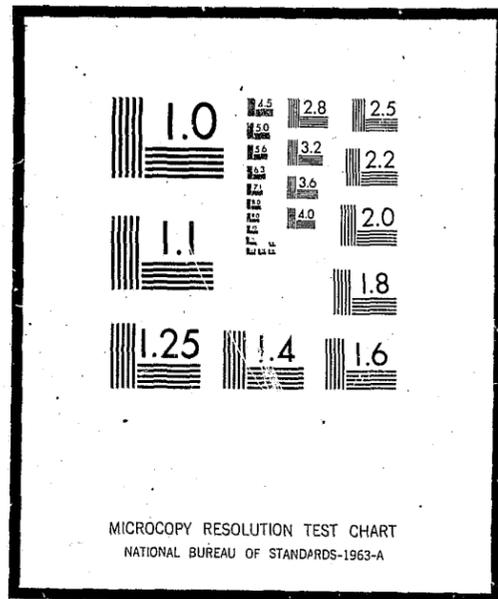


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Points of view or opinions stated in this document are those of the author(s) and do not represent the official position or policies of the U.S. Department of Justice.

U.S. DEPARTMENT OF JUSTICE  
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION  
NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE  
WASHINGTON, D.C. 20531

Date filmed

10/1/75

 U. S. DEPARTMENT OF JUSTICE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION		DISCRETIONARY GRANT PROGRESS REPORT <b>READING ROOM</b>	
GRANTEE		LEAA GRANT NO. ASJPA D-114-73	DATE OF REPORT 3/20/75
IMPLEMENTING SUBGRANTEE  Kaibab Paiute Tribe		LEAA-73-DF-09-0025	REPORTING NO.
		TYPE OF REPORT <input type="checkbox"/> REGULAR QUARTERLY <input type="checkbox"/> SPECIAL REQUEST <input checked="" type="checkbox"/> FINAL REPORT	
SHORT TITLE OF PROJECT American Indian Court Judges Training Program		GRANT AMOUNT \$226,240	
REPORT IS SUBMITTED FOR THE PERIOD 1/1/75		THROUGH 1/31/75	
SIGNATURE OF PROJECT DIRECTOR <i>Cranston Hawley</i>		TYPED NAME & TITLE OF PROJECT DIRECTOR Judge Cranston Hawley, Project Director	
COMMENCE REPORT HERE (Add continuation pages as required.) LEAA PROGRESS REPORT January 1, 1975 - January 31, 1975. The month of January (1/1/75-1/31/75) represented the final reporting period for the American Indian Court Judges Training Program, LEAA 73-DF-09-0025. The initial section of this final report on the above-named Program will detail those program activities during the month of January which finalized the program. The second section will provide a summary of program activities during the grant term, 6/4/73-1/31/75. Distribution of NAICJA's most recent publication, <u>Supplement No. 1 to the Criminal Court Procedures Manual and Research Document</u> , to Judges serving in Indian Courts took place during the month of January 1975. <u>Supplement No. 1</u> represents the first attempt by NAICJA to update the <u>Criminal Court Procedures Manual and Research Document</u> which were published in 1971.. It includes a discussion of the new legal developments emanating from federal court decisions since the passage of the Indian Civil Rights Act. It is organized in three sections. The first section discusses the problems of jurisdiction of federal courts over tribal governmental actions and the bases upon which such federal intervention in tribal affairs has been justified. The second section follows the format of the original <u>Criminal Court Procedures Manual and Research Document</u> in discussing case law and Department of Interior Solicitors' opinions relating to the substantive Civil Rights provisions of the Act. The third and final section outlines and analyzes the provisions of the Model Code prepared by the Indian Civil Rights Task Force. The provisions of the Code which deal with selected areas of			
RECEIVED BY GRANTEE STATE PLANNING AGENCY (Official)			DATE
LEAA FORM 4377 (REV. 1-73)		REPLACES LEAA-OLR-180, WHICH IS OBSOLETE.	

25176

criminal procedure are reproduced in full. The commentary which follows each section of the Code is designed to suggest ways in which Indian Courts might implement the Model Code in such a way as to comply with the provisions of the Indian Civil Rights Act and yet avoid drastic modification of their own tribal structure.

The basic research and writing of the material contained in Supplement No. 1 was performed at the University of New Mexico American Indian Law Center under the supervision of Mr. Robert L. Bennett, Special Project Director. This work was performed under a consultant agreement between NAICJA and Mr. Bennett. Professor Ralph Johnson of the University of Washington School of Law reviewed the manuscript and provided editorial assistance. The manuscript was then submitted to NAICJA staff, Board members and Officers for comment and criticism, and final editing and preparation for publication was performed in the NAICJA Washington office. Preparation of a document such as Supplement No. 1 which will be directly used by Judges serving in the American Indian Courts System requires input from Indian Judges, lawyers and others knowledgeable and interested in the field. Only then will the document attain its maximum relevancy to Indian Courts.

This publication was received most favorably by Indian Court Judges and requests from others working with the Indian Court system have also been great and we are attempting to meet all such requests. Copies of the letter to Indian Court Judges and a sample of other letters enclosing this publication are attached (Attachment #1).

Requests for NAICJA's 5-volume series, Justice and the American Indian, continue to arrive almost daily. We have met most requests with the additional 200 copies which were printed during January 1975. As you will note from the

attached letter, we delivered 90 sets of the 5-volume series to Mr. Jere Webb of the Office of Justice Policy and Planning, Department of Justice, for his use at a U.S. Attorneys' Conference at which Indian Court Jurisdiction was discussed. In addition, requests from newly appointed Indian Court Judges, attorneys working in Indian Law and other interested parties are being met as long as our supply lasts. We recently received a call from the Library of Congress requesting permission to use sections of the Justice and the American Indian series for a report to both House and Senate Committees. These publications are much in demand and NAICJA would hope to continue answering all requests as long as copies are available.

At the November national training session for Indian Court Judges, the trainees were given an introductory session on Legal Research and Case Analysis. At this time we distributed to them NAICJA's publication, An Introduction to Legal Research and Case Analysis. This manual for Indian Court Judges was prepared by NAICJA Officers, Staff and consultants after discussion with NAICJA Board of Directors. The manual has three substantive areas. The first is a lesson on legal research including resources for law libraries, how to find court opinions in the law library, legal citations and the Federal and State Reporter systems. The second section takes one opinion of the U.S. Supreme Court and breaks it down into its component parts in order to illustrate the basic format used in opinions.

Finally, the major portion of the manual is devoted to the full text of a number of court decisions. These were chosen on two basic criteria: (1) Their general instructiveness on the form and method of legal opinions and (2) Their discussion of various points of law which may be helpful to the Indian Judges in their future work. The NAICJA Board and Officers realize that

before Indian Court jurisdiction can be greatly expanded into other areas of the law, a developed skill of opinion writing and analysis will be necessary for those Judges not already familiar with this area. It is hoped that this publication will assist many Indian Court Judges in both reading and writing such opinions for their courts.

While NAICJA Program Management certainly would not imply that Indian Courts should use "Anglo" law as a basis for justice in Indian Courts, it is felt that there are times when Indian Court Judges do need to read Federal Court decisions such as when one of their cases is appealed to the Federal Court. Also, it is felt that Judges in Indian Courts can read some of the law handed down in Federal and State Courts and apply the reasoning to cases appearing before them consistent with the Indian custom and tradition. During the month of January, this publication and West's Law Finder were sent to Indian Court Judges who were not able to attend the November session. Following this, we disseminated the first in a series of home-study problems based on these materials and on other training materials previously disseminated. This was in the hope to lessen the effect of the gap in training sessions due to the delay in refunding the American Indian Court Judges Training Program. The questions were prepared by instructors who had conducted the regional training sessions under this grant and were aware of the needs of the Judges. Response to the home-study questions was favorable although the concept is somewhat limited by its lack of contact with an individual instructor who could answer immediate questions. But, under the circumstances, it was a necessary and useful addition. We have two other sets of home-study lessons which will hopefully be sent to participating Judges as soon as funds are available.

NAICJA also published a Newsletter for Indian Court Judges in January. A copy of the Newsletter is attached and indicates the wide interest of Indian Court Judges. Articles range from informational pieces on the Training Program and NAICJA Publications to notes on Recent Court Decisions affecting Indian Reservations and problems of the Older Native Americans. These newsletters were sent to all Indian Court Judges participating in the training program and to LEAA, BIA, Congressional and other interested persons and groups.

Final bills for this program were also paid during January, books closed out and balanced, and final financial reports prepared and submitted to LEAA. NAICJA maintains a complete filing system for this program with vouchers and complete financial documentation for each check written. In addition, copies are maintained of all correspondence, reports, etc. They are available for inspection or audit by LEAA at anytime.

The American Indian Court Judges Training Program, under LEAA 73-DF-09-0025, operated almost 20 months from 6/4/73 until 1/31/75. During that time many things were accomplished which benefited Judges serving in Indian Courts and the Indian Court System. The following is a list of the major accomplishments of this program during this period. It must be remembered that the most important and necessary aspect of this program which runs all through the following accomplishments is input from Indian Court Judges at all levels of the program implementation. This is accomplished by the NAICJA Board of Directors and Steering Committee participating in policy-making sessions at which program functions are discussed in detail and by individual advice and comments received from Indian Court Judges. In addition, NAICJA's training program offers unique specialized training for Judges serving in

Indian Courts which specifically meets their needs as Indian Court Judges.

This means that all material and presentations, in addition to meeting the requirements of the Anglo legal system, also meet the requirements of Indian culture, tradition and unique system of relationships. We are unique in this area. No other organization or group has the experience or background to provide this specialized training. The following are the major program activities for the 6/4/73-1/31/75 period:

- I. 8 Regional Training Sessions held in 6 areas - Seattle, Phoenix, Albuquerque, Santa Fe, Bismark/Aberdeen and Billings - total of 48 2 1/2-day regional training sessions for Indian Court Judges on Criminal Law.
- II. One 2 1/2-day National Training Session for Indian Court Judges - agenda attached - including audio visual materials on trial practice and a mock trial presentation - 82 Judges attended.
- III. The above eight regional training sessions and one national training session provided a total of 984 training hours during this grant period. An average of 75 Judges participated in each session. The total man training hours amounted to 73,800 for the grant period. Thus, the cost of this training project was approximately \$3.00 per man training hour. If the training materials, preparation, publications, printing and distribution of which are included in the cost, were amortized over a period of 4-5 years - the minimum length of time these materials retain their value - the cost per man training hour would be much less. These materials are continuing in use as home-study aids for Indian Court Judges.
- IV. Materials developed under this grant - project expenditures for these materials included payment for staff time in their preparation, special consultants, development and printing of the video tape and cassette tapes, printing and dissemination of other materials, instructors' time in preparation for and at training sessions.
  - A. Revision and update of NAICJA's Original 24 Work-Study Lessons. These include lessons on Historical Court Functions, Judicial Administration, Trial Process and Procedure, 1968 Civil Rights Act, Due Process, Equal Protection, Right to Counsel, Arrest, Search and Seizure, Police Interrogation and Confessions, Bail, Speedy Trial, Arraignment, Guilty Pleas, Evidence, Trial by Jury, Double Jeopardy, Professional Ethics, Post Trial Motions and Appeal, Habeus Corpus, and Juvenile Justice. These lessons were revised and updated for use in future training sessions to train new Indian Court Judges. They provide the basic materials needed for study by new Judges. They also provide excellent home-study materials for Indian Court Judges as well as continuing reference materials.

- B. Lessons on the Law of Evidence - 16 Written lessons plus accompanying cassette tapes for each lesson and a 2-hour video tape on the "Hearsay Rule and Its Exception."
  - C. Moot court scenarios for national and regional training sessions.
  - D. Supplement No. 1 to the Criminal Court Procedures Manual and Research Document.
  - E. An Introduction to Legal Research and Case Analysis.
  - F. Examination Questions for Trainees - 25 multiple choice and 30 true/false.
- V. Materials developed or purchased under previous grants and disseminated to new Indian Court Judges participating in the training program (list incomplete).
- A. Criminal Court Procedures Manual and Research Document - 1970-71.
  - B. Original 24 Lessons for Indian Court Judges - 1970-71.
  - C. The Adversaries - Criminal Law Series - 8 hours of 16mm film on Criminal Law and Procedure - 1970-71.
  - D. Black's Law Dictionary - 1970-71.
  - E. McCormick's Evidence - 1970-71.
  - F. Webster's New Collegiate Dictionary - 1970-71.
  - G. Complete Secretary's Handbook - 1970-71.
  - H. Studies for Indian Court Judges - Volumes I and II - including 8 lessons on case law relating to the 1968 Indian Civil Rights Act, 16 lessons on Trial and Appellate Court Procedure, 8 lessons on The Role of the Judge and Judicial Ethics - plus tape cassettes on all lessons and a Video Tape lesson on Trial Procedures - 1972.
  - I. Lessons on Selected Crimes - their elements and proof - 1971-72.
  - J. Court Clerks Handbook - including sample court forms - 1973.
  - K. Studies of Civil Law - prepared using BIA funds - 12 lessons - 1972 plus tape cassettes.

NAICJA has developed a great deal of training materials in the criminal law field which are geared directly for use by Indian Court Judges. We have accomplished much, but much is yet to be undertaken. A comprehensive and ongoing

training program for Indian Court Judges, to be successful, must not be met with delays and interruptions which only serve to take two steps backward for every step taken forward. Hopefully, the American Indian Court Judges Training Program under an LEAA grant will be going forward again in the immediate future.

As mentioned in the quarterly reports for 10/1/74-12/31/74, in an attempt to maintain some continuity in the training program, a revision of the NAICJA contract with the Bureau of Indian Affairs was received providing for a second national training session under that contract in the area of Family Law/Child Welfare. This session was held on March 2-4, 1975 with 79 Indian Court Judges participating. This session used BIA Funds solely. A copy of materials distributed at this session, Moot Court Scenario, Press Release and Agenda are attached.

Also at this March 2-4 Training workshop, Judges and others in attendance once again voiced their support for the continuation of NAICJA's American Indian Court Judges Training Program. Attached is a petition supporting this program signed by 62 Indian Court Judges and 14 other persons connected with the American Indian Court System. These persons and others who were not available to sign the petition strongly urge that this training program be refunded by LEAA so that NAICJA's continuing education program for American Indian Court Judges will not be interrupted.

Finally, a copy of the Report of the Hearings before the Senate Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs dated August 1973 is enclosed. This report contains over 350 pages submitted by the National American Indian Court Judges Association. It includes a statement given by Honorable Virgil L. Kirk, Sr., Chief Justice of the Navajo Nation and President of NAICJA and a statement given by Honorable Cranston Hawley, Chief Judge of the Fort Belknap Indian Reservation and Project Director for the NAICJA American Indian Court Judges Training Program. This material is a good indication of the depth of thought and concern of Indian Court Judges and of NAICJA.

Additional Attachments -

Supplement No. 1 to the Criminal Court Procedures Manual

An Introduction to Legal Research and Case Analysis

Justice and the American Indian - 5-Volumes

Handbook for New Juvenile Court Judges

Hearings before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs - U. S. Senate

Agenda for March 2-4 Phoenix Training Workshop on Family Law/Child Welfare - BIA Contract

One copy of each of the above publications are enclosed. Additional copies are available on request

NATIONAL AMERICAN INDIAN  
COURT JUDGES ASSOCIATION



Secretariat  
Suite 401  
1000 Connecticut Ave. N. W.  
Washington, D. C. - 20036  
Telephone: (202) 296-0685

-2-

January 14, 1974

He has indicated his support for refunding the training program and this should be accomplished within the next month. Meanwhile, we have had to rewrite sections of the proposal because the lapse of time made certain aspects out of date. The newsletter which we will work on in the next week or so will be informative and will be mailed to all Indian Court Judges before the end of January. Please advise if you have any items of interest for the newsletter.

Originally we planned to have the second BIA funded national child welfare/family law training session in July. However, because of the lapse of time and the lull caused by the delay in the LEAA refunding process, Clare Jerdone has approved moving up the next national session from July to an earlier date. We have discussed the matter with Dr. deFrancis and he has offered us early March as a possible date for the next session. Judges Hawley and Kirk have approved the date and Judge Hawley suggested Phoenix as a possible location. Therefore, we have a tentative date for our next scheduled training session - Phoenix early March. Of course, we will start work on details and will set in motion the background work necessary for this meeting. Judge Kirk would like to have a Board meeting at an early date, but the travel costs for such a meeting would depend somewhat on funds from LEAA training program (there are only limited funds in the BIA project for Steering Committee travel this fiscal year) and as soon as the LEAA training program is approved we will be able to consider a date for the Western meeting we discussed some time ago.

Looking forward to a successful 1975 -

Sincerely,

E. Thomas Colosimo  
Secretary-Treasurer

ETC:hct  
Enclosures

Enclosed please find a copy of Supplement No. 1 to the Criminal Court Procedures Manual and Research Document. As we stated during our numerous discussions on this subject, it represents the first attempt by NAICJA to update the Criminal Court Procedures Manual and Research Document which were published in 1971.

Supplement No. 1 includes a discussion of the new legal developments emanating from federal court decisions since the passage of the Indian Civil Rights Act. It is organized in three sections. The first section discusses the problems of jurisdiction of federal courts over tribal governmental actions and the bases upon which such federal intervention in tribal affairs has been justified. The second section follows the format of the original Criminal Court Procedures Manual and Research Document in discussing case law and Department of Interior Solicitors' opinions relating to the substantive civil rights provisions of the Act. The third and final section outlines and analyzes the provisions of the Model Code prepared by the Indian Civil Rights Task Force. The provisions of the Code which deal with selected areas of criminal procedure are reproduced in full. The commentary which follows each section of the Code is designed to suggest ways in which Indian courts might implement the Model Code in such a way as to comply with the provisions of the Indian Civil Rights Act and yet avoid drastic modification of their own tribal structure.

We should be very pleased with this most recent NAICJA publication knowing that it will be another useful tool for Judges serving in Indian Courts. A copy will be mailed shortly to each Judge along with a memorandum and a few legal questions to serve as a basis for "home-work" to be undertaken by them during the temporary lull in NAICJA activities.

Dale Wing, an Assiniboine Indian from Montana, has assumed the LEAA position formerly held by Doug Robinson in Denver. Dale will be working out of Washington, DC and has actually started on his job a few days ago. You may recall that he attended several of our meetings over the past two years and has some knowledge of our activities and objectives. He will be a strong advocate for Indian Courts. Setting up his operation is not an easy chore and it will take a little time to do so properly.

DIRECTORS

VIRGIL L. KIRK, SR.  
Window Rock, Arizona

President

CRANSTON HAWLEY  
Harlem, Montana

Vice President

Project Director

E. THOMAS COLOSIMO  
Washington, D.C.

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Cortez, Colorado

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Fort Washakie, Wyoming

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ORVILLE N. OLNEY  
Toppenish, Washington

Director

HENRY UPCHEGO  
Fort Duchesne, Utah

Director

NATIONAL AMERICAN INDIAN  
COURT JUDGES ASSOCIATION



Secretariat  
Suite 401  
1000 Connecticut Ave. N. W.  
Washington, D. C. - 20036  
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January 27, 1975

DIRECTORS

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Window Rock, Arizona  
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Harlem, Montana  
*Vice President*  
*Project Director*

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San Juan Pueblo, N.M.

MABEL P. ANTONE  
Sells, Arizona

SYLVAN BROWN  
Eagle Butte, South Dakota

ANNA M. KOONTZ  
Taholah, Washington

Mr. William Meredith  
Law & Order Division  
Bureau of Indian Affairs  
Washington, D.C.

Dear Bill:

Under separate cover I have sent you NAICJA's recent publication, Supplement No. 1 to the Criminal Court Procedures Manual and Research Document. This represents NAICJA's first attempt to update the Criminal Court Procedures Manual and Research Document which were published in 1971. Tom asked that I send this to you and request that you let us know your thoughts on the material contained therein.

Also, I am now enclosing a copy of the home-study material which was recently sent to Indian Court Judges participating in the American Indian Court Judges Training Program. Your comments on this would also be appreciated.

Call me when you get back from your trip.

Sincerely,

Kathy Imig  
Staff Assistant

KI:hct  
Enclosure

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COURT JUDGES ASSOCIATION



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January 27, 1975

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Taholah, Washington

The Library of Congress  
Descriptive Cataloging Division  
CIP Program  
Washington, DC 20540

To Whom it May Concern:

Enclosed please find one copy of our recent publication Supplement No. 1 to the Criminal Court Procedures Manual and Research Document which bears Library of Congress Catalog Number 74-29306.

Also enclosed is a copy of NAICJA's An Introduction to Legal Research and Case Analysis. This publication did not receive a Library of Congress catalog number. Please assign it a number and send us notice of the number.

Sincerely,

Kathy Imig  
Staff Assistant

KI:hct  
Enclosures

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Telephone: (202) 296-0685

January 31, 1975

January 31, 1975

Mr. Ronald J. Morgan  
American Indian Historian  
& Author  
2306 Huldy St.  
Houston, Texas 77019

Dear Mr. Morgan:

Enclosed please find a copy of Supplement No. 1 to the Criminal Court Procedures Manual and Research Document. This is an update of the original manual published in 1971 which is now out of print.

I hope this is helpful to you.

Sincerely,

Kathy Imig  
Staff Assistant

KI:hct  
Enclosure

DIRECTORS  
VIRGIL L. KIRK, SR.  
Window Rock, Arizona  
*President*

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Toppenish, Washington  
*Director*

HENRY UPCHEGO  
Fort Duchesne, Utah  
*Director*

Mr. Jesse W. Johnson  
27270 - 120  
P.O. Box 1000  
Leavenworth, Kansas 66048

Dear Mr. Johnson:

Enclosed please find NAICJA's two most recent publications, An Introduction to Legal Research and Case Analysis and Supplement No. 1 to the Criminal Court Procedures Manual and Research Document.

I hope that this material is of interest to you and helpful in your work.

Sincerely,

Kathy Imig  
Staff Assistant

KI:hct  
Enclosures

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Telephone: (202) 296-0685

February 27, 1975

Judge Ian G. Millikan  
3610 South "K" St.  
Tacoma, Washington 98408

Dear Judge Millikan:

We have received notice from Zelma McCloud, Chairman of the Nisqually Indian Tribe that you have been appointed as a Judge for the Nisqually Tribal Court. Please accept our congratulations and our invitation to participate in the NAICJA Training Program for American Indian Court Judges.

We have recently sent you information concerning our training workshop on Family Law/Child Welfare to be held in Phoenix on March 2-4. We hope that you will be able to attend. We will also keep your name on our mailing list for future training sessions.

Also, enclosed please find copies of NAICJA's most recent publications - The Law of Evidence, the 5-volume Justice and the American Indian Series, An Introduction to Legal Research and Case Analysis and Supplement No. 1 to the Criminal Court Procedures Manual. These will give you an idea of the types of materials which the Training Program develops and uses.

We hope that you will find these useful and that you will participate in the NAICJA Training Program in the future.

Sincerely,

Kathy Imig  
Staff Assistant

KI:hct  
Enclosures

cc: Zelma McCloud

NATIONAL AMERICAN INDIAN  
COURT JUDGES ASSOCIATION



Secretariat  
Suite 401  
1000 Connecticut Ave. N. W.  
Washington, D. C. - 20036  
Telephone: (202) 296-0685

February 27, 1975

Judge Kathleen Bishop  
5229 South Orchard Terrace  
Seattle, Washington 98107

Dear Judge Bishop:

We have received notice from Zelma McCloud, Chairman of the Nisqually Tribe that you have been appointed as a Judge for the Nisqually Tribal Court. Please accept our congratulations and our invitation to participate in the NAICJA Training Program for American Indian Court Judges.

We have recently sent you information concerning our training workshop on Family Law/Child Welfare to be held in Phoenix on March 2-4 - and we received your card requesting a reservation. We are pleased that you will be attending. We will keep your name on our mailing list for future training sessions.

Also, enclosed please find copies of NAICJA's most recent publications - The Law of Evidence, the 5-volume Justice and the American Indian series, An Introduction to Legal Research and Case Analysis and Supplement No. 1 to the Criminal Court Procedures Manual. These will give you an idea of the types of materials which the Training Program develops and uses.

We hope that you will find these useful and that you will participate in the NAICJA Training Program in the future.

Sincerely,

Kathy Imig  
Staff Assistant

KI:hct  
Enclosures

cc: Zelma McCloud

DIRECTORS

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Window Rock, Arizona  
*President*

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Toppenish, Washington  
*Director*

HENRY UPCHEGO  
Fort Duchesne, Utah  
*Director*



**Nisqually Indian Tribe**

**P. O. Box 579  
Yelm, Washington 98597  
Phone: 458-7788**

February 10, 1975

National American Indian Court Judges Assn.  
1000 Connecticut Ave. N. W.  
Washington, D. C. 20036

Dear Sir:

It is our pleasure to inform you of the appointment of two new Judges to our Court. Their names and addresses are:

Judge Ian G. Millikan  
3610 South "K" St.  
Tacoma, WA 98408

Judge Kathleen Bishop  
5229 South Orchard Terrace  
Seattle, WA 98107

It is our hope that they will be put on your mailing list immediately so that they will receive notices of, and be able to attend your, excellent programs.

We would appreciate it if you could send them all of your materials as soon as possible, i.e., Studies for Indian Court Judges; all volumes of Justice and the American Indian; Studies of Civil Laws; and Court Manuals and research documents and any other materials available.

Judge Noland has informed us of a Training Workshop on March 2, 3, and 4, in Phoenix, Arizona. She, unfortunately, will not be able to attend and has suggested that at least one, if not both of the other Judges might go. Could you please notify us as soon as possible if this would be permissible?

Thank you very much, for your time and consideration in this matter.

Sincerely

*Zelma McCloud*  
Zelma McCloud  
Tribal Chairman

cc: file

*mlc mtg info 2/14/75*



**UNITED STATES DEPARTMENT OF JUSTICE**

WASHINGTON, D.C. 20530

Address Reply to the  
Division Indicated  
and Refer to Initials and Number

November 11, 1974

Mr. Peter Colosimo  
1000 Connecticut Avenue, N.W.  
Suite 401  
Washington, D. C. 20036

Dear Mr. Colosimo:

Doris Meissner, of this Office, and I are in the process of organizing a regional U.S. Attorneys conference to discuss problems of reservation law enforcement. We would like to have available for distribution at this conference approximately 100 sets of the five-volume work entitled Justice and the American Indian.

Mrs. Meissner advised me that you are about to order further copies of these volumes and that it might be possible for you to include our request within your order. If you are able to do this, it would be most appreciated. If you have any questions, please do not hesitate to give me a call at 739-2456.

Sincerely,

*Jere M. Webb*  
Jere M. Webb  
Office of Justice Policy  
and Planning

NATIONAL AMERICAN INDIAN  
COURT JUDGES ASSOCIATION



Secretariat  
Suite 401  
1000 Connecticut Ave. N.  
Washington, D. C. - 20036  
Telephone: (202) 296-0685

January 20th 1975

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Panic Press

Deliver 90 sets of the 5 - volume JUSTICE AND

THE AMERICAN INDIAN to:

Mr. Jerre Webb - Office of Justice Policy and Planning

Department of Justice

Use Drive-in entrance on 10th street - East side of street  
Between Constitution and Penna Ave. N.W.

Deliver to made to Room 4236

Security Guard to call Mr. Jerre Webb

at 739-4605 or 739 2456

Monday morning between 9 and 10 January 20th

NATIONAL AMERICAN INDIAN  
COURT JUDGES ASSOCIATION



Secretariat  
Suite 401  
1000 Connecticut Ave. N. W.  
Washington, D. C. - 20036  
Telephone: (202) 296-0685

January 17, 1975

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VIRGIL L. KIRK, SR.  
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Taholah, Washington

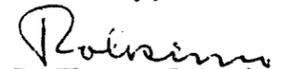
Mr. Roger Pauley  
Deputy Chief- Legislative and Special Projects  
Criminal Division  
Department of Justice  
10th & Pennsylvania Ave. N.W.  
Washington, D.C. 20530

Dear Sir:

At your request we are enclosing a copy of Volume 4:  
Examination of the Basis of Tribal Law and Order Authority of  
the Justice and the American Indian Series.

We hope that you find this document useful in your  
endeavors.

Sincerely,

  
E. Thomas Colosimo  
Secretary/Treasurer

Encl.

2/3/75

JB-20

January 29, 1975

Mr. John Burns  
Senate Commerce Committee  
Old Senate Office Building  
Washington, D. C. 20510

Dear John:

I'm having the National American Indian Court Judges Association (NAICJA), national office in Washington, D. C. send you a copy of the publication I mentioned on the telephone. It describes the training program for Indian Judges.

I have participated as an instructor in that program for three years for the Northwest Region. There are six regions around the country. You might like to obtain copies of some of the teaching materials. These could be got from the NAICJA offices in Washington, D. C. Ask for Tom Colosimo or Kathy Imig (Area Code: 202/296-0685).

In 1968 when the Indian Judges created the NAICJA they were scattered, relatively uncoordinated, had no continuing education program, and had relatively little knowledge of non-Indian court procedures and civil rights. That is no longer true. The training program has been effective in raising the level of knowledge and competence. At the last national meeting in Denver in October 1974 more than 100 Indian Judges participated and the level of knowledge and understanding of both Indian and non-Indian legal systems was substantial.

You will realize, few of the Indian Judges are lawyers. However, they are respected, mature individuals who hold leadership positions on the reservations. They have demonstrated an unusual dedication to the continuing education programs. Given the lack of formal legal education they have done remarkably well in upgrading the justice systems on the reservations. This movement continued to gain recognition, both among the Indian and non-Indian people and to give reservations the security of an improved judicial administration system.

John Burns

January 29, 1975

page 2

The Navajo Reservation has one of the more sophisticated judicial systems for Indian Reservations in the country. I believe they now have 11 Judges, an Appellate Court, and an active continuing education program. Judge Virgil Kirk of the Navajo Nation is currently president of the NAICJA. From my knowledge of these Judges and of the program, I would think it quite appropriate to give them jurisdiction over legal questions arising out of regulation of trading posts on the Reservations. This is consistent with the announced policies of Presidents Johnson and Nixon to encourage self-determination for Indian tribes throughout the country.

Needless to say if such jurisdiction was bestowed upon the Tribal Courts, the NAICJA would develop educational materials to acquaint them with potential legal issues.

Please let me know if I can provide any further information.

Sincerely yours,

RalphW. Johnson  
Professor of Law

NATIONAL AMERICAN INDIAN  
COURT JUDGES ASSOCIATION



Secretariat  
Suite 401  
1000 Connecticut Ave. N. W.  
Washington, D. C. - 20036  
Telephone: (202) 296-0685

NATIONAL AMERICAN INDIAN  
COURT JUDGES ASSOCIATION



Secretariat  
Suite 401  
1000 Connecticut Ave. N. W.  
Washington, D. C. - 20036  
Telephone: (202) 296-0685

January 31, 1975

January 27, 1975

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Salls, Arizona

SYLVAN BROWN  
Eagle Butte, South Dakota

ANNA M. KOONTZ  
Taholah, Washington

Mr. John Burns  
Senate Commerce Committee  
Washington, D.C.

Dear Mr. Burns:

At the request of Professor Ralph Johnson of the University of Washington School of Law we are enclosing a copy of The Impact of Public Law 280 Upon the Administration of Justice on Indian Reservations. This publication was prepared by Professor Johnson for NAICJA and contains a description of the American Indian Court Judges Training Program with which he thought you might be interested.

If you have any questions concerning this or other NAICJA programs, please feel free to call on us.

Sincerely,

E. Thomas Colosimo  
Secretary-Treasurer

ETC:hct  
Enclosure

cc: Professor Ralph Johnson

Mr. Jay V. White  
11543 Palatine Ave. North  
Seattle, Washington 98133

Dear Mr. White:

Enclosed please find a set of the 5 volumes of the Justice and the American Indian series with which you were so helpful.

I regret that you were inadvertently missed in the dissemination of the first printing of these documents, but hope that these are useful to you.

Sincerely,

Kathy Imig  
Staff Assistant

KI:hct  
Enclosures

DIRECTORS

VIRGIL L. KIRK, SR.  
Window Rock, Arizona  
*President*

CRANSTON HAWLEY  
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Fort Duchesne, Utah  
*Director*

February 10, 1975

Mr. Rolf L. Wallenstrom  
Area Manager  
US Fish & Wildlife Service  
P.O. Box 250  
Pierre, South Dakota 57501

Dear Mr. Wallenstrom:

Per your letter of February 7th, enclosed is Volume 1 of  
the Justice and the American Indian publication. We hope  
you find the publication helpful.

Sincerely,

Kathy Imig  
Staff Assistant

KI:hct  
Enclosure

WARREN G. MAGNUSON, WASH., CHAIRMAN  
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ARTHUR PANKOFF, JR., MINORITY COUNSEL

## United States Senate

COMMITTEE ON COMMERCE  
WASHINGTON, D.C. 20510

February 11, 1975

Mr. E. Thomas Colosimo  
Secretary-Treasurer - NAICJA  
Executive Director  
Arrow, Inc.  
1000 Connecticut Avenue, N.W.  
Washington, D.C. 20036

Dear Mr. Colosimo:

Thank you for your kind assistance in sending to the Senate Committee  
on Commerce the sets of articles on Justice and the American Indian.

I am confident these publications will be helpful in the work of the  
Committee.

Sincerely,

*Warren Magnuson*  
WARREN G. MAGNUSON  
Chairman

WGM/jbm

*See Mrs Letts also*

February 11, 1975

Attorney Mary Van Gemert  
Wisconsin Indian Legal Services  
520 University Ave.  
Madison, Wisconsin 53705

Dear Attorney Van Gemert:

Enclosed is the Public Law 280 Publication, Justice and the American Indian, Volume 1, which you requested yesterday.

We hope this publication will be helpful.

Sincerely,

Kathy Imig  
Staff Assistant

KI:ht  
Enclosure

February 14, 1975

Ms. Marilyn Richmond  
Federal Trade Commission  
6th & Penn Ave., NW, #585  
Washington, DC 20580

Dear Ms. Richmond:

Per your telephone request of February 11, enclosed please find Volume 4: Examination of the Basis of Tribal Law and Order Authority, which is one of the volumes of the 5-volume publication, Justice and the American Indian.

We hope you find this publication helpful.

Sincerely,

Kathy Imig  
Staff Assistant

KI:ht  
Enclosure



The Library of Congress

Congressional Research Service

Washington, D.C. 20540

March 14, 1975

Ms. Kathy Imig, Staff Assistant  
National American Indian Court Judges Association  
Suite 401  
1000 Connecticut Avenue, N.W.  
Washington, D.C. 20036

Dear Ms. Imig:

We very much appreciate the permission extended Mr. Barker... on the telephone to make copies of the following material for use in answering a research inquiry from a Member of Congress: Appendix D, "State by State Analysis of State Jurisdiction over Indian Reservations throughout the United States", pages 84 through 98 of JUSTICE AND THE AMERICAN INDIAN, Volume 1 to be used as an appendix in a report for two Congressional Committees.

The Congressional Research Service does research and reference work for Members and Committees of Congress. Frequently we receive requests for information which can be answered readily by sending copies of material protected by copyright. We must either lend our reference materials or make copies by photocopying or multilithing. It would be helpful if we had permission to copy from your publications for use in answering Congressional inquiries.

In the interest of meeting the needs of Congress efficiently and quickly, we would appreciate your authorizing us to copy from these publications by the above methods for use either in legislative matters or in connection with Members' correspondence. The source of materials copied will be clearly indicated and the fact that they were reproduced with your permission will be stated on each copy. We will avoid any action which we believe might reduce your revenues from the publications.

To some extent this request is in anticipation of our needs. At one time we requested permission to reproduce copyrighted materials whenever a specific need arose. The delay occasioned by the correspondence often was inconvenient for the Members or Committees of Congress and sometimes was embarrassing to the Service. We have, in recent years, requested general permission from over eight hundred publishers and publications. We are gratified that the response has been overwhelmingly affirmative.

Sincerely yours,

Basil T. Owens  
Executive Officer

February 18, 1975

Mr. Bert Hoff  
American Academy of Judicial  
Education  
2456 20th St., NW, #302  
Washington, DC 20009

Dear Mr. Hoff:

As per our telephone conversation today, enclosed please find copies of NAICJA's 5-volume publication, Justice and the American Indian and the Supplement No. 1 to the Criminal Court Procedures Manual.

I hope that these will be of use to you in your endeavors.

Sincerely,

Kathy Imig  
Staff Assistant

11:52  
Enclosures

NATIONAL AMERICAN INDIAN  
COURT JUDGES ASSOCIATION



Secretariat  
Suite 401  
1000 Connecticut Ave. N. W.  
Washington, D. C. - 20036  
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COURT JUDGES ASSOCIATION



Secretariat  
Suite 401  
1000 Connecticut Ave. N. W.  
Washington, D. C. - 20036  
Telephone: (202) 296-0685

January 24, 1975

MEMORANDUM

DIRECTORS  
VIRGIL L. KIRK, SR.  
Window Rock, Arizona  
*President*

CRANSTON HAWLEY  
Harlem, Montana  
*Vice President  
Project Director*

E. THOMAS COLOSIMO  
Washington, D.C.  
*Secretary-Treasurer*

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Sells, Arizona

SYLVAN BROWN  
Eagle Butte, South Dakota

ANNA M. KOONTZ  
Taholah, Washington

TO: Indian Court Judges

FROM: Cranston Hawley, *CH* Project Director

DATE: January 23, 1975

SUBJECT: NAICJA Publications

Our records indicate that you were not able to attend the most recent NAICJA Training Session held in Denver on November 1-2, 1974. This was the first training session on Family Law/Child Welfare and was very successful. Enclosed is a copy of the agenda for this session for your information.

At the November session we distributed NAICJA's publication, An Introduction to Legal Research and Analysis and West's Law Finder to all of the Judges attending. We are enclosing a copy of each of these for your study. They will be helpful to you in working on the home-study questions which were sent to you recently.

We are tentatively planning another national training workshop for early March 1975, and hope you will be able to attend. We will send you details shortly.

Enclosures

DIRECTORS  
VIRGIL L. KIRK, SR.  
Window Rock, Arizona  
*President*

CRANSTON HAWLEY  
Harlem, Montana  
*Vice President  
Project Director*

E. THOMAS COLOSIMO  
Washington, D.C.  
*Secretary-Treasurer*

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Sells, Arizona

SYLVAN BROWN  
Eagle Butte, South Dakota

ANNA M. KOONTZ  
Taholah, Washington

Mr. G. E. Schmidt  
Marketing Department  
West Publishing Company  
St. Paul, Minnesota 55102

Dear Mr. Schmidt:

You may recall that last November you supplied the National American Indian Court Judges Association with a supply of your West's Law Finders for use in our training program for Indian Court Judges.

This has been a very useful tool in acquainting the Judges with the tools of basic legal research and also in acquainting them with the many legal sourcebooks which they may wish to purchase for their individual courts.

I would like to request that you send us an additional supply of these pamphlets for distribution to Judges. I could use 50-75 of them to be distributed to new Judges and new courts. If this is possible, your prompt mailing of them to me at the above address would be greatly appreciated.

Sincerely,

Kathy Imig  
Staff Assistant

KI:hct



**WEST** *Publishing Company*

ST. PAUL, MINNESOTA 55102 TEL. 612/228-2500

January 29, 1975

Ms. Kathy Imig  
National American Indian  
Court Judges Association  
Suite 401  
1000 Connecticut Avenue, N. W.  
Washington, DC 20036

Dear Ms. Imig:

I am pleased to learn that you have found the West Law Finders,  
which were recently supplied to you, a useful tool.

We would be most happy to send you an additional 60 copies for  
distribution to new judges and courts. They will be in the mail to  
you shortly.

Cordially,

G. E. Schmidt  
Marketing Department

GES/caf

NATIONAL AMERICAN INDIAN  
COURT JUDGES ASSOCIATION



Secretariat  
Suite 401  
1000 Connecticut Ave. N. W.  
Washington, D. C. - 20036  
Telephone: (202) 296-0685

January 13, 1975

Dear Judge:

**DIRECTORS**

VIRGIL L. KIRK, SR.  
Window Rock, Arizona  
*President*

CRANSTON HAWLEY  
Harlem, Montana  
*Vice President  
Project Director*

E. THOMAS COLOSIMO  
Washington, D.C.  
*Secretary-Treasurer*

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Cortez, Colorado  
*Director*

RICHARD G. FREDERICK  
Belcourt, North Dakota  
*Director*

LAWRENCE MILLER  
Fort Washakie, Wyoming  
*Director*

ORVILLE N. OLNEY  
Toppenish, Washington  
*Director*

HENRY UPCHEGO  
Fort Duchesne, Utah  
*Director*

Judge Virgil L. Kirk, Sr., President of NAICJA and Judge Cranston Hawley, Project Director, have asked the staff to advise you that the American Indian Court Judges Training Program is alive and will continue. Unfortunately, we have not yet received the refunding grant for the Program, but we have been assured that the program will be refunded probably within the next 30-60 days. During this lull in our training program, Judge Kirk and Judge Hawley suggested that it would be helpful to you if we prepared some useful material for your home study prior to the first training session. We thought you might continue your studies at home with the materials which have been distributed over the past few years and with the most recent materials distributed at our Denver session on November 1-2, 1974. Also, we have just published Supplement #1 to the Criminal Court Procedures Manual and Research Document. This publication brings up to date developments in Federal Courts relating to the Indian Civil Rights Act. It also includes the text of the Model Code of Criminal Procedures as published by the American Indian Civil Rights Task Force with explanatory comments. This is excellent material for Indian Judges to read and it will be used and further explained by your instructors in the 1975 training program.

We have also put together two sets of questions to help you in your studying. These questions are also enclosed. Before you attempt to do the questions, please read and study An Introduction to Legal Research and Case Analysis, pages 1-7. This is the blue book which was distributed in November at the Denver session. Also read pages 1-10 and 41-50 of West's Law Finder which was also distributed at Denver. Read these pages and then do Problem No. 1. You may use these materials when you do the problem and refer back to them to find the answers. These questions are to help you in your studies. As you will see, Problem No. 1 refers to Legal Research of Federal and State Court opinions. While NAICJA Program Management certainly would not imply that Indian Courts should use "Anglo" law as a basis for justice in Indian Courts, we do feel that there are times when Indian Judges do need to read Federal Court decisions such as when one of their cases is appealed to Federal Court. Also, we feel that Judges in Indian Courts can

read some of the law handed down in Federal and State Courts and apply the reasoning to cases appearing before them consistent with Indian custom and tradition.

If you have any questions concerning Problem No. 1 or any difficulties with the questions, please write them down and your instructor will go over the problem at the first training session. Also, you may want to discuss the questions with your fellow judges to work out any problems you might have.

Problem No. 2 is based on material which you will find in Lesson I and II of the Family Law Sections of the 1972 Studies of Civil Laws - in the black binder. Please read Lessons I and II before doing this problem. The questions in the problem are based on a divorce situation in which the main question is whether the state court or the tribal court has jurisdiction to grant the divorce. This is a question which continually confronts Indian Judges. Please read the facts in the problem as if the parties involved were stating them in your court. Then answer the questions which follow based on the facts. You may refer to Lessons I and II or any other material which you think would help you to answer the questions. It would be of help to you and to us if you actually write out answers to these questions.

You may take as much time as you need or want with these questions, use any material you desire and discuss them with your fellow judges or anyone else you want. When you have completed both Problems, please send them to NAICJA at our Washington Office and we will distribute them to each instructor so that you can review them at your first session. Please remember that these questions are solely to help you in your studies - there will be no grades given, etc. We hope that they are of help to you.

Finally, we have tentative plans for early March 1975 to hold the second training session on family Law/Child Welfare. This date is not definite yet, but we will notify you soon with specific details. Also, we will distribute materials for you to read before this session. Much work lies ahead for Judges in Indian Courts and the Officers and Board of Directors of NAICJA are confident that we will all work together to improve the Indian Judicial System. At our next national session, Judge Kirk and Judge Hawley will be seeking your opinions on the course of the training program and on the value of the material such as that enclosed. This program must be geared to your needs so we need to hear your opinions. If you have any questions, comments or suggestions, please feel free to write them on the back of the enclosed problems before you send them back to us.

We hope that the enclosed material is helpful to you.

Sincerely,

E. Thomas Colosimo  
Secretary-Treasurer

ETC:hct  
Enclosures

PROBLEM NO. 1

The following questions are based on material contained in An Introduction to Legal Research and Case Analysis, the blue book which was distributed to each Judge at the November 1-2 national training session in Denver. Please read pages 1-7 of this publication. Also, the West's Law Finder which was distributed at Denver would be helpful - read pages 1-10 and 41-50. Then answer the following questions to evaluate what you read. Answers to these questions can be found in the above pages. You may refer to the above two publications as you answer these questions.

1. Name two Reporters in which you would find decisions of the United States Supreme Court.

\_\_\_\_\_  
\_\_\_\_\_

How are these Reporters abbreviated in a case citation?

\_\_\_\_\_  
\_\_\_\_\_

2. Explain each part of the following legal citation.

354 U.S. 449 (1957) \_\_\_\_\_

77 S.Ct. 1356 (1957) \_\_\_\_\_

3. If you have access to a law library in a law school near you, a county law library, a federal or state court, or an attorney's office, do Problem No. 1 on Page 5 of An Introduction to Legal Research and Case Analysis.

Problem No. 1  
Page 2

4. If a member of your tribe is charged with committing one of the "Ten Major Crimes" on your reservation, where would he/she normally be tried?

\_\_\_\_\_

If he/she wishes to appeal, to which Court would he/she appeal?

\_\_\_\_\_

In what city does this Court usually hear such an appeal?

\_\_\_\_\_

In which series of books (Reporter) would the decision on this appeal be reported?

\_\_\_\_\_

If this case were reported in Volume 487 of the Federal Reporter Second Series at Page 317 in 1973 - write the appropriate citation.

5. Do Problem No. 2 on Page 6 of An Introduction to Legal Research and Case Analysis. If there is an attorney at a legal services program near you or in a law firm or private practice, he/she will be able to tell you where the nearest law library is.

Problem No. 1  
Page 3

6. What is the name of the National Reporter in which the Supreme Court decision of your state are printed in full?

7. In what set of books would you find the text of the "Ten Major Crimes Act"?

PROBLEM NO. 2

To answer the following question you will want to re-read Lessons I and II of the Family Law Sections of the 1972 Studies of Civil Laws. These two lessons cover the Law of Marriage and Divorce.

Alfred and Lorna Beanstalk are having marital problems and Lorna wants to get a divorce. Lorna is a 7/8 full blood Indian. Lorna is not an enrolled member of any federally recognized tribe, never having been enrolled for membership in her tribe because she was born off of the reservation and the tribe denied her membership application. She is now 17. Alfred is an enrolled member of a federally recognized tribe and both of them have lived together during their marriage on Alfred's reservation. Alfred and Lorna were married in Las Vegas one year ago and have one child issue of their marriage. On Alfred's reservation there is a functioning Court of Indian Offenses operating under the provisions of 25 CFR for rules of procedural as well as substantive law.

1) Lorna goes to a non-Indian lawyer off of the reservation. He suggests filing for divorce in the state district court of the county in which the reservation is located. Under the facts listed, could Lorna get a valid divorce from the state district court? Why or why not? Would it matter

Problem No. 2  
Page 2

whether or not Lorna lived off the reservation? Does it matter that the marriage was performed off the reservation?

2) Assuming that Lorna's attorney files for divorce in state district court, could Alfred be validly served with process at his home on the reservation by the county sheriff? Why or why not? Would the answer to this question be dependant upon the Tribal Law & Order Code? What information would you look for in the Tribal Law and Order Code?

3) Assuming that Lorna's attorney decides to file for divorce in the reservation's Court of Indian Offenses, asking for divorce, alimony, child support, and attorney's fees, what relief could the Court grant if Alfred was properly served with a summons and complaint and fails to answer or appear in Court?

# NATIONAL AMERICAN INDIAN COURT JUDGES ASSOCIATION



# Newsletter

Volume 4, No. 1 — 1975

## INDIAN COURT JUDGES TRAINING PROGRAM 1975

Judge Virgil L. Kirk, Sr., President of the National American Indian Court Judges Association, has announced that the NAICJA Training Program in 1975 will include training for Indian Court Judges in criminal law and procedure and in family law/child welfare. The family law portion of the training program has been made possible by a contract obtained by NAICJA from the Bureau of Indian Affairs, Social Services Division, and with the assistance of Mrs. Clare Jerdone, Child Welfare Specialist and Mr. Ray Butler, Chief of the Social Services Division. The family law portion of the training program anticipates the holding of two national training workshops for all Indian Court Judges and two one-day regional sessions to be held in conjunction with the 1975 LEAA-funded regional sessions in Criminal Law and Procedure. Although the refunding of the LEAA program has not yet been finalized, Judge Cranston Hawley, Project Director, expressed his confidence that the program for continuing education of Indian Court Judges will be refunded and operating in the near future.

The first of the National Training Workshops on Family Law/Child Welfare was held November 1-2, 1974 in Denver, Colorado. Over 75 Indian Court Judges attended the two-day session. The instructors for the Family Law portion of the program were Dr. Vincent deFrancis, Judge James J. Delaney and Mrs. Betty Philbrick. Dr. deFrancis is the Director of the Children's Division of the American Humane Association. Since 1954 he has directed that agency's national program to stimulate and promote more adequate protective services for neglected, abused and exploited children and is a leading expert in that field. Dr. deFrancis conducted sessions with the Indian Court Judges on the following topics: Neglect and Dependency Jurisdiction, Rights of Parents, Rights of Children, Temporary Orders, Adjudicatory Hearings and Termination of Parental Rights.

(Continued on page 6)

## NEW NAICJA PUBLICATIONS

### SUPPLEMENT NO. 1 TO THE CRIMINAL COURT PROCEDURES MANUAL AND RESEARCH DOCUMENT

The National American Indian Court Judges Association has recently published *Supplement No. 1 to the Criminal Court Procedures Manual and Research Document*. This new publication has been distributed to Indian Court Judges participating in the American Indian Court Judges Training Program sponsored by NAICJA.

*Supplement No. 1* represents the first attempt by NAICJA to update the *Criminal Court Procedures Manual and Research Document* which were published in 1971.

*Supplement No. 1* includes a discussion of the new legal developments emanating from federal court decisions since the passage of the Indian Civil Rights Act. It is organized in three sections. The first section discusses the problems of jurisdiction of federal courts over tribal governmental actions and the bases upon which such federal intervention in tribal affairs has been justified. The second section follows the format of the original *Criminal Court Procedures Manual and Research Document* in discussing case law and Department of Interior Solicitors' opinions relating to the substantive Civil Rights provisions of the Act. The third and final section outlines and analyzes the provisions of the Model Code prepared by the Indian Civil Rights Task Force. The provisions of the Code which deal with selected areas of criminal procedure are reproduced in full. The commentary which follows each section of the Code is designed to suggest ways in which Indian Courts might implement the Model Code in such a way as to comply with the provisions of the Indian Civil Rights Act and yet avoid drastic modification of their own tribal structure. Judge Henry Upchege, Chief Judge of the Ute Indian Tribal Court and a member of the Board of Directors of NAICJA said the Association is very pleased with this most recent publication knowing that it will be another useful tool for Judges serving in Indian Courts.

(Continued on page 5)

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**NOTICE**

THE NATIONAL AMERICAN INDIAN COURT JUDGES ASSOCIATION WILL HOLD ITS SECOND NATIONAL TRAINING WORKSHOP ON FAMILY LAW/CHILD WELFARE ON MARCH 2-3, 1975 IN PHOENIX, ARIZONA. NOTICES HAVE BEEN SENT OUT TO ALL INDIAN COURT JUDGES IN THE TRAINING PROGRAM. FOR FURTHER INFORMATION CALL THE NAICJA OFFICES - (202) 296-0662

**EXPANDED CURRICULUM FOR AMERICAN INDIAN COURT JUDGES TRAINING PROGRAM**

Judge Virgil L. Kirk, Sr., President of NAICJA and Judge Cranston Hawley, Project Director, have announced the following proposed curriculum for the 1975-76 American Indian Court Judges Training Program. The Criminal Law portion of the training is dependent upon refunding by LEAA of the Criminal Law Training Program for American Indian Court Judges.

Criminal Law	Family Law
Evidence	Framework of Juvenile Courts
Trial Practice	Adoption Process
Juvenile Delinquency Jurisdiction	Marriage and Divorce Support
Constitutional Law and Indian Culture/Traditions	Neglect and Dependency Rights of Parents/Children
Legal Research and Treaties	Temporary Orders
Opinion Writing	Court Hearings
Appellate Court Procedure	Termination of Parental Rights
Review of Trial Procedure	Child Abuse

Judge Kirk said the year would be a busy one for Indian Court Judges, and that he was confident it would be a very productive one. "As a Judge myself, I can appreciate the value of this program. It will enable many of us in the Indian judiciary to achieve the professional competency which is demanded of us if we are truly to serve the Indian people. The program allows us to help shape the training itself through the policy-making function of the Board of Directors and the Steering Committee and through discussion of the unwritten customs and diverse cultures we are aware of and which affect the administration of justice."



Indian Court Judges in Training

**BLACKFEET TRIBE TO APPEAL TO SUPREME COURT**

The Blackfeet Tribal Business Council recently approved the filing of a petition for certiorari with the Supreme Court in the case of *Cobell v. The Honorable Judge John Sharp and the Blackfeet Tribal Court*. The United States Court of Appeals for the Ninth Circuit had decided in that case that the Blackfeet Tribe in its Law & Order Code had relinquished jurisdiction in the areas of marriage, divorce and adoption by deferring to state law in these areas. The appeal on behalf of Chief Judge John Sharp and the Blackfeet Tribe will be filed shortly by Professor John T. McDermott of the University of Montana School of Law. Arrow, Inc. has provided the filing fee. This will be an important jurisdictional case for all Indian Courts.

**RECENT COURT DECISIONS INDIAN AUTHORITY TO LICENSE BUSINESSES ON INDIAN RESERVATIONS UPHELD**

The Supreme Court recently upheld the power of the federal government to punish violations of Indian tribal liquor laws by non-Indians on private property within Indian reservations. In a 9-to-0 decision the court reinstated the conviction of Martin D. Mazurie, proprietor of a bar near Ft. Washakie on the Wind River Reservation in central Wyoming, for selling alcoholic beverages without a license from the Shoshone and Arapahoe Tribes.

The Tenth U.S. Circuit Court of Appeals said that tribal authority was vague and the conviction of Mazurie, a non-Indian, was beyond the reach of the federal power. The justices disagreed, saying Congress had wide authority to regulate Indian affairs and specifically the introduction of "spirituous beverages into Indian Country."

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A United States Court of Appeals ruling has made it difficult if not impossible to prosecute assault charges against reservation Indians, a Federal prosecutor, Tom Crowe, First Assistant United States Attorney for Arizona, said. Mr. Crowe stated that his office had not filed charges on "more than a dozen" assault cases since a Sept. 9 ruling by the United States Court of Appeals for the Ninth Circuit overturned on constitutional grounds the Federal statute that governs such cases.

The Federal statute, according to Mr. Crowe, mandates that assaults committed by Indians on the reservation be prosecuted by the United States Attorney under state law. The same assault, if committed by a non-Indian on the reservation, would be prosecuted under Federal law, which provides less severe penalties for assault than does Arizona law.

The Court of Appeals dismissed assault charges against four Indians on the ground that they had been denied equal protection under law, since they were subject to harsher penalties than non-Indians would have been in the same circumstances. Mr. Crowe said that the ruling had left his office with "a serious problem." In some cases, he said, another crime is committed along with the assault, and charges can be filed that are not affected by the appellate court's ruling. Where an assault charge is the only possible one, he said, his office can now either go to trial under the assault charges and have the charge dismissed, refer the charge to the tribal court or hold the charge in abeyance while efforts are made to clarify the situation.

**THE OLDER NATIVE AMERICAN AND THE INDIAN COURT SYSTEM**

Of all the frustrations confronting Indian Courts, perhaps none is more heart rending than the courts' attempts to resolve the problems of the older person coming before them. Never have the needs of Native Americans, over the age of 50, been so great. Yet Reservation-based services to help them maintain health, dignity and independence are clearly inadequate. Institutionalization is often the only disposition possible. The Tribal Court system plays a unique and critical role in identifying and meeting the needs of the older Native American. Through explorations now being undertaken by The National American Indian Court Association and Arrow, Inc., solutions to this critical shortage of services are being sought.

There are three areas of service which the Indian Courts can provide in meeting this growing problem. The first is that of identification — identification not only of the most critical individual cases whose need for health, social and legal services is severe, but also the identification of those missing services for which the community's need is greatest. There are perhaps some forty community-based, in-home, supportive services necessary to retain the older person in the community and keep him or her from being institutionalized. Forty services are rarely possible, even in large population centers. But the case load of the Indian Court System is an excellent place to begin to identify the most critically needed services.

(Continued on page 4)



National American Indian Court Judges Association  
**REGISTRATION**

Kogee Thomas and Regina Superneau register Indian Court Judges for the Denver Training Session.

## THE OLDER NATIVE AMERICAN

(From page 3)

Secondly, the Courts have the legal mechanism and the responsibility to bring into being those services which particularly relate to the legal needs of older persons. These are traditionally called Protective Services — services made necessary when an older person can no longer act on his own behalf or whose behavior may cause injury to himself or to others.

Thirdly, the Courts, because of their above mentioned role in identifying service needs and their role in providing Protective Services, are in an authoritative position to press for the provision of other supportive health and social services to the aging by other systems within the community. The Indian Court system can serve as a knowledgeable and forceful advocate for the aging in dealing with the federal, state and county providers of aging services. They can serve as the coalescing force to bring public, voluntary and Indian resources together for the provision of these desperately needed supportive services.

In seeking to find solutions to this need for Reservation-based services to older Native Americans the National American Indian Court Judges Association and Arrow, Inc., have interested themselves in the work of the National Voluntary Organizations for Independent Living for the Aging. This organization, made up of over 150 national voluntary organizations, administers a new nation-wide project called Operation Independence. The mission of Operation Independence is to promote collaboration between government and voluntary resources to provide community-based services to the more vulnerable older person. In the spirit of that mission, Operation Independence and NAICJA are seeking to find models for meeting the pressing needs of the older Reservation Indian.

For further information on Protective Services or Operation Independence, contact the NAICJA office or write Operation Independence, The National Council on the Aging, 1828 L Street, Washington, D.C. 20036, Attention: Mr. Richard E. Dewey, Senior Program Associate.

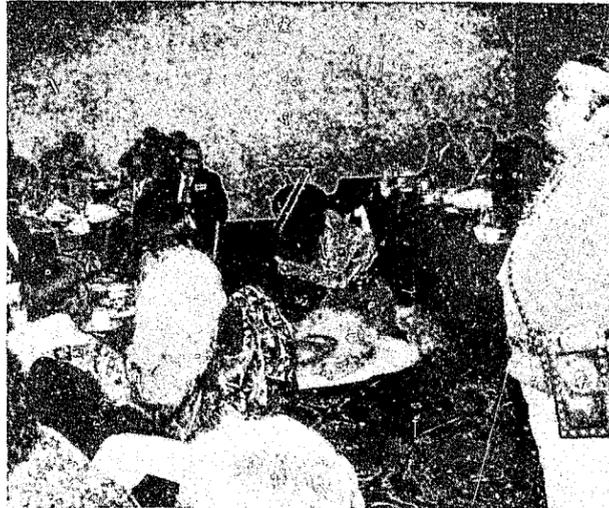
## TASK FORCE ANALYSIS

The Indian Reservation Criminal Justice Task Force Analysis 1974-75 has just been released by the Bureau of Indian Affairs. This is reported to be a complete review of reservation criminal justice programs which can be useful to Indian tribes in program planning for individual reservations. The Bureau is seeking input from Indian tribes and Indian Judges and other Criminal Justice Personnel before the report is finalized. Copies of the report will be made available to Indian judges for their review and study in the NAICJA Training Program.

## U.S. ATTORNEYS MEET

The United States Department of Justice recently held a regional U.S. attorneys conference to discuss problems of Indian reservation law enforcement. Mr. Jere M. Webb, Office of Justice Policy and Planning, Department of Justice, organized the meeting. At his request, NAICJA furnished the Department of Justice with 90 sets of its 5-volume series, *Justice and the American Indian* for use at the U.S. Attorneys Conference.

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Judge and Mrs. William Dean Wilson provide traditional Indian entertainment

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## INDIAN LAW REPORTER

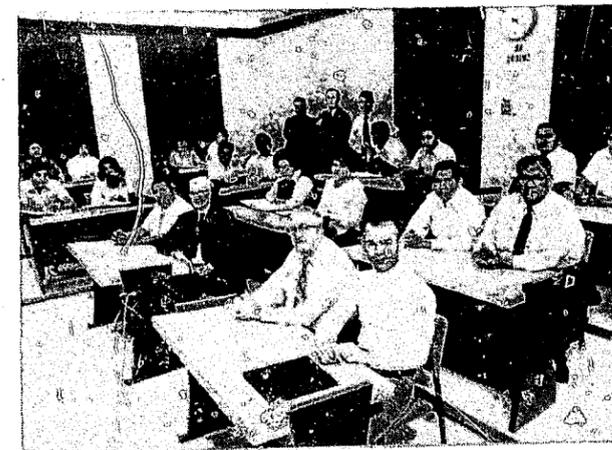
Alan R. Parker, Secretary of the American Indian Lawyer Training Program has announced that the Episcopal Church has funded a grant to provide copies of the monthly *Indian Law Reporter* to American Indian Court Judges. NAICJA will provide the *Indian Law Reporter* with names and addresses of the Chief Judges of the Indian Courts. The *Indian Law Reporter* presents a comprehensive monthly report on all current developments in the field of Indian law.

## INDIAN JUDGES ARE CONCERNED WITH COURT MANAGEMENT

Indian Court Judges across the country are expressing their concern about the expansion and improvement of the Indian Judiciary. Judge Cranston Hawley, Chief Judge of the Fort Belknap Indian Tribe stated, "Indian Court Judges are concerned. They are meeting with Tribal Councils and with other interested groups and persons to determine the best methods of improving the Indian Judiciary. Included in their concerns are jurisdictional problems, defining the role of the Judge within the American Indian Court System, review and revision of Tribal Law & Order Codes, better working conditions and pay scales for Judges, etc." NAICJA supports any effort to improve the American Indian Court System for the benefit of all Indian people.

Judge Virgil L. Kirk, Sr., President of the Indian Court Judges Association said that court management and related problems will be discussed at the regional monthly training sessions scheduled to start in April. Dates for the regional sessions will depend on LEAA program refunding which has not yet been finalized.

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Indian Court Judges at Regional Training Session in Phoenix

## NEW NAICJA PUBLICATIONS

(From page 1)

### An Introduction To Legal Research And Case Analysis

This manual for Indian Court Judges was prepared by NAICJA Officers, Staff and consultants after discussion with NAICJA Board of Directors. The manual has three substantive areas. The first is a lesson on legal research including resources for law libraries, how to find court opinions in the law library, legal citations and the Federal and State Reporter systems. The second section takes one opinion of the U.S. Supreme Court and breaks it down into its component parts in order to illustrate the basic format used in opinions

Finally, the major portion of the manual is devoted to the full text of a number of court decisions. These were chosen on two basic criteria: (1) Their general instructiveness on the form and method of legal opinions and (2) Their discussion of various points of law which may be helpful to the Indian Judges in their future work. The NAICJA Board and Officers realize that before Indian Court jurisdiction can be greatly expanded into other areas of the law, a developed skill of opinion writing and analysis will be necessary for those Judges not already familiar with this area. It is hoped that this publication will assist many Indian Court Judges in both reading and writing such opinions for their courts.

While NAICJA Program Management certainly would not imply that Indian Courts should use "Anglo" law as a basis for justice in Indian Courts, it is felt that there are times when Indian Court Judges do need to read Federal Court decisions such as when one of their cases is appealed to the Federal Court. Also, it is felt that Judges in Indian Courts can read some of the law handed down in Federal and State Courts and apply the reasoning to cases appearing before them consistent with the Indian custom and tradition.

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Judge Gabriel Paisano, Chief Judge of the Laguna Pueblo, has reported that he and Judge Leonard Puerto, Chief Judge of the Jicarilla Apache Tribal Court, have been recommended to serve on the National American Indian Court Judges training program Steering Committee. Judge Cranston Hawley, Program Project Director, has advised that they will be invited to participate in the next Steering Committee meeting. Date has not yet been set for that meeting.

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## 1975 TRAINING PROGRAM

(From page 1)

Judge James J. Delaney has been a District Judge for the 17th Judicial District, Colorado Juvenile and Family Court since 1964. He received his law degree from the University of Denver Law School and has been associated with the National College of State Trial Judges and the National Council of Juvenile Court Judges. Judge Delaney conducted workshops on Delinquency Jurisdiction, Detention Hearings, Waivers, the Adjudicatory Hearing and Dispositional Alternatives.

Mrs. Betty Philbrick is a special consultant on Child Protective Services for the Children's Division of the American Humane Association. She holds an A.B. degree from Nazareth College, Rochester, New York, and an M.S.S. degree from Smith College School of Social Work. Her sessions with the Judges included coverage of the Preventive Approach, Community Roles, Protective Service Responsibility, When to Invoke Court Intervention and Follow-Up to Court Action.

This was an intensive overview workshop on the many aspects of Family Law/Child Welfare. Those Indian Court Judges in attendance were very familiar with the family and children problems which come before their courts every day, and were appreciative that this area of the law with which they deal daily was being included in the training program. Follow-up to this first overview session will be very important and will be accomplished through intensive one-day sessions in conjunction with the LEAA Criminal Law Training Program and another national workshop. Hopefully, this is only a beginning in this area of legal training for Indian Court Judges.

The Denver two-day national training session also included an introduction to legal research, jurisdiction of

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Indian, Federal and State Courts and analysis of appellate court opinions. This session was conducted by Professor Ralph Johnson and Mr. Stephen Boyden, instructors in the LEAA Training Program. The materials distributed to Indian Court Judges for this session and for follow-up home-study and use in the LEAA Training Program were: NAICJA's new publication *An Introduction to Legal Research and Case Analysis* and *West's Law Finder*. *An Introduction to Legal Research and Case Analysis* was prepared by NAICJA officers, staff and consultants after discussions with NAICJA Board of Directors indicated an awareness that a new dimension in the training of Indian Court Judges would be useful, especially for the more experienced Judges. The material and the presentation by Messrs. Johnson and Boyden was favorably received by the Indian Court Judges. Evaluation of its applicability and usefulness to them in their daily court proceedings will be determined after NAICJA receives response from the Judges themselves as they use the material and become familiar with the approach.

### NOTICE

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Bureau of Indian Affairs  
Branch of Social Services

RE: John and Margaret Cheelah  
The following information was received by this office via a telephone call made by the police.

1. That minors, Lyle, age 17, and Norma, age 14, siblings were being detented by law enforcement for minor charges.
2. That minors were runaways, who had taken their grandmother's bracelet against her will which was pawned for thirty dollars cash.
3. That during their stay off-reservation, minors are alleged to have taken an undisclosed amount of money from a purse. From whom is unknown.

This worker was assigned to transport the minors back home and to interview the parents, John and Margaret Cheelah. Enroute home, our conversation with the minors yield very few facts. Minors expressed a strong resentment towards their parents but were reluctant to elaborate any further. Minors also indicated that they did not want to go home as they were chased from the home.

The Cheelaha live approximately one mile south of the trading post and about half a mile east off the main road. The family lives in an average size stucco house without any modern facilities.

Mrs. Cheelah answered the door and the purpose of our visit was explained to her. Mrs. Cheelah gave the following chronological account during the period of April 25 through April 30. On the afternoon of April 25, Mr. Cheelah and Lyle got into a heated verbal battle which turned into a violent physical struggle. Lyle battered his father with a club and threatened his mother also. Mrs. Cheelah recalled that despite her handicap, she did attempt to restore order but was easily shoved aside. Following this episode, outrageous threats were exchanged between Mr. Cheelah and his son. Lyle took off with Norma at his heels. Both parents affirmed that Lyle and Norma are very incorrigible with a short temper.

The parents heard that Lyle and Norma spent two nights at their grandmother's home. On April 28, the minors took their grandmother's bracelet against her will. This bracelet was pawned somewhere along the way for cash money.

On April 30 Jordan Price, An L.D.S. missionary and a long time family acquaintance, came to the home to let them know that Lyle and Norma had come to his home on April 29. Mr. Price thought that it would be practical to put Lyle to work around his home to earn enough money to redeem his grandmother's bracelet. However, on May 1 or May 2, the minors apparently left the Price residence. It is also alleged that the minors took (stole) some money from a purse, the amount and from whom it was taken are unknown.

The minors gave the following account: Upon our arrival Lyle said he didn't want to stay with his parents but would rather go into a foster home or find a job. He said they did not run away voluntarily but that their mother chased them out of the home and told them not to come back. Apparently both parents were drinking and for some reason the mother threaten Lyle with a knife. Lyle grabbed a stick and knocked the knife off from his mother's hand and hit her several times with the stick. Lyle also mentioned that since in his early infancy, he recalls that his parents always mistreated him but not his other siblings. He has been raised by his maternal grandmother most of his life and prefers to be in her home rather than his parents. He continued talking about his parents drinking habits and using their assistance to purchase liquor, and have their fights. Lyle mentioned that he recently filed a complaint against his mother for beating him but his mother pleaded with him to withdraw the complaint, which he did after he got promises from his mother that she will not do it again.

Nothing significant was accomplished during this visit as opposing parties told contradictory stories and blamed one another for the existing problem. Before leaving the Cheelah residence, the parents assured the worker that everything will turn back to normal and all the kids needed were an apology and reconciliations.

Worker planned to make a follow-up for further information and check on the family situation.

On this date this worker made a follow-up on the Cheelah family to clear the discrepancies in their stories. Upon our arrival, it was obvious that things had gotten worse as Mrs. Cheelah was emotionally upset. We learned that the minors never stayed in their parents home more than ten minutes the previous day. Mrs. Cheelah was the only adult home. She finally disclosed the reason Lyle and Norma had ran away from home. We learned that minors are nephew-niece via blood and clan relationship. That Norma is five months pregnant by Lyle. Consequently the parents resent this relationship between Lyle and Norma. The parents admitted their awareness of the relationship and affairs of the minors and have attempted many times to counsel with the minors but this only generated resentment and hostilities.

Before leaving the home yesterday, Mary 2, 1974, the minors vowed that they will never return to this home and also made all kinds of verbal threats. The parents are quite disturbed and frightened by Lyle's behavior.

RECOMMENDATION:

The BIA Branch of Social Services strongly recommends that subjects be separated and that Norma be placed in a suitable foster home where she will be able to receive the proper counseling and guidance until she has her baby. The whereabouts of Lyle are unknown at this time therefore services to him will be determined at a later date.

Social Services Representative

Report of Investigation  
Bureau of Indian Affairs  
Branch of Social Services  
December 3, 1971

IDENTIFYING INFORMATION:

Children:	Barton Brave	2-28-58
	Alice Brave	5-08-59
	Ava Brave	6-06-60
	Wade Martin	9-20-65
	David Martin	11-02-67
	Gary Martin	10-03-69
	Jane Martin	2-18-71
Mother:	Rita Mary Brave Martin	9-07-39

REASON FOR REPORT:

The court has requested an investigation of alleged neglect of Rita Mary Martin, also known as Rita Mary Brave, of her children.

BACKGROUND INFORMATION:

Rita Mary Martin was first married to Elmer Brave, who is the father of her three oldest children: Barton, Alice and Ava. They were divorced on June 21, 1963.

Mr. Brave lives on the reservation and he is employed as a tribal policeman. He is remarried and has several children. Ava lives with her father. Barton and Alice did live with their father until late summer, 1971, when they reportedly ran off to their mother. Though Barton was taken back to his father, he again ran back to his mother. Ava is reported to have said she does not want to return to her father because she regards her stepmother as to strict.

Of Mrs. Martin's other four children, Wade and Gary were registered at birth as the children of Richard Martin. There is no record of marriage between Richard Martin and Rita Mary Martin. The paternity of David and Jane is not recorded.

Wade and David have been living with their mother. Gary has been placed in an adoptive home; the adoption was granted by the court in early 1971, with the consent of the mother. The baby, Jane, lived with her mother until September 9, 1971.

Mrs. Martin is known to have a drinking problem. She receives state welfare for herself and the children who have been living with her. She could be receiving state welfare for Barton and Alice since they have been living here since late summer. But for unexplained reasons she has never reported their presence to the state welfare worker.

PRESENT SITUATION:

On September 8, 1971, a juvenile court officer contacted the Branch of Social Service. The youngest child of Mrs. Martin, Jane, had been brought to the health clinic by a cousin, Sally Turtle, who lives about 300 yards from Mrs. Martin. Miss Turtle had reported that the child's mother had left home and been gone for several days. The child was ill with diarrhea. The court obtained temporary custody of the child.

On the afternoon of September 8, 1971, the social worker drove out to the home. The juvenile court officer and a health clinic visitor were also there. Mrs. Martin was living with her mother Mrs. Jane Schlee, in a one room house, since she has no home of her own. Mrs. Schlee, four year old David and baby Jane were there. The baby had been given medicine and appeared to be feeling better. Mrs. Schlee said her daughter, Mrs. Martin, had been gone for several days. Barton had apparently gone with his mother, Alice was at another camp, and Wade's whereabouts were unknown. He too may have gone with his mother. Mrs. Schlee said she was tired of caring for the baby, Jane. She did not mind keeping David who appeared to be a healthy boy. We told Mrs. Schlee we would place the child in a foster home the next day.

On September 9, 1971, the social worker again went to the Schlee home. This time we found Mrs. Martin and Barton asleep on a mattress outside the home. They could not be awakened despite my shouts and pulls on their shoulders. We had to assume they were in an intoxicated stupor. The little girl, Jane, sat nearby in a diaper that had apparently not been changed all day. No one else was around.

We picked up the baby and told Mrs. Martin's teenage niece who lives nearby that we were taking the child to a foster home, and asked that Mrs. Martin come talk to us. We placed the child in the foster home of Elmer and Thelma Brust.

Since Mrs. Martin did not come to see us the next day or the next few days, we visited the Schlee home again on September 15. Only Mrs. Schlee and David were there; Mrs. Martin was said to have gone to the store. Barton, Alice and Wade were still not enrolled in any school. We asked Mrs. Schlee to ask Mrs. Martin to come and see us.

It was not until September 18, four weeks after school began, that Mrs. Martin finally enrolled Alice and Wade at the boarding school.

On September 30 Mrs. Martin accompanied by her young adult niece came to our office to enroll Barton at the boarding school. The niece seems to have taken the initiative in trying to get Barton back in school. Arrangements were made for Barton to enroll at the boarding school the first week of October.

While Mrs. Martin was in the office, I tried to bring up the subject of the baby, Jane, but she walked out of the office. This meant that three weeks had now gone by since we took the baby from Mrs. Martin's side, and still she had not been able to speak one word with us about the matter.

On November 11, I again visited the Schlee home. No one was home. I left word with a relative living nearby that Mrs. Martin should contact me.

On November 12 she did. She came to the office by herself. It was extremely difficult to talk to her. She would either say nothing or respond in a few words. I explained to her that Jane was being well taken care of in a foster home. If Mrs. Martin wanted the child again, she would have to prove to the court's satisfaction that she was behaving responsibly and would take good care of the child.

She complained that she did not have a house. She said she has been living with her mother or with her sisters, but all of them seemed to get tired of having her around. She apparently did not feel welcome anywhere, anymore.

She said she has a foundation of a house built, but no one will help her get materials to build the house. She claimed that neither BIA nor tribal welfare would help her. I asked her to go visit these housing sources, but she would not. I offered to take her to the Tribal Work Experience Program office to ask about getting labor help, but she refused to go. She acted in a pouting manner.

I told her I knew she had placed one child to be adopted, and I asked whether she would think of placing Jane for adoption. She said she would have to think about it.

That was the last contact I had with her, on November 12. I understood she is presently being held in jail for disorderly conduct.

On November 22 a caseworker from another Branch of Social Service telephoned. She said the present Mrs. Brave had talked to her, and the Braves say they would like to have Barton and Alice to live with them again. The Braves say they intend to come to the December hearing.

RECOMMENDATION:

We would recommend that in view of Mrs. Martin's lack of a home and her apparent inability thus far to demonstrate that she can responsibly care for her children, that:

1. Barton and Alice be returned to the custody of their father, Elmer Brave, if this all practical and if the reasons for their running away last summer can be ironed out in discussion with Mr. and Mrs. Brave;

2. Wade continue in boarding school, and that he be enrolled in the BIA summer boarding school program if his mother does not have a suitable living arrangement by next summer;
3. David continue living with his grandmother until he is of school age;
4. Mrs. Martin be encouraged to make application to BIA or the tribe for housing assistance; and if necessary to seek medical or counseling help for her excessive drinking;
5. Jane continue in legal custody of the court and in the Brust foster home under supervision of the Branch of Social Services, until such time that (a) the mother demonstrates her ability to properly care for the child, or (b) she decides voluntarily to relinquish the child, or (c) the court decides to sever parental rights if Mrs. Martin continues to demonstrate her inability to give responsible care to an infant.

The Branch of Social Service would be willing to continue contact with Mrs. Martin and report to the court again in six months.

Bureau of Indian Affairs  
Branch of Social Services  
August 15, 1974

IDENTIFYING INFORMATION:

Child:	Barton Brave	2-22-58
Parent:	Rita Mary Brave Martin	9-7-39

REASON FOR REPORT:

This report is being submitted to inform the court of the current status of this child, as he was placed under the supervision of Branch of Social Services, in accordance with a Court Order dated October 11, 1973.

PRESENT STATUS:

Following the Court Order, Barton was placed at the boarding school. During his stay there, he became involved in a robbery of the store and Post Office with several other fellow students in December 1973, resulting in charges being filed by the Agency Special Officer with the Federal District Court.

At this time, Barton was removed from the boarding school dormitory and placed in the foster home of Mr. George Cash a teacher at the boarding school. He remained there and manifested no real behavior problems during his stay there. However, in May 1974, Barton was required to go for a sentencing hearing in Federal District Court where he was sent to the Federal Youth Detention Center for 60 days evaluation. When he was returned, we recommended to the court that Barton be placed on probation and attend school at an out of state boarding school. Currently, Barton is residing in my home and is employed as a maintenance worker at the School for Exceptional Children until August 22, 1974, when he will leave for school.

RECOMMENDATION:

We recommend that Barton continue under protective supervision until he reaches the age of majority or until we could recommend otherwise.

Social Worker

Bureau of Indian Affairs  
Branch of Social Services

Dear Judge:

The following report is being submitted at the request of the court in the interest of Mary Deer, Petition No. 7281.

The above-named child is currently in the hospital pending our investigative study. Mary has been in the home of Mr. and Mrs. George Singer (Mr. Singer is a brother to Mary's mother) prior to her hospitalization. According to Dr. Smith, pediatrician, whom we conferred with on 4-17-74, Mary was transferred from the county hospital to the Indian hospital on 4-1-74 and has been hospitalized since. Hospital course for Mary was uneventful except shortly after her admission she contracted pneumonia but soon recovered. Mary was observed to be well-nourished and physically well.

As there were allegations of possible child abuse, several x-rays were taken and radiological reports indicated multiple injuries to both shoulders and both elbows. Dr. Smith noted that joints appeared to have been dislocated at various time phases and that such injuries were highly unusual for a child during this stage of physiological development. He further stated that such injuries could not have been sustained from falls and thought questionable parental mistreatment may be involved.

Through an interview with a nurse on duty, we learned that Mr. and Mrs. Singer visited periodically. Nurses observed Mary's great reluctance in responding to Mrs. Singer and reported that she cried whenever Mr. Singer attempted to hold her.

Following several attempted home visits, Mr. Singer came to our office alone on 4-19-74 and at which time he related his concern in obtaining custody of Mary. Mr. Singer spoke inappropriately at times during his conversation, was suspicious of our motives to see him and appeared out of contact with reality. These idiosyncrasies may be related to his mental problems for which he is receiving treatment through the mental health clinic.

A home visit was made on 4-23-74 when Mrs. Singer was interviewed, regarding allegations of child abuse, Mrs. Singer became very defensive and quickly stated that allegations were untrue. She implied that whenever there were foster children, families always encountered problems and she had, therefore, decided not to adopt. At this point she was apathetic toward Mary's future but stated that someone would have to remunerate them for the amount of money spent on her care. One could speculate as to whether Mrs. Singer was overly interested in monetary rewards and not so much in the child's well-being. Our General Assistance records indicate that Mary's needs were included in Mr. and Mrs. Singer's GA budget effective 6-1-73, but family was suspended 2-1-74.

It may be interesting to note that although Mrs. Singer has two children of her own neither one is in the household and both are living with relatives. Relatives of Mr. and Mrs. Singer confirmed that these children had not been in the home since the couple married 10-11-70. Yet Mrs. Singer persisted in informing me that she had "too many problems" in raising her two children and Mary would only burden her with more responsibilities. When I inquired about Mr. Singer's thoughts and feelings on the situation, Mrs. Singer bluntly pointed out that a man has no relevancy in child-rearing and she does not expect her husband to share these responsibilities with her. Though I attempted to convey the importance of a family unit and parent-child relationships and its influences on child-rearing, Mrs. Singer was adamant in keeping Mr. Singer out of the conversation by asking him to tend to some chores. In her concluding remarks, Mrs. Singer reinforced her ambivalent feelings toward Mary and seemed no longer concerned in retaining custody of her.

Impression of Family: Family appears unstable and there is some evidence of lack of communication between husband and wife as Mrs. Singer was unaware of her husband's desire to keep Mary. The family is strongly matriarchal in orientation and Mrs. Singer has very little influence or input into decisions affecting his family. We have no information regarding the upbringing of Mrs. Singer's children during their infancy and early childhood and since there does not appear to be any real strengths in this family. It is recommended that Mary be placed with other suitable relatives at this time.

Relatives of Mr. and Mrs. Singer were contacted regarding their feelings and to inquire about potential guardians. Mother of Mr. Singer concurred with our recommendation as she is cognizant of the fact that her son is mentally disturbed, is irresponsible, and could not possibly undertake the responsibilities of raising a child. She spoke with reproach about daughter-in-law, describing her as being very temperamental, easily angered, and speaks thoughtlessly. With all these characteristics in mind, Mrs. Singer, Sr., stated that it would be a grave injustice to keep Mary in the Singer home. She suggested that we contact her daughter, Mrs. Lucy Mater, as a potential guardian since she had always been concerned about Mary's general welfare and since she had expressed a desire to raise the child. Mrs. Singer, Sr., noted that Mrs. Mater and her husband possess many good qualities as parents and would recommend them highly as potential guardians.

On 4-25-74 Mrs. Lucy Mater was interviewed regarding her views on Mary's predicament. She confirmed her interest and concern for Mary and stated that one day she found the child at home alone in her foster home and had since questioned the type of care she was receiving. However, Mrs. Mater never approached the Singers on the matter for fear that it would provoke Mrs. Singer

and she did not want to get involved in any arguments with her. Mrs. Mater has been visiting Mary at the hospital frequently and Mary recognizes her aunt and is not afraid of her. As there are no other suitable relatives that could assume the duties and responsibilities of rearing Mary, BIA Social Services is hereby recommending Mr. and Mrs. Mater as potential guardians for Mary. Mrs. Mater was informed of the hearing date and time and should the court agree with our recommendation, she and her husband will file a guardianship petition on behalf of Mary.

As there is sufficient medical evidence on file with the court to substantiate possible child abuse/mistreatment and due to family's apparent disorganization and instability, BIA Social Services recommends that in the best interests of Mary, she be removed from the home of Mr. and Mrs. Singer and placed with other suitable relatives, mainly Mr. and Mrs. David Mater.

Social Services Representative

Report of the Bureau of Indian Affairs  
Branch of Social Services  
In Regard to Social Investigation  
Concerning Petition for Juvenile Hearing

IDENTIFYING INFORMATION:

Children:	*Donald Roby	7-13-64
	*Carl Roby	12-13-66
	**Robert McIntyre	11-15-68
	**John McIntyre	8-19-70
Parents:	(mother) Ella Sessions Lockley	1-21-47
	*Clinton Roby	
	**Albert McIntyre	2-28-38
Petitioners:	Female: Julia Sessions	
	Male: William Sessions	

REASON FOR REPORT:

The Tribal Trial Court has requested an immediate investigation into the petition of Julia Sessions who feels that her maternal grandchildren are being neglected by faults or habits of the mother, Ella Lockley.

THE CHILDREN:

Donald and Carl Roby are currently enrolled in the primary school where they are in the second and first grades respectively. The attached progress and adjustment report indicates Donald is doing quite well scholastically whereas Carl is having his problems in the classroom.

Robert and John both of preschool age remain in the home of the petitioners while the mother, Ella Lockley, is employed. Even while Ella was not employed the children stayed in the home of the petitioners.

The fathers of the children do not provide any funds toward the welfare of the children. Their current whereabouts are not known by Ella. Thus the children are eligible and receive a monthly Aid to Dependent Children grant.

INCOME OR ESTATE CONCERNED:

As previously mentioned the children receive Aid to Dependent Children, in the monthly amount of \$156. This includes the needs of Mrs. Ella Lockley plus the concerned children. Ella works for Ames Grocery and earns \$1.55 an hour, however, she is not considered as a full time employee.

The family does not receive any other income nor do they own any property.

THE NATURAL PARENTS:

Ella Lockley the mother of the children is the eldest child born to the petitioners. At the present time she remains in poor health and works irregularly because of her poor health condition.

All of the children born to her have been born out of wedlock and was probably the reason she dropped out of school and never returned.

Ella is aware of the petition regarding her children and their alleged poor care. She informed the worker that her present husband, Davis Lockley, and herself were going to care for the children. From this date on Mr. Lockley is currently employed at the Esso Standard Station and has been for about four months.

When interviewed, Mr. Lockley stated that he has been providing for the concerned children and that they were always fed and clothed by him. He did comment that Mr. and Mrs. Sessions were constantly asking for money and when they did get money it didn't last very long because of poor management.

When Mr. Lockley first moved into the Session's home he provided them with funds plus other incidentals until he realized that he was neglecting his own family. From then on the Sessions family has treated him differently and according to Mr. Lockley began taking it out on Ella. He is apparently serious about having his marriage legalized and finding other living quarters which he believes may solve some of the problems.

THE PETITIONERS:

The petitioners, when interviewed, informed the worker that the purpose of the petition was to make their daughter, Ella, realize her responsibilities as a mother. If she did not wish to care for the children the Sessions were willing to take them into their home, however, with the large family of their own it would cause unnecessary hardship on them.

RECOMMENDATION:

It is therefore recommended that the children remain with Ella and her common-law husband with a further recommendation that other living arrangements and the care of their children be made since both are employed and should be able to budget accordingly. In this manner it is hoped that family conflicts, which seems to be the base of the problem, could be eliminated.

Social Services Representative  
October 5, 1972

Bureau of Indian Affairs  
Social Services

Report of the Bureau of Indian Affairs  
Branch of Social Services

In regard to Social Investigation  
Concerning Custody Action  
October 11, 1972

IDENTIFYING INFORMATION:

	<u>Name</u>	<u>DOB</u>
Child:	Joan Smith	8/07/69
Parents:	Norbert Smith	1922
	Susie Smith	7/10/36
Foster Parents:	Albert Border	1/16/39
	Marie Border	5/20/43

REASON FOR REPORT:

The Tribal Juvenile Court took temporary custody of Joan Smith on August 18, 1972, acting upon a complaint of parental neglect lodged by the Branch of Social Services.

This report is submitted to the Court by the Branch of Social Service as requested by the court order of August 18, and it contains the findings of Branch's investigation as well as a recommendation in the child's interest.

THE CHILD:

Joan Smith was born August 7, 1969, the ninth of eleven children of Norbert and Susie Smith. Joan was admitted to the Indian hospital six weeks later, on September 20, 1969, for gastro-enteritis, failure to thrive, congenital dislocation of the right hip, urinary tract infection, and otitis media.

Joan Smith was ready for discharge from the hospital eight months later, on May 20, 1970, but no one came for her. The parents were contacted at least twice in the next three months but apparently made no effort to pick up Joan.

Finally, because of her parents' inadequate housing and reputation for excessive drinking, Joan was placed with the parents' consent, from the hospital to the foster home of Albert and Marie Border. She continued to be treated at the hospital for her dislocated hip, and she continued to wear a brace for about three months.

Joan thrived in the Border home, and seemed to be as one of the family. However, as will be described below, Joan was returned to the home of her natural parents.

NATURAL PARENTS:

Norbert and Susie Smith are the parents of eleven children, ranging in age from fifteen to one year. Five of the children are in two different boarding schools, one is a first grader at a day school, four (including Joan) are pre-school age, and one is a resident of a school for the mentally retarded.

Mr. Smith was reportedly last employed in 1967. Our records show that when Mrs. Smith applied for General Assistance for her family in 1970, she reported her husband was fired from his employment on the railroad in 1967 because of drinking on the job. The family has received General Assistance ever since February 1970.

This office has received numerous complaints of excessive drinking by Mr. and Mrs. Smith with attendant complaints of child neglect and abuse. On two occasions, in 1970 and 1971, the Boarding School reported that Ruby and Rose did not want to go home on weekends because of fear of their father's behavior while drinking. In 1971 the school officials detected bruises on the chest of Rose, then six, which she said were caused by her father whipping her.

In late March or early April 1971, the Tribal Judge issued an order restraining the parents from checking out Ruby and Rose on weekends until the end of the school year. The Juvenile Officer talked to the parents reminding them of the effects of their drinking upon themselves and their children.

At the end of the school year, in June 1971, the two girls were returned to the parents even though the school reported that the girls were not happy about going home. An offer by a distant relative to keep the girls during the summer months was rejected by Mr. and Mrs. Smith.

POLICE REPORT:

INCIDENTS LEADING TO THE NEGLECT OF JOAN:

Joan lived in the Border foster home for sixteen months, after having lived the first six weeks of her life at home and then eight months at the Indian hospital.

During the first six months of Joan's stay at the Border home, Joan's parents never visited her or inquired at our office about her. In April 1971, we finally had to contact them, in their recently completed new home, to tell them she was well and ready to return home, but also to tell them that the Borders had grown fond of Joan and wished to ask the Smith's permission to keep her--either through adoption or less formal arrangement. This Mr. Smith refused; he said he and his wife wanted Joan back.

Since Joan surely did not know her parents, we advised them to visit her before removing her from the Border home, to allow her to get acquainted with them.

On April 13, 1971, they came to visit Joan. Mrs. Smith had a cast on her wrist, the result, she said, of Mr. Smith striking her with a broom handle. We took them for a visit with Joan at the Border home, the first time they had seen her in over a year and half. The visit lasted less than half an hour. Mr. Smith learned that Mr. Border was a clan relative of his.

Three weeks later Mr. Smith came to the office without his wife, under the influence of alcohol, and said he wanted to take Joan home. We advised him to come again, sober, and with his wife, when they were ready to take Joan home. Mrs. Smith up to this point, had never said whether she wanted Joan home again.

But they did not come again. Eight months later, in January 1972, we decided to again press the issue. Joan was growing older (two years, five months) and the Borders were growing more attached to her. A decision about her future had to be made.

A Social Service representative of our office contacted the family. Mr. Smith again the spokesman for his wife, said they wanted Joan back. No explanation was offered for not visiting Joan or contacting us during the past eight months.

Adam Billy, Social Worker, arranged a visit on January 24 and he again brought the parents in, this time to take her home. Both the parents and four-year old Lucy appeared happy to have Joan come home.

The social worker visited the home a week later, on January 31, and found Joan doing well.

On March 2, another social worker of our office visited the home and found Mr. Smith home with the three pre-school children, including Joan who continued to do well. Mr. Smith said his wife was visiting relatives, and he complained that she was drinking excessively.

On August 24, 1972, the area Mental Health Worker, relayed a report to our office that Joan was being sorely neglected by her parents. Mr. Billy investigated and immediately removed the child from the home (See attached report) and brought her to the clinic. The clinic physician treated her many sores and then had her admitted to the hospital for observation. She appeared badly malnourished.

The following is a report from Dr. Nick Haddam, pediatrician, who examined Joan: "On examination here the child was found to be grossly neglected. Weight 25 lbs, 7 ounces, temperature 100 degrees. Her hair was short and sparse. She had multiple sores of head, buttocks, arms and legs. Some sores appeared to possibly be burn areas. There were other healed scars over various portions of her body...X-rays of bones revealed no fractures... a few days after admission there was gradual healing of all infected areas. Some areas healed producing probably permanent scars."

Joan spent a week at the hospital and then was transferred to the foster home of Dave and Millie Brown. Mrs. Brown noticed that whenever a man would come near Joan, she would raise her arm before her face as if in defense. One wonders what brought about this curious behavior.

After two weeks in the Brown foster home, Joan was returned to the Border foster home where she had spent so much of her life. She immediately recognized Mr. and Mrs. Border (she called Mr. Border, "Dada") and the Border's three young children. Joan has now recuperated from her sores and once again eats with a good appetite. She received all the affection a young child needs.

The Borders have high hopes of adopting Joan, but they understand that this will depend on the Court's decision as to the child's ties with her natural parents.

Meanwhile, though Joan was picked up from her parents six weeks ago, her parents have never attempted to contact Joan or this office. Mr. Billy went to the Smith home and found Mr. Smith there. He did not apologize for what had happened to Joan, but evaded that subject and spoke about his wife's opinion that Joan was not really their child, that perhaps the hospital had mixed the identities of two babies when Joan was there in 1969. He also offered the opinion that Joan was "retarded", as is their daughter Ellen who lives at the school for retarded. (No one else, doctors or social workers or the Borders who know her best, have ever thought Joan to be other than normal intelligence.) Still, Mr. Smith will not freely allow the Borders to raise Joan.

#### EVALUATION:

To summarize, the Smith's neglect and abuse of Joan is evidenced by these facts and events:

1. Joan was admitted to the hospital at six weeks of age suffering from symptoms ("failure to thrive") attributable to parental neglect.
2. Joan was in the hospital eight months, and apparently no one ever came to visit her. When she was ready for discharge, no one came to get her.

3. Joan was in the Border foster home six months, by voluntary agreement with the parents, and they never went to see her. When we urged them to visit, they did so, once. Then, another eight months passed without visit, until Mr. Billy of this office went out and brought them for a visit. (During these months the parents had to come to town for other reasons: children in boarding school, review of eligibility for General Assistance.)
4. Finally, the condition of Joan Smith on August 24, 1972, -- malnourished, infected sores over her body, scars, thin hair, where once was healthy full black hair.

Thus, what began as indifference turned into neglect and finally, abuse. Presently, Joan is again thriving in the Border foster home where she has spent 16 months of her life (12 months in the hospital, 9 months with her parents). This is the only real home she has known.

RECOMMENDATION:

For the permanent safety and well-being of the child, the Branch of Social Service recommends that parental rights be terminated. This recommendation is made with the confidence that Joan is now in a home that provides her with all the affection and care a child must have, and that the foster parents regard her as they do their own children, and will petition to adopt her if so freed by the Court.

It is also recommended, for the well-being of Mr. and Mrs. Smith and the many children still at home, that Mr. and Mrs. Smith be urged to undergo alcoholism counseling and/or mental health counseling. Their parental responsibilities for ten other children still remain great.

Supervisory Social Worker

Report to the Court by Caseworker  
who visited the Smith home on  
August 24, 1972:

Home visit was made to the home of Mr. and Mrs. Smith. Mr. Smith came out to see me when I pulled up in front of the house. Two other men came out following Mr. Smith. Apparently they were all drinking.

One of the men was identified as Adam Brown a Tribal Work Experience Program project worker. Mr. Smith explained that the men were there that morning to help him paint his house. I asked if I could go inside and see the painting inside the house. Mrs. Smith was sitting on a bed about to pass out. I did not find evidence that the men were there to paint the house. The air inside the house was filled with the smell of alcoholic beverages. I then left, with the intention of returning that afternoon.

I returned that same afternoon to the Smith residence. Mr. Smith was still feeling "good", Mrs. Smith was inside the house, passed out on a bed. A police panel truck then pulled up beside the house. Mr. Smith was picked up for assault and battery. Another person was also arrested for drunkenness.

Later I talked with Tully Bert, who lived about 100 yards from the Smith home. Mr. Bert stated he had come over to stop a fight between Mr. and Mrs. Smith. He also stated he had seen Mr. Smith throw three year old Joan out of the house. Joan was sitting in the kitchen corner chewing on a mutton bone. Her dress was partially ripped off her shoulder. She looked hungry and was kind of skinny. Mr. Bert stated he had given her the mutton bone and also picked a carrot for her to eat because bread was not available.

Joan didn't say anything but looked like she had cried earlier. Her head and one side of her leg, from the knee to above the ankle, were covered with sores. Apparently the child was experiencing pain from the sores.

Caseworker

MOOT COURT SCRIPT

PHOENIX TRAINING WORKSHOP

NAICJA

Court Clerk: All stand, the American Indian Court is now in session, Judge \_\_\_\_\_, presiding.

This is a dispositional hearing in the case of Joan Smith, natural child of Norbert Smith and Susie Smith to determine the custody of the child, and to determine the issue of alleged neglect and abuse of the child by its natural parents.

Clerk: Are the parents in Court?

Smith: Yes, your Honor.

Clerk: Come forward.

Judge: You understand that this is a hearing to determine the custody of your child, Joan Smith - that is - whether she may remain living with you at home or will be placed in a foster home or institution. You have the right to have an attorney with you if you wish. If you cannot afford an attorney or don't wish to have one with you, the Court will see that you are informed of all your rights as parents. They will be explained to you at each stage of this hearing. Do you understand what I have just said to you?

Smith: Yes, your Honor.

Judge: Do you wish to have an attorney?

Smith: No, your Honor, we cannot afford to have an attorney.

Clerk: Is the representative of the Branch of Social Services in Court?

Social Worker: Yes, your Honor.

Clerk: Please come forward and be sworn in.

Clerk: Administers oath.

Social Worker: I do.

Judge: The Branch of Social Services has filed a complaint with this Court charging Norbert & Susie Smith with the neglect of their child, Joan Smith. Do you have firsthand knowledge of the facts which formed the basis for that complaint?

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Social Worker: Yes, your Honor. My first contact with Joan Smith was when she was in the Indian hospital in 1969. She was then six weeks old and was suffering from malnutrition and a dislocated right hip. Joan was in the Indian hospital from September 20, 1969 until August of 1970. She was ready and able to go home from the hospital on May 20, 1970 but the parents did not come for her. I personally contacted the Smiths at least twice in the next three months but they made no effort to come to the Indian hospital to pick up Joan.

Judge: Are you sure that the parents understood what you were saying - understood that they should come to the Indian hospital to pick up their child?

Social Worker: I explained it very carefully, your Honor.

Judge: Go ahead.

Social Worker: Finally, Joan was taken with the Smiths' consent to the foster home of Albert and Marie Border.

Judge: Do you have the parental consent to place this child in a foster home in writing?

Social Worker: No, your Honor. I spoke to the Smiths on the phone and explained the situation to them. I felt that because of the Smiths' inadequate housing and reputation for excessive drinking that it would be in Joan's best interests to place her in the Borders' home. They agreed. Joan was placed in the Border home in August, 1970 and remained there for the next 16 months.

Judge: Were the Smiths informed of their child's whereabouts and that they could visit her?

Social Worker: Yes, your Honor. But, during the first six months of Joan's stay with the Borders, the Smiths made no attempt to visit her nor did they inquire at our office about her. In April, 1971, we finally had to contact them to tell them that Joan was well and ready to return home.

Judge: Had you done an investigation immediately prior to this date of the Smith home to determine whether it was a fit environment for Joan?

Social Worker: No, your Honor, not formally. But we still received rumors of heavy drinking at the Smith home. My main purpose in contacting them was to see if they would allow Joan to stay with the Borders either through adoption or a less formal arrangement.

Judge: What was the Smiths' reply?

Social Worker: They stated that they wanted Joan back home with them.

Judge: What did you tell them?

Social Worker: We advised them to visit Joan at the Border home first. They came to the Border home on April 13, 1971, to visit Joan and stayed less than half an hour.

Judge: What did the Smiths say when they left?

Social Worker: They didn't say anything. They just left. Three weeks later Mr. Smith came to my office without his wife, under the influence of alcohol and said he wanted to take Joan home. I advised him to come back when he was sober with his wife when they were ready to take Joan home. But they did not come back.

Judge: So Mr. Smith has stated twice now that he wants his daughter back.

Social Worker: Yes, but we did not hear anything else from the Smiths for the next 8 months. In January, 1972 we contacted the Smiths again. Mr. Smith again said he wanted Joan back. He made no explanation for not contacting us in the past 8 months or visiting Joan. On January 24, 1972 the Smiths took Joan home.

Judge: Did you visit the Smith home after this to follow-up on the progress of the child?

Social Worker: Yes, your Honor. I visited the Smiths on January 31, 1972, and found Joan doing well. I again visited them on March 2, 1972 and it appeared that all was well. On August 24, 1972, I visited the home again and found Joan sorely neglected by her parents. I brought her to the clinic where the physicians treated her for many sores and then had her admitted to the hospital for observation. She appeared badly nourished.

Judge: Where is the child now?

Social Worker: She is in the home of Mr. & Mrs. Border. She has now recuperated from her sores, eats with a good appetite and appears happy. She has been there for six weeks and the Smiths have not made any attempt to contact her or my office. The Borders want to adopt Joan and provide a loving home for her, but the Smiths will not freely allow this. The judgment of this Court as to the rights of the natural parents will determine her fate.

Judge: Thank you.

Clerk: Dr. Nick Haddan please come forward. Administers oath.

Dr. Haddan: I do.

Judge: Dr. Haddan, you examined a child by the name of Joan Smith at the hospital clinic on August 24, 1972. Would you please describe her condition.

Dr. Haddan: I found the child when I examined her to be grossly neglected. She weighed only 25 lbs, 7 oz., and had a temperature of 100 degrees. Her hair was short & sparse. She had multiple sores on her head, buttocks, arms and legs. Some appeared to be burns. There were also other healed scars all over her body. There were no broken bones or fractures. A few days after her admission, her sores began to heal.

Judge: You would describe this as a case of gross neglect on the part of the parents?

Dr. Haddan: The child's care and well-being had been grossly neglected for some period of time by whoever was charged with the responsibility of the child.

Judge: Thank you, Dr. Haddan.

Clerk: Mr. Smith, come forward and be sworn. Administers oath.

Mr. Smith: I do.

Judge: The Branch of Social Service had recommended to this Court in a report filed with the Court that your child, Joan, be removed from your home permanently and that your parental rights regarding her be terminated. Do you understand what that means?

Smith: They want to take Joan away from us again. They always take her from us. I don't understand.

Judge: Do you want to keep Joan with you?

Smith: Yes, your Honor.

Judge: Do you remember when Joan was taken to the Indian hospital when she was a baby?

Smith: Yes, your Honor.

Judge: Why did you not go to visit her or see how she was doing?

Smith: They said it was our fault. I was afraid to go up there.

Judge: Why didn't you pick her up when they told you she was ready to leave the hospital?

Smith: I thought they were going to bring her to my home. I stayed home all day waiting for them and when they didn't come I was afraid that they were not going to give her back to us. And they didn't. They put her in that foster home in town.

Judge: The Borders' home. Why didn't you visit Joan when she was with the Borders?

Smith: I didn't know those people and felt funny visiting my own child in someone else's home. I wanted her home with me but that Social Worker wouldn't let us have her. I didn't think there was anything I could do. We kept asking me to let those people adopt Joan.

Judge: Did you go to visit Joan at the Border home in April of 1971.

Smith: Yes, your Honor. But it felt strange. It felt like everyone there was looking at us like we were criminals or something. And Joan didn't know us much any more since they had kept her away from us so long. We just left. We still wanted Joan back with us but didn't think they'd let us have her. I kept telling that Social Worker that I wanted my child in my home, but he always had some excuse why I couldn't have her. I don't think he likes me or my wife. Finally in January, 1972 they gave Joan back to us.

Judge: Did you like having her back with you?

Smith: Yes, she liked to play with her brothers and sisters. But those Social Worker people kept coming to check up on us like we were criminals.

Judge: Do you remember what happened in August 1972?

Smith: Yes, they took Joan away from us again. They took her to the hospital and said we had neglected her.

Judge: How did Joan get the sores on her body?

Smith: I don't know. It was just an infection she got. Our food stamps had been cut off that month and we couldn't get any fresh fruit or vegetables for the child. I tried to take her to the clinic the week before but it was too crowded.

Judge: Mr. Smith, why do you want your child returned to your home?

Smith: Because she's mine and I love her.

Judge: Thank you.

Clerk: Mrs. Smith, please come forward and be sworn. Administers oath.

Mrs. Smith: I do.

Judge: Mrs. Smith, do you want your child Joan returned to your home?

Mrs. Smith: I don't know. I'm not sure any more. She has been gone so much and so long now.

Judge: You realize that this Court has been asked to terminate your parental rights to Joan and allow her to be put up for adoption. This is a very serious question. Do you think Joan should be adopted?

Mrs. Smith: I don't know, your Honor. I don't know what is best for Joan any more.

Judge: Thank you. You may step down. This is a very serious question which this Court has been asked to decide which involves the future of a child and the possible destruction of a family unit. We will make the decision for the best interests and welfare of the child.

Discussion: What should be the judgment of the Court and for what reasons?

NATIONAL AMERICAN INDIAN COURT JUDGES ASSOCIATION



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March 2, 1975

FOR IMMEDIATE RELEASE:

Judge Virgil L. Kirk, Sr., President of the National American Indian Court Judges Association, has announced that the NAICJA Training Program for 1975 will include training for Indian Judges in criminal law and procedure as well as in family law/child welfare. The family law portion of the training program has been made possible by a contract obtained by NAICJA from the Social Services Division of the Bureau of Indian Affairs. Judge Cranston Hawley, Project Director, stated that the LEAA refunding proposal for the criminal training has been submitted, and that he is confident that it will be acted upon favorably. Assuming that the LEAA refunding is achieved, the two programs will operate as an integrated grant with a proposed schedule as follows:

1974 September -----	Planning Session	----- Regional (held)
1974 November -----	Child Welfare/ Family Law - BIA Denver	----- National (held)
1975 March -----	Child Welfare/ Family Law - BIA Phoenix	----- National (March 2-4)

1975 April		
May		
June		
July	4 LEAA Criminal Law Sessions	--- Regional
August	2 BIA and LEAA Combined Sessions	
September--	1 Local Court Area Session	
October		
November		
December		
1976 January---	LEAA - BIA Written Examination	--- Local
1976 February--	General Review - Evaluation	--- Local

The plan for carrying out the two grants began with a national training workshop in the area of Family Law/Child Welfare for Indian Court Judges held November 1-2, 1974, in Denver. The instructors for this workshop were Dr. Vincent deFrancis, Director of the Children's Division of The American Humane Association; Judge James J. Delaney, District Judge for the 17th Judicial District, Colorado Juvenile and Family Court; and Mrs. Betty Philbrick, special consultant on Child Protective Services for the Children's Division of the American Humane Association.

A second national training workshop on Family Law/Child Welfare is being held at the Quality Inn/South, Phoenix, Arizona on March 2-4, 1975. This workshop will provide more detailed analysis of the various aspects of law and procedure with which Indian Courts are concerned when dealing with Family Law cases. The faculty include Dr. Vincent deFrancis, Judge James J. Delaney and Ms. Evelyn Blanchard.

In the following months, the training sessions will be held in four regional areas - Seattle, Reno, Albuquerque and Denver. The regional sessions will retain some similarity with last years sessions, but will also introduce some changes. Two days of the 3-day monthly sessions will be spent on criminal law and the 3rd day's curriculum will be devoted to child welfare/family law subjects.

The previous year instructors will return this year...but new names will also be added to the roster. Most instructors will concentrate on specific assigned courses, according to Judge Cranston Hawley, the Project Director.

Judge Hawley has indicated that the training program will take note of the fact that there are a number of new Judges installed each year and the lesson approach for them will differ from the curriculum and lesson plan for experienced Judges. He also pointed out that the case study approach - used widely in

many law schools - will be one approach used this year. He added that the lessons are tailored to meet Indian needs and situations.

The curriculum for 1975-76 is a demanding one for Indian Judges, but one which will certainly aid them in the upgrading of the American Indian Court System. Judge Kirk and Judge Hawley have announced the following proposed curriculum for Indian Judges:

<u>Criminal Law</u>	<u>Family Law</u>
Evidence	Framework of Juvenile Courts
Trial Practice	Adoption Process
Juvenile Delinquency	Marriage and Divorce.
Jurisdiction	Support
Constitutional Law and Indian Culture/Traditions	Neglect and Dependency
Legal Research and Treaties	Rights of Parents/Children
Opinion Writing	Temporary Orders
Appellate Court Procedure	Court Hearings
Review of Trial Procedure	Termination of Parental Rights

Chief Justice Virgil L. Kirk, Sr. has brought years of Navajo Court experience to his endeavors as President of NAICJA. He and the Navajo Tribal President continue to support the Association and its objectives. This support, prestige and power are assets to the Association. Navajo Judges, as well as other experienced Indian Court Judges from several reservations such as the members of the Board of Directors and Steering Committee, are expected to serve as assistant professors during the coming year's training program and will counsel new appointees as well as less experienced Judges.

Agreeing with Judge Kirk on the need to upgrade the American Indian Court System through continuing education and research is Judge George Armstrong, one of the program instructors, who serves as Chief Judge of the Ute Mountain Ute, Southern Ute and Hopi Tribal Courts. Judge Armstrong served as Project Director for one year, and as an instructor/organizer for three years.

Judge Cranston Hawley has served as the Project Director for the NAICJA Training Program since 1973. His efforts have served to expand the program and to help to insure that it meets the needs of American Indian Court Judges. Judge Hawley, an Assiniboine Indian, has served in the capacity of Tribal

Court Judge for 17 years and has lived on the Ft. Belknap Reservation for more than 35 years. Judge Hawley also serves on the NAICJA Board of Directors.

One of the primary objectives of the NAICJA Training Program is to insure that the training materials and their presentation are oriented to the needs of American Indian Court Judges. In order to meet that goal NAICJA researches and publishes training materials specifically for the Judges Training Program. The two most recent NAICJA publications which have been distributed to Indian Court Judges participating in the Training Program are Supplement No. 1 to the Criminal Court Procedures Manual and Research Document and An Introduction to Legal Research and Case Analysis.

Supplement No. 1 includes a discussion of the new legal developments emanating from federal court decisions since the passage of the Indian Civil Rights Act. It is organized in three sections. The first section discusses the problems of jurisdiction of federal courts over tribal governmental actions and the bases upon which such federal intervention in tribal affairs has been justified. The second section follows the format of the original Criminal Court Procedures Manual and Research Document in discussing case law and Department of Interior Solicitor's opinions relating to the substantive Civil Rights provisions of the Act. The third and final section outlines and analyzes the provisions of the Model Code prepared by the Indian Civil Rights Task Force. The provisions of the Code which deal with selected areas of criminal procedure are reproduced in full. The commentary which follows each section of the Code is designed to suggest ways in which Indian Courts might implement the Model Code in such a way as to comply with the provisions of the Indian Civil Rights Act and yet avoid drastic modification of their own tribal structure.

An Introduction of Legal Research and Case Analysis is a manual for Indian Court Judges prepared by NAICJA Officers, Staff and consultants after discussion with NAICJA Board of Directors. The manual has three substantive areas. The first is a lesson on legal research including resources for law libraries, how to find court opinions in the law library, legal citations and the Federal and State Reporter systems. The second section takes one opinion of the U.S. Supreme Court and breaks it down into its component parts in order to illustrate the basic format used in opinions.

Finally, the major portion of the manual is devoted to the full text of a number of court decisions. These were chosen on two basic criteria: (1) Their general instructiveness on the form and method of legal opinions and (2) Their discussion of various points of law which may be helpful to the Indian Judges in their future work. The NAICJA Board and Officers realize that before Indian Court jurisdiction can be greatly expanded into other areas of the law, a developed skill of opinion writing and analysis will be necessary for those Judges not already familiar with this area. It is hoped that this publication will assist many Indian Court Judges in both reading and writing such opinions for their courts.

The National American Indian Court Judges Association is a professional society organized in 1969 with initial assistance from ARROW, Inc., a non-profit organization based in Washington, D.C., working for the achievement of the American Indian. Arrow provides the Secretariat for the Association.

The objectives of the Indian Court Judges group are:

- a. To improve and upgrade the Indian Court system through professional advancement and continuing education.
- b. To maintain and improve the integrity and capability of the Indian Court system in providing equal protection to all persons appearing before any Indian Court.
- c. To conduct research and educational activities for the purpose of promoting the affairs and achieving the objectives of Indian Courts and the Association and to secure financial assistance to further the Association objectives.
- d. To further community and public knowledge and understanding of the American Indian Court system.

The Association also provides a conduit for discussion by Indian Court Judges of problems which they face as a group. Indian Court Judges are becoming increasingly aware of the many problems facing the Indian Judiciary and have begun meeting with Tribal Councils and with other interested groups to determine the best methods of improving the Indian Judiciary.

Included in their concerns are jurisdictional problems, defining the role of the Judge within the American Indian Court System, review and revision of Tribal Law and Order Codes, relative expenditures for the Indian Court System by various government agencies, better working conditions and pay scales for Judges, etc. NAICJA supports any effort to improve the American Indian Court System for the benefit of all Indian people.

OFFICERS AND  
BOARD OF DIRECTORS

Honorable Virgil L. Kirk, Sr.....President  
(Navajo) and Director

Honorable Cranston Hawley.....Vice President  
(Assiniboine) Project Director  
and Director

E. Thomas Colosimo.....Secretary-Treasurer  
(Arrow, Inc.)

Honorable George Armstrong.....Director  
(Southern Ute, Ute Mountain Ute and Hopi)

Honorable Richard G. Frederick.....Director  
(Turtle Mountain)

Honorable Lawrence Miller.....Director  
(Shoshone and Arapahoe)

Honorable Orville N. Olney.....Director  
(Yakima Indian Nation)

Honorable Henry Upchego.....Director  
(Uintah and Ouray)

STEERING COMMITTEE  
(THE ABOVE DIRECTORS AND THE FOLLOWING)

Honorable Mabel P. Antone.....Member  
(Papago)

Honorable Syivan C. Brown.....Member  
(Cheyenne River Sioux)

Honorable Anna M. Koontz.....Member  
(Quinault)

Honorable Gabriel Paisano.....Member  
(Laguna Pueblo)

Honorable Leonard Puerto.....Member  
(Jicarilla Apache)

I am a Judge presently serving as an American Indian Court Judge. I have participated in the National American Indian Court Judges Training Program in the past and feel strongly that it has helped me in the administration of justice in my Court and in the reduction of crime and delinquency on my Reservation. I strongly urge that this training program for Indian Court Judges be refunded.

NAME

COURT

1. Cranston Hawley H. Belknap Montana
2. Syivan C. Brown Eagle Butte, So. Dak
3. Syivan C. Brown Eagle Butte, So. Dak
4. Gertrude R. Cooke Nash Bay, Wash.
5. Donald Puerto Jicarilla Apache Tribal Court
6. Donald Puerto LAGUNA TRIBAL COURT
7. George Armstrong Southern Ute, Hopi, Ute Mt.
8. Bernie Standing Crow Standing Rock Sioux
9. Luzanne Harcejo Santa Clara Pueblo Courts
10. Richard Magosh Mesaless N. M.
11. Dick Hughes Sashone Tribe
12. W. C. Booth Metlakatla, Alaska
13. John P. Johnson Colo River Indian Tribes
14. John P. Johnson The Navajo Court System
15. Oliver Benjamin Cheyenne River Court
16. Donald M. Fredericks
17. Harold Lopez Navajo Court
18. Richard H. Mace Tribal Court of Navajo Lake
19. Maxwell M. Frank Department of Justice Court
20. Richard H. Mace Director, Navajo Court System
21. Richard H. Mace U.S. Fed. Prison, Ute
22. Ray Nelson H. Belknap Mont.
23. Richard H. Mace U.S. Fed. Prison, N.D.
24. Richard H. Mace Browning, Mont.
25. Richard H. Mace Browning, Mont.

MARCH 4, 1975

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- | NAME                        | COURT                                                |
|-----------------------------|------------------------------------------------------|
| 1. Allen L. Groom           | Kalispell Tribal Court                               |
| 2. Frances Groom            | Kalispell Tribal Court                               |
| 3.3. David Vicente          | Gila River Indian Tribal Court                       |
| 4.4. Cameron Stanley        | Col. River - Parker - A-<br>Zunge Pueblo, New Mexico |
| 5.5. George Bradley         | Fort Washakie, Wyo                                   |
| 6.5. James Mills            | Fort Reno, Wyo                                       |
| 7.7. Charles L. Simpson     | Fort Reno, Wyo                                       |
| 8. Ervin K. Hansen          | Yukon Tribal Court Washington                        |
| 9. John V. Chiquiti         | Puyallup Tribal Judge                                |
| 10. Leonard Hare Jr         | Fort Belknap, Montana                                |
| 11. George Dwyer            | Suswapish Tribal Court                               |
| 12. Esteban Bill            | Yukon Tribal Court                                   |
| 13. Ed Roy Head             | GILA RIVER INDIAN COMMUNITY                          |
| 14. David L. Johnson        | Fort Totten, N. Dak.                                 |
| 15.15. Melvin Austin        | Salt River Indian Comm.                              |
| 16.16. Anne M. Kount        | Juraat Tribal Court                                  |
| 17. Melvin J. Proutie       | Granddame Tribal Court                               |
| 18. Walter E. Gluck         | Fort Peck, Montana                                   |
| 19. James E. Combs          | Granddame, Nevada                                    |
| 20. Daniel J. Squire        | Judge Hat Head Court                                 |
| 21. Lousie Burke            | Judge Hat Head Court                                 |
| 22. Lorraine Ross           | Suswapish Tribal Court                               |
| 23. Abraham B. Borchers, Jr | Posahac Spring Tribal Court                          |
| 24. Frank R. Hayward        | Arnette Island Indian Court                          |
| 25.25. Sarah Casella        | Papago Tribal Court<br>Sells, Arizona                |

- MARCH 4, 1975

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- | NAME                    | COURT                     |
|-------------------------|---------------------------|
| 1. Marilyn Baptista     | Salt River Court          |
| 2. Louis Murray         | San Ildefonso Tribe       |
| 3. Fred Sandoz          | Genoa Pueblo N Mex        |
| 4.4. Gary Frank, Toledo | Genoa Pueblo N Mex        |
| 5.5. [Signature]        | Metlakatla Alaska         |
| 6. [Signature]          | Court of The NAUATO TRIBE |
| 7. [Signature]          | Papago Tribal Court       |
| 8. [Signature]          | San Carlos Apache Tribe   |
| 9. Merrill Kingella     | Klamath Trib              |
| 10. [Signature]         | Brasserie M. P. C.        |
| 11. [Signature]         | Fort Totten, N. Dak.      |
| 12. Ted W. [Signature]  |                           |
| 13.                     |                           |
| 14.                     |                           |
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- MARCH 4, 1975

I am a Court Clerk, Probation Officer or other person having direct professional contact with the American Indian Court System. From this contact I have seen the benefits of the NAICJA Judges Training Program over the past few years. I strongly urge that this program to train Indian Court Judges and upgrade the Indian Court System be refunded.

NAME	POSITION
1. <u>June Williams</u>	<u>Probation Officer</u>
2. <u>Cecilia Red Dog</u>	<u>Secretary</u>
3. <u>Brenda Lee</u>	<u>Clerk of Courts</u>
4. <u>Marcell Fisher</u>	<u>Court Clerk</u>
5. <u>BONNIE HIAULY RUNNER</u>	<u>COURT CLERK</u>
6. <u>James W. Shiosee</u>	<u>Probation Officer Juvenile &amp; Adult</u>
7. <u>Warren Hendricks</u>	<u>" "</u>
8. <u>James Schurz</u>	<u>Court Clerk</u>
9. <u>Wesley A. Bacc</u>	<u>Probation &amp; Parole Officer</u>
10. <u>James J. Duan</u>	<u>JUVENILE OFFICER</u>
11. <u>Allen W. Pitts</u>	<u>Juvenile Probation Officer</u>
12. <u>John Francisco</u>	<u>Chapman Court Case Worker</u>
13. <u>Blind Patricia</u>	<u>Probation Officer Court Work</u>
14. <u>Kenneth J. Davis</u>	<u>Probation - Turtle Creek</u>
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MARCH 4, 1975