programs in the early 1970's persists today. Whether they are funded by national contracts from federal agencies or by individual tribes, they are episodic and short-term in nature and directed at a small proportion of the total population in need of training. There are presently more than 150 tribal courts in the nation. To meet all their training needs adequately requires a varied program of offerings throughout the country, a commitment that the Bureau of Indian Affairs is for the most part ill-equipped to underwrite. If training is controlled by the individual tribes, an elaborate marketing program is required of the Law Center or a similar training institution. These considerations become even more complicated when applied to the less-defined training needs of other parts of tribal government. The Law Center, although remaining available for training and code development work, decided to explore other roles which would enable it to have a greater impact on the field of Indian affairs.

The opportunity to do so was presented fortuitously in mid-1972, in the course of a meeting of the Board of Directors of the National Tribal Chairmens Association, an organization of the 1970's formed at the suggestion of Robert Bennett to play the role in Indian affairs played

by the National Governors Association or the National Conference of Mayors for state and local government. While waiting at the Board meeting to present another issue, I heard the previous speaker, Bob Robertson of the National Council on Indian Opportunity (NCIO),²⁰ describe to the board a major organizational change in the way federal domestic assistance agencies handled the funding of Indian programs, a change designed to facilitate the administration's policy of regionalization. Essentially, the administration proposed the dissolution of agency Indian Desks, which had been the Washington-based funding mechanisms throughout the Great Society, as direct funding of Indian tribal governments by federal domestic assistance agencies increased greatly.

When the chairmen in attendance expressed their opposition to the change and described their fear that it would have a devastating effect on Indian programs, Robertson piqued my interest in the relationship of tribal governments to the structure of federal domestic assistance programs by saying, "We are not asking for your opinions. The decision has already been made, and we are simply here to inform you." As a result of this meeting and Robertson's arrogant representation of the administration, the American Indian Law Center volunteered to provide the staff support for a joint effort in opposition to the proposed structural change, led by the National Tribal Chairmen Association and the National Congress of American Indians. In the course of this effort, which involved intertribal meetings throughout the country, I became acquainted with the author of the Office of Management and Budget (OMB) study which was the basis of the proposed changes, called the FAR Report (for Federal Assistance Review). Over the period of three to four months as we debated the FAR Report before tribal audiences, the author, Sydney Freeman, an employee of the Office of Management and Budget, patiently explained to me the importance to tribal governments of federal management issues.

The structure of the federal domestic assistance program delivery system had not been considered important to tribal governments. Indeed, until the advent of the Great Society, tribal governments for the most part dealt only with the Bureau of Indian Affairs and the Indian Health Service within the federal government. But as domestic assistance programs, the hundreds of categorical grants available to state and local governments, grew in importance in the late 60's, some of them began to provide funding to tribal governments and tribes soon saw the potential importance to tribal development of these other programs and agencies.

Freeman explained that three major issues needed to be addressed if tribes were to take their place in the family of American governments

20. The National Council on Indian Opportunity (NCIO), created by Lyndon Johnson and continued by President Nixon, was an organization chaired by the Vice-President of the United States and composed of cabinet officers and tribal representatives. Its purpose was to coordinate federal Indian programs. Because of the limited participation by the Vice-President and the cabinet officers, the NCIO was subject to the propensity of the staff to meddle in Indian politics rather than address federal coordination issues.

and if they were to reap the maximum benefits from these valuable resources. First, Indian tribal governments were not even being served by the majority of the programs that were available to their state and municipal counterparts. For the most part, Congress simply had not addressed the issue of tribal participation explicitly in the authorizing statute, and the administering agency—assuming that all Indian needs were being met by the Bureau of Indian Affairs and the Indian Health Service—did not seek out tribal applicants. Clearly, Freeman said, if Indian tribes are federally-recognized, they should be recognized as governments throughout the federal government and not just by the Bureau of Indian Affairs and the Indian Health Service. And if Indian tribal governments are to be the relevant local government on Indian reservations, they should have access to the same assistance available to state and municipal government. Second, Indian tribes were not fully recognized as governments within the federal grants management structure. For example, the OMB Circulars²¹ outlining the rules for the administration of federal grants by grant recipients included Indian tribes with non-profits rather than with state and local governments. It was important, then, for tribal governments to insist that they be treated as governments uniformly throughout the federal system, both for the benefit of their own program administration and to establish in all respects their full governmental status vis-à-vis the federal government. And third, Freeman said, tribes should learn more about the federal agencies administering domestic assistance programs. The lesson of the FAR Report was that the Indian Desk model of funding—a small office in Washington funding tribes directly with set-aside funding from the agency's total appropriation—might have worked well with the Community Action Program and a few other agencies, but it made no sense in agencies administering hundreds of programs, such as the Departments of Housing and Urban Development or the then-Department of Health, Education and Welfare. For these departments, tribes must develop much more complex funding strategies and press the department to adopt them unless tribal governments were to be buried in the highly competitive race for funds.

In the course of many long conversations in which Freeman generously shared his enormous knowledge of federal administration, Freeman also changed some of his own views and agreed to modify the most objectionable recommendations of the FAR Report to conform to tribal positions. The result for the Law Center was a continuing interest in the importance of management issues to long-term tribal development prospects, at least insofar as federal funds were considered important.

As a followup to the FAR exercise, the NCIO conducted a study of the rate of tribal participation in federal domestic assistance programs, learning that of nearly 1,000 programs listed in the Catalogue of Federal Domestic Assistance Programs, only 78 served any Indian tribes at all,

21. OMB Circulars are the regulations issued by the Office of Management and Budget prescribing for the federal government certain rules of program administration.

and of that only 39 served more than one tribe. Fewer than 15 federal programs had a broad-based Indian effort under way. Conducting this study—known as FIDAP, or Federal Indian Domestic Assistance Programs—was a colleague of Freeman's, Robert Garlock, another OMB employee and long-time expert in federal administration. Soon after the completion of the FIDAP Study, the Law Center received funding from the then-Office of Native American Programs (now the Administration for Native Americans) to research the authorizing legislation to determine whether tribes were specifically included in program legislation, whether the eligibility provisions of the legislation could be read to include tribal governments or whether the legislation, by specifying "state governments and their subdivisions," for example, could not be read to include tribes.

The FIDAP and FIDAP legislation study created an interest on the part of the Law Center in the issues of structure and organization and their importance to tribal governments, including the structure of delivery systems and the place in them for tribal governments, and the importance of interagency coordination in funding Indian programs. In 1977, Garlock joined the Law Center on a two-year Intergovernmental Personnel Act assignment. At the completion of that assignment, he retired from federal employment and joined the Law Center staff on a full time basis. He continues to work as a consultant to the Law Center on federal and tribal organizational and management issues to the present day.

WORLD COUNCIL OF INDIGENOUS PEOPLES

In 1974, I was asked by a number of national Indian organizations, principally the National Congress of American Indians, to represent the Indians of the United States at a meeting organized by the National Indian Brotherhood of Canada. The purpose of the meeting was to determine the level of interest in the formation of an international organization of indigenous peoples. This meeting, held in Georgetown, Guyana, was attended by representatives of the indigenous peoples of Canada, the United States, Guyana, Colombia, Greenland, the Saami²² people of the Scandinavian countries, the Maoris of New Zealand, and the Aboriginal people of Australia. After several days of discussion, the group agreed upon the need for an international organization and resolved to convene a conference for the purpose of establishing such a structure. A second planning meeting for the organizational conference of what would come to be called the World Council of Indigenous Peoples, the first such organization in history, was held in Copenhagen, Denmark, in early 1975. I attended the meeting in Denmark and headed the delegation from the United States which also included Charles Trimble, Executive Director of the National Congress of American Indians.

The Organizational Conference of the World Council of Indigenous Peoples was held in November of 1975 in Port Alberni, Vancouver Island,

22. These are the people known commonly as Lapps, or Laplanders, a name objectionable to them.

British Columbia. Representatives of indigenous peoples from nineteen nations, mostly from the Western Hemisphere, attended the conference. George Manuel, the visionary President of the National Indian Brotherhood, was elected the first president of the World Council. I was elected the first Secretary General, to serve a two-year term. During this tenure, I was the first accredited indigenous person to the United Nations, representing the National Indian Brotherhood and the World Council as non-governmental organizations or NGOs, in United Nations parlance. The World Council played a role in convening the first and historic regional meeting of Central American Indian organizations sponsored by the Indian organizations of Panama.²³ The Law Center also helped to encourage submissions by indigenous organizations to the study of the conditions of indigenous peoples conducted by the United Nations Sub-commission on the Prevention of Discrimination and Protection of Minorities. The Law Center's involvement with the World Council ended with the expiration of my term as Secretary General in 1977. Although the Center's interest in the international protection of the rights of indigenous peoples continues, the bulk of its work is dedicated to domestic Indian affairs.

FORMATION OF THE AMERICAN INDIAN LAW CENTER AS AN INDEPENDENT INDIAN-CONTROLLED CORPORATION

In 1977, the American Indian Law Center became an independent, Indian-controlled 501(c)(3) corporation separate from the University of New Mexico. In fact, the Law Center had been operating from the outset as an Indian-controlled entity within the law school with complete autonomy as to policy and substantive matters. The impetus for the Law Center's separation from the University came from funding agencies. The Bureau of Indian Affairs pointed out that the annual renewal of the Special Scholarship Program in Law contract could be facilitated under the "Buy Indian" Act if the Law Center were an Indian contractor. Foundations advised that under recent amendments to the Internal Revenue Code, their reporting requirements to Internal Revenue Service (IRS), under lobbying restrictions, were more burdensome when grants were made to a public university than if the Law Center became a 501(c)(3) corporation.

In 1977, the American Indian Law Center became incorporated under New Mexico law. In addition to myself as Director, the original board members included Ben Hanley (Navajo), then of the Navajo Nation Legal Department and a long-time member of the Arizona House of Representatives (summer pre-law program 1967); Joe DeLaCruz (Quinault),

23. As an omen of the future of international indigenous affairs, this meeting organized by Central American Indian Organizations was interrupted by a group of anthropologists, with a few Indians in tow, announcing an upcoming conference of indigenous peoples in Geneva in 1977, billed as "the first international meeting of indigenous peoples organized by indigenous peoples." So much for the fabled anthropologists' training as observers.

Chairman of the Quinault Indian Nation; Forrest Gerard (Blackfeet), former professional staff member of the Senate Interior Committee specializing in Indian affairs; Tom Fredericks (Mandan), Director of the Native American Rights Fund (summer pre-law program 1969). Fred Hart, by then Dean of the Law School, was named *ex officio* board member in order to maintain the connection with the law school.

The composition of the board changed quickly, however. Gerard and Fredericks resigned when they joined the Carter Administration in late 1977. Gerard became the first Assistant Secretary of Interior for Indian Affairs, a newly-created position elevated from the old Commissioner of Indian Affairs. Fredericks became the first Indian to be Associate Solicitor for Indian Affairs in the Interior Solicitor's office.²⁴ In addition, the Bureau of Indian Affairs—the agency that had recommended the incorporation of the Law Center in the first place—questioned the motives for the AILC incorporation and insisted that Hart resign from the board so that it would be 100% Indian, a requirement that the Bureau had not consistently made of other "Buy Indian" contractors. Eventually, Governor Robert Lewis of the Zuni Pueblo and Nancy M. Tuthill (Quapaw), then Assistant Director of the Law Center and presently Editor with the Broadcast Standards and Practices Department of the American Broadcasting Company, replaced Gerard and Fredericks on the Board of Directors.

THE LATE SEVENTIES

Newly-elected President Jimmy Carter entered office with a promise to make major changes in the structure of the federal government. This promise was to be fulfilled through the President's Reorganization Project (PRP), a comprehensive initiative operated from the White House intended to examine the underlying assumptions of every agency in the federal government. Seeing this project as a potential threat to Indian interests if not implemented with an understanding of the special circumstances of the federal government's Indian programs, a coalition of Indian organizations including the American Indian Law Center, Inc., formed to oversee and comment on the work of the President's Reorganization Project.

This cooperative venture, in which the Law Center played a central role, was successful in integrating Indian tribal concerns into the work of the PRP and was the occasion for developing techniques of inter-organizational cooperation among national and regional Indian organizations under the overall direction of Indian tribal governments. Although many reorganization proposals were advanced by the PRP, it soon became clear that the Carter Administration's only real interest was the creation

24. Fredericks went on to replace Gerard and become the second Assistant Secretary of Interior for Indian Affairs, serving at the end of the Carter Administration. The incumbent Assistant Secretary in the Clinton Administration, Ada Deer (Menominee, summer pre-law program 1972), started law school but dropped out to lead the successful effort to restore her tribe to federally-recognized status.

of the Department of Education, a campaign promise crucial to Carter's obtaining the support of the powerful National Education Association. The Administration felt strongly that no exceptions should be allowed to the principle that all federal education programs should be included in the new department, including the Indian educational programs of the Bureau of Indian Affairs.

Indian tribes have a complex relationship with the Bureau of Indian Affairs, which was illustrated in the Carter PRP exercise. Despite their disenchantment with Bureau of Indian Affairs Education, the tribes had strong misgivings about their prospects in a cabinet Department of Education. The tribes reasoned that in such a department, Indian concerns would be buried amid broad national educational issues, many of them defined in terms of urban America. Furthermore, the tribes perceived that a Department of Education would follow the pattern of the other domestic assistance departments, and define their world in terms of federal, state and municipal delivery systems. Within such a set of assumptions, a relatively small, tribally-centered system of Indian education would be engaged in a constant struggle for survival and identity. Despite warnings from the PRP that the Administration would spare no effort to prevent exceptions to the transfer of education programs into the new department, the tribal coalition prevailed and the Department of Education as created by Congress included only those Indian education programs which had been in the predecessor United States Office of Education.

The other major Law Center program during the Carter administration was a paralegal training program funded by the Department of Labor as a part of an economic stimulus initiative. The Law Center conceived the notion of a paralegal position for tribal governments that would specialize in the operation of federal domestic assistance programs. Trainees would be trained in the federal legislative process, both creating programs and appropriating funding, the executive process of setting up a program agency and issuing regulations, the process of executive budgeting and allocation of appropriations, and other minutia of federal program administration important to the support of tribal programs. These paralegals were called Federal Program Technicians and were trained to work in tribal government not as lawyers' assistants, but as independent officials in tribal planning offices, executive offices and the like. In fact, by the completion of their training, these technicians probably knew more about federal programs than the average lawyer.

The tribal Federal Program Technicians program trained 100 paralegals in a two year period, using a combination of classroom sessions in Albuquerque and clinical placements with federal and tribal governments. Many participants in the paralegal program eventually attended and completed law school. They include tribal judges, tribal attorneys and many other functionaries with tribal and other governments.

INTERGOVERNMENTAL RELATIONS

At about the same time, the Law Center was drawn into consideration of another set of tribal government relationships: those with state and

municipal governments. In 1975, Congress created the American Indian Policy Review Commission (AIPRC), perhaps the most hopeful of a long line of attempts to address Indian policy comprehensively. The commission, composed of six members of Congress and five representatives of Indian tribes, was to address policy issues existing between Indian tribes and the United States through a series of task forces. The result of its two year effort was a comprehensive report by the Commission which represented a wish list of the Indian community, an idealized list with virtually no chance of enactment by the Congress.²⁵ The final report caused an uproar among non-Indians living on and near Indian reservations, because they were alarmed at the Commission's recommendations which would have greatly increased tribal jurisdiction over them. The report caused what was called at the time a "backlash" against Indian interests to sweep non-Indian Indian country. As a part of this backlash, Congressman Glen Cunningham and Congressman Lloyd Meeds, a former member of the American Indian Policy Review Commission, introduced several pieces of legislation that would have abrogated treaties and greatly restricted Indian water rights and tribal jurisdiction on reservations. The introduction of the Cunningham-Meeds bills set off a round of spirited discussion of Indian policy throughout the nation.

In December of 1976, a task force of the National Conference of State Legislatures (NCSL) met in Albuquerque, New Mexico, to discuss Indian policy issues and, among other things, to decide whether to recommend that NCSL support the Cunningham-Meeds legislation. The American Indian Law Center was invited to attend this meeting and to engage in an informal debate before the task force with a representative of Congressman Meeds. As the debate proceeded, the Law Center representative argued that NCSL had little to gain by supporting the Cunningham-Meeds legislation. Instead, the Law Center suggested that the NCSL focus on the common interests of state and tribal governments and invite the major national Indian organizations to begin a joint effort to explore methods of increasing state-tribal cooperation and coordination.

The task force recommended to its parent body that NCSL accept the Law Center's suggestion and invite the major national Indian organizations to join in such an effort. As a result, the National Congress of American Indians and the now-defunct National Tribal Chairmen's Association jointly chartered, with NCSL, the Commission on State-Tribal Relations composed of equal numbers of state legislators and tribal chairpeople, with staffing provided jointly by NCSL and the American Indian Law Center.²⁶ These three pioneering organizations were later joined in their sponsorship by the National Association of Counties and the Western

25. AMERICAN INDIAN POLICY REVIEW COMM'N, 95th CONG., 1st SESS., FINAL REPORT (Comm. Print 1977).

26. The NCSL staff member, Tassie Hanna, quickly gained an expertise in state-tribal relations. She eventually resigned from NCSL and enrolled at the University of New Mexico School of Law. Hanna worked part-time for the Law Center on the State-Tribal Commission and then full-time upon her graduation.

Association of Attorneys General.²⁷ The Commission was initially co-chaired by Joe DeLaCruz (Chairman of the Quinault Indian Nation) for the tribes and Speaker Ed Manning of the Rhode Island House of Representatives for the states (replaced after two years by Senator Sue Gould of the Washington State Senate, followed by Senator Carroll Graham of the Montana State Senate). As other branches of state and municipal government were added to the Commission, chairmanship by only legislators was deemed no longer appropriate. Although neither the National nor the Western Governors Associations formally joined or chartered the State-Tribal Commission, Governor William Janklow of South Dakota agreed to be the first governor to serve as co-chair for state and local government, followed by Governor Bruce Babbitt of Arizona. The Commission remained active until the mid-1980s, when its funding was cut off by Assistant Secretary Ross Swimmer using the Gramm-Rudman exercise as a pretext. In the ensuing years, the chartering organizations and other organizations of tribal, state and municipal government have pursued separate paths to improving intergovernmental relations on Indian reservations.

Although the Commission on State-Tribal Relations is mourned by those who worked most closely with it, its brief career must be seen as successful. At its inception, state-tribal relations were largely in a posture of competition and hostility. At the height of the Commission's activity, witnesses were able to see the remarkable sight of tribal and state political candidates running on platforms promising *improvement* in state-tribal relations rather than the bellicose platforms more characteristic of tribes and state governments in "Indian country." The Commission also published the *Handbook on State-Tribal Relations*,²⁸ *A Comprehensive Study of State-Tribal Agreements*,²⁹ and a number of special studies of such intergovernmental issues as the administration of block grants, the implementation of the Indian Child Welfare Act, and a study of cross-deputization including a model cross-deputization agreement. Perhaps the most lasting contribution of the Commission was that it succeeded in putting improved relations on the national agenda of state and tribal governments.

During the 1980s, following the initiative of Nancy Tuthill, the Law Center undertook numerous projects dealing with tribal capacities in various areas of family law, social services and protection of children. The Law Center hired Marc Mannes, a non-Indian social scientist who had worked with tribal contract schools, to help Ms. Tuthill pursue these

27. The membership of the Western Association of Attorneys General (WAAG) voted at a meeting in Utah in 1978 to co-sponsor the State-Tribal Commission. The Commission membership included several state Attorneys General. But the WAAG organization itself did not actively support the Commission's work after the initial vote of support.

28. On file at the American Indian Law Center, University of New Mexico School of Law, Albuquerque, New Mexico.

29. On file at the American Indian Law Center, University of New Mexico School of Law, Albuquerque, New Mexico.

areas of interest. The two, working with Ms. Grossman and various other staff members, also formed a relationship with Walter R. McDonald & Associates, a consulting firm with broad experience and broad contacts in social services. Under this broad-based team approach, the Law Center developed a Tribal Information System for social services case management, a bulletin board for tribal social services programs, and an approach to the investigation and prosecution by tribal governments of child abuse and child sexual abuse.

In 1989, the Law Center was asked by several New Mexico Pueblos and the Bureau of Indian Affairs to provide the management and staff support for an intertribal appellate court to serve the Southwest. Governed by an advisory board of tribal judges, the Southwest Intertribal Court of Appeals (SWITCA) was established at the Law Center and the first director was hired, Bettie Rushing. Ms. Rushing, a Creek who had graduated from the University of New Mexico School of Law in 1977, had worked for the Law Center in the late 1970s subsequent to her graduation from law school, directing the Special Scholarship Program. In the intervening time, she had been the chief judge in two tribal court systems (Shoshone and Bannock Tribes of the Fort Hall Reservation and the Omaha Tribe) and had worked for the National Congress of American Indians and the Save the Children Federation. Ms. Rushing accomplished the difficult task of establishing the SWITCA, as it came to be called, balancing the flexibility required for it to adapt to the needs of each tribal judicial system with the need for programmatic stability so that the Law Center could comply with the contract and maintain the quality of management of the project. In 1991, Ms. Rushing became Chief, Branch of Judicial Services for the Bureau of Indian Affairs, directing the judicial programs of that agency and providing assistance to tribal judicial systems.

In the early 90's, the Law Center, working with Walter R. McDonald & Associates, entered into a cooperative agreement with the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to conduct a comprehensive study of the tribal administration of juvenile justice programs throughout the nation. The study was prompted by the report of a task force organized by the Coalition of State Juvenile Justice Advisory Committees under the leadership of Ned Norris, the outstanding chief judge of the Tohono O'odam Nation in Arizona. The task force had reviewed tribal participation in federally-funded juvenile justice programs and found (along the lines of the Law Center's FIDAP work of the 1970's) that tribal governments were largely excluded from the program, and where they were included it was not appropriate to the needs of tribal governments. As a result of the task force report, the Congress mandated a nationwide study to determine the extent to which tribal government practices and procedures were consistent with the federal statutory mandates, problems faced by tribal juvenile justice systems, and the resources available to tribes to support juvenile justice systems. The Juvenile Justice Study took place over a two-year period involving a questionnaire mailed

to all tribes, in-depth site visits to reservations, and several focus group sessions for Alaska Native Village representatives. It came to several conclusions regarding national studies of tribal problems, federal programming policy and juvenile justice in particular.

As to national studies of tribal problems, previous studies had all been faulted for their failure to obtain a large tribal participation rate and for the quality of the resulting data. The Law Center/McDonald study was able to achieve a remarkable participation rate of the tribes operating juvenile justice systems. More important, the Law Center concluded, the Congress should not expect that individual Indian tribes would keep data in a form ideally suited to national policymaking. Each tribe tended to define terms in a slightly different way and to organize and manage its data in a slightly different way, making comparisons difficult and conclusions dubious. But this fact, an outgrowth of the tribes' natural independence and the federal policy of tribal self-determination, should not, the Law Center warned, be interpreted as a flaw in tribal administration. For the federal government to expect that hundreds of tribal and village governments would organize their local administrative data in a way exactly suited to the curiosity of policymakers in Washington might be considered as the height of self-absorption. The standard recommendation of studies of this type is that Congress should fund a "definitive" data collection system to ensure that the next study would produce better data. The Law Center/McDonald study merely noted that tribes would probably continue to organize their data to meet local needs unless some reason existed for them to conform to a national data system.

As to programming, the Law Center/McDonald study again departed from the standard study approach. Studies of this type normally conclude that the problem in question is urgent among Indian tribes, and that the federal government should create a special program to deal with it. While not downplaying the seriousness of juvenile delinquency on Indian reservations, the study attempted to draw the attention of Congress to the larger issue. For a number of years, tribal self-determination has been the governing policy in federal Indian affairs, a policy tending in the direction of allowing tribes the maximum flexibility in programming federal funds. But, Congress has not given clear direction to the Bureau of Indian Affairs and the Indian Health Service, the two principal federal agencies working on Indian reservations, as to the nature of their role. To what degree should these agencies look to the tribes for policy and programming leadership, and to what degree should they be held accountable for creating national programs to deal with tribal problems? As it turns out, the Bureau of Indian Affairs is frequently held responsible by Congress for the lack of a comprehensive program in a particular area despite the emphasis on tribal self-government. As for the categorical program agencies, such as the OJJDP, Congress has usually given them little direction as to how to approach Indian tribes, how to integrate tribal self-determination into their program structures, and how their categorical programs should relate to the general program responsibilities of the Bureau of Indian Affairs. The study recommended that Congress

should address this fundamental policy issue for the sake both of tribal government and federal program administration.

As to the administration of juvenile justice systems by tribal governments, the study came to a number of conclusions and made several recommendations. The problem of juvenile delinquency was a serious one, the study found, although it is almost entirely associated with substance abuse. In many instances the tribal data are misleading, because of the inflationary impact of repeat offenses being counted separately, giving the impression of a larger number of delinquent youth than is the case. The study also found that tribal data can be misleading because Indian youth are often classified in tribal data systems in accordance with categories needed for the tribe to obtain jurisdiction over them or to fit them into program eligibility categories in order to obtain services for them (classified as "Children in Need of Care" rather than charged with criminal offenses, for example).

Finally, the study found that tribal governments often fall through the cracks in the federal categorical grant system. Although the federal government offers assistance with a comprehensive range of problems associated with juvenile delinquency, such as substance abuse, family problems, runaways, child abuse, etc., many tribes do not have enough problems in any given category to qualify them for program assistance. That is, a small tribe may have a number of troubled young people, but not enough runaways to qualify for a Runaway Youth Program, to give an example. Instead of creating yet another categorical program to compete with the other federal programs and further confound tribal government administration, the study recommended that the federal government coordinate among programs to enable small tribes to obtain multi-agency assistance and to offer comprehensive family and youth programs from a single reservation source.

The final report of juvenile justice study was submitted to the OJJDP in early 1993, and a summary - without recommendations - was submitted by OJJDP to Congress soon thereafter. It may be that the study was lost in the transition from Bush to Clinton administrations, or it may be that the refusal of the study to recommend more federal programs as the solution to the problems of juvenile justice on Indian reservations was a disappointment to the Department of Justice.

CONCLUSION

The successes and disappointments experienced by the American Indian Law Center over the past 27 years, especially in contrast with other events in the field, shed some light on American Indian policy studies. The Law Center's greatest impact has been made through projects or initiatives developed out of fortuitous, almost off-hand opportunities. Tom Christopher convinced Fred Hart to start the summer program to make his year in New Mexico more interesting; the Law Center became interested in the relationship of tribal government to the federal domestic assistance programs, and in federal management issues in general, because

of an overheard bullying remark from a federal official to a group of tribal chairmen. The World Council on Indigenous Peoples was formed because George Manuel met Julius Neyerer in Africa and the Law Center became involved because Charles Trimble could not find anyone else who could go to Guyana on short notice. The Commission on State-Tribal Relations was created (and tribal-state political history changed) because of an incidental, routine Saturday morning debate at an obscure National Conference of State Legislatures' committee meeting. During the same period, the high-profile national "definitive" policy efforts have proven to be uniformly disappointing: the American Indian Policy Review Commission; the President's Commission on Reservation Economies; the investigation of fraud, waste and abuse in federal Indian programs by the Senate Select Committee on Indian Affairs; the National Indian Policy Center at George Washington University. All of these efforts have raised expectations and produced virtually nothing of lasting value.

The lesson to be drawn from this contrast is probably not that Indian policy should be studied only randomly. But if the Law Center has made a niche in Indian affairs, it is defined by its willingness, ability and insistence on taking an independent look at policy issues regardless of the prevailing national politics. The state-tribal commission represented a high political risk, drawing criticism from several prominent tribal leaders and tremendous resentment from the Bureau of Indian Affairs, anxious to preserve its hegemony. Law Center positions on the administration of the Indian Self-Determination Act and the tribal judicial improvement legislation have drawn fire from federal and tribal sources alike.

Starting more or less at random, the American Indian Law Center over the years has defined an identity for itself. The role it tries to play in Indian affairs is to define important policy issues, to outline the options and assess the risks of each option for tribal governments, and to define problems in terms of systemic and structural flaws rather than in terms of bad faith on the part of the government, the society, or individuals. It tends to see many issues not in terms of superficial problems that can be solved definitively but as inherent problems that must be managed more effectively. The most important line the Law Center tries to draw is between its role and the role of the Indian tribal governments, believing as it does in true tribal self-determination. The Law Center's role is to define the issues and assess the risks independently—*independent of fashion, of federal pressure or policy, and even, in some cases, of tribal opinion.* The role of the tribal governments as the responsible political institutions is to weigh the risks and make a choice, trading off risk and benefit as one does daily in politics.

This quixotic insistence on complete independence by the American Indian Law Center has had its price. In a world that too often mistakes banquets, receptions and conferences for reality, the Law Center has had to struggle for funding. In a world that is comfortable with Indians in cultural, political and economic stereotypes, the Law Center's insistence that Indian cultures are private and internal matters for each tribe, family

and individual rather than political marketing tools has been unfashionable.

The American Indian Law Center is not a lonely righteous organization in a corrupt world. But if its 27 years teach a lesson, it is that Indian policy can benefit more from the support of a wide variety of independent analysts and investigators free to follow their own lights rather than policy studies designed to investigate the particular interests of foundation, congressional, federal executive or even tribal power centers. The enormous impact of gaming income on Indian affairs may prove to be the death knell of tribal government or it may provide the means and the opportunity for Indian tribal governments to define a permanent role in the family of American governments, a role not tied to Indian poverty or to the majority society's stereotypes of Indian culture. The difference may well turn on whether the tribes are far-sighted enough to ensure that policy issues are examined independently by a variety of scholars and commentators and that they hear the bad news as well as the good.