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MONTANA, NORTH DAKOTA, AND SOUTH DAKOTA
REGIONAL STATE ADVISORY COMMITTEE

U. S. COMMISSION ON CIVIL RIGHTS
OPEN MEETING ON INDIAN CIVIL RIGHTS ISSUES IN
MONTANA, NORTH DAKOTA, AND SOUTH DAKOTA

DATE: September 25, 1971
TIME: 9:00 A. M.
PLACE: Alex Johnson Hotel
523 Sixth Street
Rapid City, South Dakota

Reported by: Donald W. Boeding
Pennington County Courthouse
Rapid City, South Dakota

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I N D E X

WITNESSES:

	Page
KATHRYN TURCOTTE	2
ELVINA ALBERTS	18
THOMAS SMITHSON	43
ELIZABETH FAST HORSE	64
MARIE BEAR	72
JOHN DE SERSA	94

1 MR. DILLON: Could I have your attention.
2 I think we will call the meeting in session and, as you see,
3 today we have an Indian chairmanning the meeting, and I was
4 about ready to call it discrimination. I know I have a lot of
5 brothers and sisters who would back me up, and I was going to
6 literally take over the chairman, and I didn't have to.

7 At this time, I would like to call the
8 first witness. Kathryn Turcotte, would you take the witness
9 stand, please.

10 MR. SMITH: Please state your name and
11 address and occupation for the record.

12 KATHRYN TURCOTTE: My name is Kathryn
13 Turcotte. I live in Havre, Montana, 1314 Fourth Street.
14 I am the referral and follow through officer for our
15 Community Action Program.

16 MR. ERICKSON: Are you here in that
17 capacity today?

18 MRS. TURCOTTE: No, I am not. I am here
19 representing Montana United Indian Association, and I am the
20 vice chairman of the Montana United Indian Association.

21 MR. ERICKSON: Can you give the committee
22 a brief description of the association and what its aims are.

23 MRS. TURCOTTE: It's a newly formed
24 association. It is Indians from around the state, mostly
25 urban Indians, and we are the largest number of Indians in

1 the various areas.

2 We formed because we know that there are a
3 lot of Indian problems with the urban Indians, and we hope
4 through our organization to collect material, and eventually
5 help solve some of these problems.

6 MR. ERICKSON: These problems are different
7 or unique?

8 MRS. TURCOTTE: Yes, because we are urban
9 Indians. They are different than the reservation.

10 MR. ERICKSON: What are some of those
11 differences?

12 MRS. TURCOTTE: For instance, we cannot
13 get bureau services. There is a limited amount of public
14 health services that we can get. Our children all go to
15 public schools where there is a lot of discrimination, housing
16 in Havre and all the other urban areas about what has been
17 testified to here before. In fact, I think in Montana it is
18 even worse.

19 MR. ERICKSON: The members of your
20 committee come from what major cities in Montana?

21 MRS. TURCOTTE: Great Falls, Billings,
22 Helena, Havre, Missoula and Butte.

23 MR. ERICKSON: Okay. Now, what have you
24 for us today?

25 MRS. TURCOTTE: First, I have material on

1 Indian education submitted by Mr. Earl Barlow who is the
2 director of Indian education in our state office, who is also
3 the chairman of our Montana United Indian Association, and,
4 actually, it is mostly tables of surveys made of Indians
5 within our public schools in most of the areas of Montana,
6 comparison surveys of Indian and non-Indian students, Indian
7 and non-Indian teachers, and I will leave all of this for you
8 people if you wish to have it.

9 I have material on discrimination in the
10 Billings area, housing. I got this from Sam Rideshorse who
11 is the chairman of the urban group there.

12 I also brought in a copy of an Even Chance
13 with underlined statements from some of our Montana areas
14 about our Title 1 program, our Johnson-O'Malley's monies that
15 are spent in public schools, and Sam brought in testimony and
16 documentation about discrimination in the housing area in
17 Billings, and I don't think it is much different anywhere in
18 the state.

19 MR. ERICKSON: You yourself are from
20 Havre, right?

21 MRS. TURCOTTE: Havre, yes.

22 MR. ERICKSON: Do you want to give us a
23 little bit of an idea what the plight of the urban Indian is
24 in Havre.

25 MRS. TURCOTTE: It is sad. Practically

1 every Indian family lives in an old shack, old run down
2 apartment. This is the only thing that they can get, and they
3 are paying -- some of them pay as high as \$95.00 for these old,
4 run down apartments. The plumbing is out of order, plaster
5 falling from the ceilings, and I have been in practically --
6 in fact, I have been in every Indian home in our area, and I
7 have witnessed this first hand, and the landlord says -- I have
8 talked to several landlords, and they said, "There is no use
9 fixing it up; we just rent to Indians."

10 Our Havre CAP serves about 55 -- 55 per
11 cent of the people who are CAP served are Indian people. We
12 employ about 10 Indian people out of about 70 people employed
13 by CAP.

14 The philosophy of DEO is to develop people,
15 to help people help themselves. The biggest part of the money
16 spent in these CAP programs are lining the pockets of
17 administrators. Very little goes to the poor people. There
18 really is no development except within the Head Start Career
19 Development Program; there is no development of Indian people
20 or any minority people.

21 I, myself, started out as a Social Service
22 Aide. After I worked for about two years, I was given a new
23 job title, which is the job title I have now. When white
24 people was in our CAP program or are given a new job and new
25 job titles, along with this new job title and new job goes a

1 raise, but I stayed at the same salary. There is no
2 development in the people. You are only given additional work,
3 but not additional money.

4 MRS. SUMMERS: Just by way of demonstration,
5 if an Indian made lots of money somehow, could he buy the best
6 house in Havre in the best location?

7 MRS. TURCOTTE: No, definitely not.

8 MR. RUDELL: Why not, Mrs. Turcotte?

9 MRS. TURCOTTE: White people won't say it,
10 but they find ways of keeping the Indians from buying property
11 in Havre, and they keep you from renting in the -- except in
12 the shabby areas.

13 MR. RUDELL: What methods do they use to
14 do that?

15 MRS. TURCOTTE: I have a young boy that
16 just recently got married. In fact, he just got married last
17 week, and he is attending Northern, and he's been staying at
18 home, but since he got married, well, naturally, he's looking
19 for a place for himself. Well, his wife called on the
20 telephone, and they had several apartments there for rent,
21 and she called, and the lady told her -- she said, "Surely,
22 certainly, you can come and look." She said, "I'm quite sure
23 we have one for rent." So they both left and went immediately
24 to look at this apartment. The lady just looked out the door
25 at them, and my son is real Indian looking, and she just

1 slammed the door. She said, "It's taken," and she just got
2 through telling Patty over the phone that it was available.

3 MR. DILLON: May I ask a question, Mrs.
4 Turcotte. In other words, this is not -- it is an individual
5 thing, but it is pretty dominant in Havre?

6 MRS. TURCOTTE: Yes. This has been
7 happening all the time when new people come into Havre, new
8 Indians come in to go to school. Not only Indians, but low
9 income white people; although, I can get apartments a lot of
10 times for white people where I can't for Indians.

11 MR. RUDELL: How large is Havre?

12 MRS. TURCOTTE: About 12,000 people.

13 MR. ERICKSON: How many Indians are there
14 in Havre?

15 MRS. TURCOTTE: About 3,000.

16 MR. ERICKSON: About 25 per cent.

17 MRS. TURCOTTE: Yes.

18 MR. ERICKSON: Are the Indians represented
19 at all in city hall?

20 MRS. TURCOTTE: No, there are no Indians
21 on the city council. There are no Indians on the school board.
22 Indians do not participate in PTA. I, myself, wouldn't want
23 to participate in PTA. I think it is an organization that
24 really isn't doing anything.

25 Burlington, the railroad company, there

1 are about three Indians employed on Burlington Northern. The
2 city has one Indian person working for the city, and he works
3 for the garbage department.

4 MR. ERICKSON: What do you think would
5 happen if you took a problem pertaining to discrimination
6 against Indians or something like that to city hall, to your
7 mayor or to your city council, or has this been tried?

8 MRS. TURCOTTE: Yes, we have tried, and
9 there, again, they say that Indians are troublesome and that
10 they don't want to be any better.

11 MR. ERICKSON: But you haven't gotten any
12 satisfaction on any of the problems you have taken to city
13 hall?

14 MRS. TURCOTTE: No.

15 MR. SMITH: How are you treated by the
16 local police department?

17 MRS. TURCOTTE: There, again, Indians are
18 harrassed or picked up for drunk, a lot of times just for
19 being out. You know, like a couple weeks ago, we had a
20 couple Indian boys just coming into town. They were going to
21 go to Northern, but they also knew a couple other boys there,
22 and they were looking for the boys that they knew. They were
23 not drunk. They were not bothering anybody. They were just
24 merely driving down the streets. They had driven half the
25 night, but they were picked up, and put in jail.

1 MR. ERICKSON: What were they charged with;
2 do you know?

3 MRS. TURCOTTE: Drunk and disorderly, but
4 they weren't drunk.

5 MR. RUDELL: Were they disorderly?

6 MRS. TURCOTTE: No. Disorderly --
7 evidently they were in a residential area, and they would stop
8 the car, and since it was dark, they would go look at the
9 house number, but they weren't hurting anybody.

10 MR. DILLON: Do you have any legal aid
11 service that the Indian in Havre might have access to?

12 MRS. TURCOTTE: Yes. We have a legal
13 service attorney, but our legal service attorney there covers
14 such a large area -- he covers Liberty County plus the two
15 reservations. We set in between the two Indian reservations,
16 the Rocky Boy's Reservation and the Fort Belknap.

17 MR. ERICKSON: Is that the Montana Legal
18 Services Association?

19 MRS. TURCOTTE: Yes.

20 MR. ERICKSON: That is an OEO funded group,
21 isn't it?

22 MRS. TURCOTTE: Yes.

23 MR. ERICKSON: What kind of cases do they
24 take?

25 MRS. TURCOTTE: I also serve on the legal

1 service local committee, and the biggest part of the cases
2 they take are divorces. They have a policy that they cannot
3 take felony cases or anything like this and, also, they have
4 been given orders that they are not to handle juvenile cases
5 any more since the court will appoint an attorney for juvenile
6 cases.

7 MR. LAPOINTE: Mr. Chairman, Kathryn, I
8 would like -- I don't understand why they can't handle
9 criminal cases since the OEO attorneys in South Dakota in that
10 service -- can you explain that?

11 MRS. TURCOTTE: Maybe Mr. Bennett can
12 explain that. The Montana Legal Service has the idea, as I
13 understand it, that they handle all the non-fee generating
14 cases that were laying around that they wouldn't have time
15 enough for the criminal cases. It is also true in Montana
16 that long before the decisions of the Supreme Court of the
17 United States requiring counsel at every stage of a criminal
18 proceeding, the state of Montana has been assuring counsel of
19 due criminal attendance for something like -- I think it was --
20 I am not on the board. I have never been anywhere near the
21 board, but I think it was the idea of the board the defendant
22 or people charged with crimes, we are talking about felony
23 crimes, would be supplied in any event just as I guess they
24 have decided as the juveniles, because they are juveniles,
25 a defender is always available.

1 MR. SMITH: The OEO service program
2 representing a criminal defendant is a national policy, and
3 there is legislation which puts some commissioners on all OEO
4 funds on the theory that the state has the responsibility to
5 provide legal counsel to criminal offenses. Since that is
6 unclear with regard to misdemeanor cases, some OEO programs
7 represent misdemeanor cases and they will also take habeas
8 corpus procedures, but I don't know any OEO funded program
9 that as a common practice represents criminal cases.

10 MR. LAPOINTE: I would like to ask,
11 Kathryn, if she thinks that is unfair or should be changed?

12 MRS. TURCOTTE: I really think it is
13 unfair because a lot of times attorneys, especially in the
14 juvenile cases -- a lot of the times the attorneys they do
15 appoint don't do anything about the Indian people.

16 And child support cases, a lot of times
17 a lot of men are taken to court, and they really can't afford
18 to support another family. They don't have jobs, they don't
19 have anything, the training that is set up for Indians in the
20 WINN and every thing -- I know our WINN program trained home
21 makers. Well, most every woman is a home maker, and I don't
22 think women want to go out and scrub other people's walls
23 and scrub floors, and they had waitress training. You don't
24 have to go to school six weeks to learn how to -- or twelve
25 weeks or any other time to learn how to wait on tables. My

1 sixteen-year-old daughter learned this without going to
2 waitress training.

3 MR. RUDELL: Have you been to many
4 restaurants in South Dakota? The waitress service sometimes
5 is highly undersirable.

6 MRS. TURCOTTE: Maybe so, but I don't
7 think -- the WINN program was supposed to be training ADC
8 mothers, mothers with children to support, and at that time,
9 Montana restaurants were paying \$1.00 an hour, and I don't
10 think any woman could support three or four kids on \$1.00 an
11 hour, and you can't do it by being trained to scrub walls.

12 MR. DILLON: You are somewhat familiar
13 with the Billings area, and I would like you to briefly go
14 over some of the conditions in Billings such as health
15 facilities, the education. Could you give us a brief rundown.

16 MRS. TURCOTTE: Just what Mr. Rideshorse
17 says. On the board of directors, Sam is representing the
18 Billings area, and he said that the Indians in that area
19 cannot go to the hospital. They are constantly told to go to
20 the reservation. They go back to the reservation, and they
21 tell them, "You live in Billings; you are not on the
22 reservation, so we can't help you." And this is true I think
23 of practically all the areas in Montana because I know in
24 Havre Indians try to get into the hospital. They have to have
25 an okay from the public health service, and if they don't have

1 this okay from the public health service, they are billed
2 themselves for it.

3 MR. DILLON: Do you know anything about
4 the Billings school system, for instance, as to how many
5 minority teachers they have?

6 MRS. TURCOTTE: Earl Barlow, he is the
7 director of Indian education. There are no minority teachers
8 except on the reservation. Lodge Grass has two and Pryor has
9 one.

10 MR. BENNETT: I would like to ask a
11 question.

12 On the Indian reservations pretty much
13 all around Montana, they are getting housing projects going --
14 some are going good and some are going bad, but they are
15 going, and I think on almost every reservation in Montana,
16 and I am from Montana, as you know, and I am really not
17 familiar with the situation off the reservation.

18 Are off-reservation Indians through the
19 Montana United Indian Association or any other group
20 community action group, undertaking housing projects for
21 Indians in the urban areas?

22 MRS. TURCOTTE: Great Falls has
23 undertaken some self help housing, and I think last year they
24 completed four houses for Indians. Great Falls has the
25 largest number of Indians in that area of any urban area,

1 and four houses really isn't much for the number of Indians
2 they have. This year they have undertaken to build 10 houses,
3 but I really don't know much about their housing program. I
4 don't know how they manage to do this.

5 MR. BENNETT: Do you happen to know
6 whether it is a housing authority, a FHA housing authority?

7 MRS. TURCOTTE: I think it is under HUD.

8 MR. BENNETT: Is there anything like that
9 going on in Havre?

10 MRS. TURCOTTE: No. Great Falls is the
11 only urban area within the state that has worked on any
12 housing for Indians.

13 MR. BENNETT: They just burned down
14 Hill 57?

15 MRS. TURCOTTE: Yes. Most of the homes
16 up there were burned out. There are a couple living -- I
17 don't think any investigations is being made as to how the
18 homes up there got burned. True, they were shacks, but it
19 was all that those people had to live in.

20 MR. BENNETT: I wonder -- has the
21 community action company in Havre or Great Falls and Billings
22 ever thought of the possibility of setting housing authority
23 under HUD specifically for Indian housing?

24 MRS. TURCOTTE: I know Havre hasn't, and
25 I don't think Billings has either.

1 MR. BENNETT: I was wondering if that
2 wouldn't be feasible, if it wouldn't work?

3 MRS. TURCOTTE: Hayre has no housing
4 authority whatsoever. There is a housing authority which does
5 not cover the city, but they are not doing anything at this
6 time. I think I was the first Indian to be appointed to any
7 board in Havre, and I was appointed to the housing -- the
8 Hill County housing authority, and we just really have a token
9 seat on the board. I think they only appointed me to keep
10 from appointing somebody else, and I understood they were doing
11 a survey on housing, and I didn't know anything about it, so
12 really I am on that housing authority just to keep somebody
13 else from being on there is all. I don't know why they
14 appointed me because I certainly don't know anything about
15 housing programs or anything about housing.

16 MR. DILLON: Are there any more questions?

17 MR. LILLEHAUGEN: I am sure they appointed
18 you when they learned to know you because you seem to know
19 something.

20 MRS. TURCOTTE: Not about housing.

21 MR. LILLEHAUGEN: We have heard so many
22 things that are wrong, and we believe them. Now, if you had
23 your way, how would you change these things? What should be
24 done which is realistic and idealistic? What could be done?
25 If you were to visit the President, what would you do?

1 I mean what do you think could be done to improve these things?

2 MRS. TURCOTTE: Well, I think in our public
3 schools, there should be in the Indian areas -- there could be
4 an orientation to teach what the Indian people are. Also, to
5 employ more Indians within the school systems I think would
6 remedy some of the things, some of our new Indians that really
7 have an Indian feeling; not the old bureau Indian.

8 MR. DILLON: Just a minute. We are
9 running about 15 minutes behind, and like yesterday I made the
10 statement that we would like to give you as much time as
11 possible, but we have to keep it pretty close to schedule,
12 and if you will --

13 MR. LILLEHAUGEN: Mr. Chairman, could we
14 take a few minutes. I think she has something to say which is
15 concrete. Could we have a few more minutes?

16 MR. DILLON: Yes, and you could
17 appropriate this in your closing statement.

18 MRS. TURCOTTE: Montana has a start on
19 working on some of the Indian problems. I think organization
20 of Indian people is one of the things that is going to help us.

21 MR. LILLEHAUGEN: You said education. We
22 hear so many things, but it is all very vague. What kind of
23 education? What should we teach in our schools to help these
24 conditions? This is what I am concerned with. Teach them
25 culture, yes, but sometimes teaching culture may alienate us

1 more.

2 MRS. TURCOTTE: Did I say culture?

3 MR. LILLEHAUGEN: No, you didn't, but we
4 have heard it quite frequently.

5 MR. LAYMON: I think she said teaching
6 what is an Indian.

7 MR. LILLEHAUGEN: Yes, Okay.

8 But is that all?

9 MRS. TURCOTTE: No, it isn't all.

10 MR. LILLEHAUGEN: Obviously. What else,
11 then?

12 MRS. TURCOTTE: What do you mean?

13 MR. LILLEHAUGEN: I mean what should we
14 teach in the schools to improve?

15 MRS. TURCOTTE: I am not an educator.

16 MR. DILLON: I would like to clarify a
17 point here.

18 I think what Kathryn was referring to is
19 the fact that the white people who are going to be oriented --
20 the white teacher should have a program where they understand
21 more clearly.

22 MR. LILLEHAUGEN: Yes, but is that enough?

23 MRS. TURCOTTE: I think this is true of
24 our public health service. We get young doctors that don't
25 know anything about Indians, and other things about the public

1 health service is that we get doctors that stay maybe a year,
2 and then we have to again adjust to new personnel in the public
3 health facilities.

4 MR. LILLEHAUGEN: But is that enough?

5 MRS. TURCOTTE: No, it isn't enough.

6 MR. LILLEHAUGEN: What else? I am not
7 trying to put you on the spot, but I am concerned so that we
8 can have some definite recommendations here besides general
9 things.

10 MRS. TURCOTTE: I don't think any of us
11 know really what can really be done because there is so much
12 wrong within our police department, everything, and it isn't
13 only urban areas -- within the reservation.

14 MR. DILLON: Kathryn, at this time, I
15 would like to thank you for your testimony, and when we get
16 back to Montana, we will certainly give this a whirl, and I
17 would like to call the next witness.

18 Elvina Alberts.

19 Mrs. Alberts, state your name and
20 occupation.

21 MRS. ALBERTS: My name is Elvina Alberts.
22 I presently am working as a field representative for the
23 Career Opportunities Program. I am representing the school
24 at Fort Totten, North Dakota.

25 MR. SMITH: How long have you lived at

1 Devils Lake?

2 MRS. ALBERTS: Practically all my life.

3 MR. SMITH: How would you evaluate the
4 treatment the Indians get both on the reservation -- with
5 regard to reservation law and order and also with regard to
6 towns like Devils Lake?

7 MRS. ALBERTS: It used to be a pretty bad
8 situation for Indian people. I think that we got to the point
9 where we just couldn't take any more. We were just down to
10 the bottom. We didn't have any place else to go but up, so
11 a lot of people got in this business of fighting for their
12 rights, so as a consequence, you can walk down in Devils Lake
13 now -- you can go into cafes and bars and you won't get
14 arrested.

15 MR. SMITH: Do you think you are as equal
16 as the whites in all regards?

17 MRS. ALBERTS: I would say so.

18 Every day I would pick up the paper, and
19 there's at least one Indian picked up, and some days it would
20 be eight or ten.

21 MRS. SUMMERS: Have you ever been to the
22 Ranch for dinner?

23 MRS. ALBERTS: No, I haven't. I wouldn't
24 care to. It's expensive for one thing, but they do employ a
25 lot of Indians.

1 MRS. SUMMERS: At the Ranch?

2 MRS. ALBERTS: Yes.

3 MRS. SUMMERS: Do you know if anybody can
4 go in there and get a meal?

5 MRS. ALBERTS: I know the Indian people
6 have gone there and gotten a meal, but like I say, it's too
7 expensive for any of us.

8 MR. SMITH: What facilities are there on
9 the reservation for juveniles?

10 MRS. ALBERTS: On the reservation?

11 MR. SMITH: Yes.

12 MRS. ALBERTS: On the reservation, we have
13 one juvenile detention center for boys, and one juvenile
14 detention center for girls.

15 MR. SMITH: Is the juvenile offense a
16 problem on the reservation?

17 MRS. ALBERTS: Very much so.

18 MR. SMITH: Does the reservation receive
19 any cooperation from the State correctional facilities or
20 from the State Juvenile Commissioner?

21 MRS. ALBERTS: No. Several times -- I
22 also serve on the tribal welfare board, and because of
23 juveniles getting into situations where they were apprehended
24 by the law several times in a row because their home situation
25 wasn't very good or, you know, it was a place where they

1 shouldn't be, sometimes they didn't even have a home, we have
2 asked that these boys and girls be sent to Mandan Training
3 School. So far none of them did. One got killed in the
4 process of waiting.

5 MR. SMITH: Because the State would not
6 admit them?

7 MRS. ALBERTS: No.

8 MR. SMITH: What excuse did it use?

9 MRS. ALBERTS: They said there was a long
10 waiting list.

11 MR. SMITH: Did they use the excuse there
12 was no jurisdiction over Indian juveniles?

13 MRS. ALBERTS: They brought up something,
14 but it wasn't too big a issue.

15 MR. SMITH: Are many of these Indians put
16 in foster homes?

17 MRS. ALBERTS: They have been. The first
18 ones are coming back, and they are the juvenile problems.

19 MR. SMITH: Are they usually placed in
20 Indian homes or white homes?

21 MRS. ALBERTS: I would say half and half,
22 but generally off the reservation.

23 MR. SMITH: When they are placed in Indian
24 foster homes, do the Indian foster parents receive the same
25 amount of state aid that the white parents do?

1 MRS. ALBERTS: No. They might today
2 because we did bring this up several times. I think maybe now
3 they would probably receive about the same.

4 Just the other day, we went to court with
5 a young girl whose family is a hard core family in situations
6 like this, where they had their children taken away, where
7 they were accused of causing the death of one, and this girl,
8 after spending one year in college, came to work for what we
9 call the Family Development Center, and she had to sign a
10 complaint on her folks -- they had been out on a drunk for
11 two weeks, and she asked that the family be placed at the
12 Family Development Center, that she keep the three oldest ones,
13 and the bus went by her place, and she could put the kids on
14 the bus to go to school, and she'd go on to work, so we went
15 in with her, and checked with the bureau of social worker
16 just how much money would she be getting, and he said, "Yes,"
17 but first, "he said, "Come into me, and tell me how much you
18 are making, then we will add up the expenses of all four of
19 you, we will deduct your salary, and what's left, we can help
20 you out." That's when I blew my top. I said, "If these
21 children are being placed in a white home, you would give each
22 one of them \$125.00 a month," and he said, "No, we can't
23 because she's a relative." and I said, "That's the ones that
24 you should help out." Not to be taking the children out of
25 the home and put them in a total stranger's home and give

1 that money to them.

2 MR. SMITH: In the cases that you know about,
3 where Indian children have been taken away from their parents,
4 what kind of procedures -- how does it happen? In other words,
5 does the welfare worker recommend it, and is there a court
6 proceeding, is there a hearing of some sort?

7 MRS. ALBERTS: Yes.

8 MR. SMITH: Do the parents have an
9 opportunity to be heard and appear at the hearing?

10 MRS. ALBERTS: Sometimes they are at the
11 hearing. Sometimes they are in jail, or they have taken off
12 and can't be found. If the children are abandoned, the
13 children are not in court -- if the case is taken into court
14 by the social worker, then the Court decides where they should
15 go. Usually they have already made an investigation to put
16 them in some home.

17 Now, the Tribal Welfare Board is always
18 there when this happens. The Tribal Welfare Board recommends
19 where they should go. This is why we have the Family
20 Development Center.

21 Let me explain. It is a center that we
22 started ourselves. We went to New York in 1968, and met with
23 the Overseas Club, and we took three of the mothers along that
24 had to go through something like this. They should have had
25 assent to get their children back, and that is a very long

1 slow process to get your children back once you have lost them.
2 So from there we went to Washington, D. C., and with the help
3 of the Indian Affairs, we presented a proposal, and a year
4 later, we were asked to come back. We had made a proposal --
5 we had a book about that thick -- we called it the Sears
6 Roebuck -- anyway, in that was -- what do you call this --
7 this projected ideas for the home to go on for millions of
8 years, I suppose, and it looked to me like -- we are not a
9 very big reservation, and it looked to me like where all the
10 families would be in there, and we wanted to phase it out,
11 and it was 10 years or so, and maybe we would phase it out
12 by then. Well, we took it down to Washington; the lady in
13 charge, she said, "I'll put this aside, and give you until
14 9:30 tomorrow morning to come here with a proposal of your
15 own," which we did. Well, we got a grant of \$77,000 that year.
16 We remodeled that old school house. That big thick proposal
17 said we were to have big buildings, you know, complex, but
18 anyway we got the home. Now, right now, we have two families,
19 big families there, and we have two -- we call them little
20 families because the father is not involved, but the women
21 are there with their children. One woman said, "Could I please
22 come in; I have been drunk since my husband and I separated,
23 and I don't want to be that way. I want to keep my kids; if
24 I go there, at least I will have some help," so we agreed,
25 and she's doing very fine.

1 Just the other day, the people from
2 Washington were there, and they were surprised at the progress
3 we had made in the year and a half.

4 Now, you could say, "All right, what white
5 is involved there?" There was nobody. It's the Indians
6 themselves that did it. We had a very able director. I am
7 sorry we are losing him, but he is still going to work for the
8 tribe, but we had to do something. We couldn't sit back and
9 see those kids being taken away. Here's the mother crying,
10 and have them hanging on to their children while the sheriff
11 is taking them one way. We just couldn't do it.

12 MR. SMITH: I imagine the children from
13 your area attend both the public schools and boarding schools?

14 MRS. ALBERTS: Yes.

15 MR. SMITH: Would you describe the
16 conditions of the boarding school.

17 MRS. ALBERTS: To me -- one of the things
18 that this white said -- he's a big operator; he came from
19 Manhattan.

20 Anyway, when he came out there, he said
21 we couldn't have any home here; it's so bleak and so dreary.
22 I said, "We are all used to this; we'll make this; we can
23 plant some trees. I see where you guys went out on the
24 prairies and made homesteads; we can do it."

25 This Flandreau, it struck me like that.

1 It's a brand new building. I went to school there for seven
2 years. It was home for me in those days, but now, when I
3 went in there, I couldn't even eat. I kept getting a lump in
4 my throat. As I looked -- it was modern, but it was cement
5 walls whereas when we went to school it was wood. To me wood
6 is warmer. I don't know. I just didn't like it, and I felt
7 sorry for these kids there. I felt the same way about
8 Wahpeton. At one time if Wahpeton was allowed to -- I know
9 any number of children who finished the 8th grade there, and
10 rather than go to another boarding school, they just hid,
11 joined the army or anything, but they said, "I wish I could
12 have stayed at Wahpeton and gone to school in town." Now,
13 why couldn't they have done that. The city of Wahpeton has
14 taken it on itself to be good to these children, and they really
15 are good to the kids. The school is theirs. I mean they have
16 adopted the whole school. Well, in a situation -- this is
17 what we are all crying for. Why don't they look out for them.
18 We are hearing, here's a city that wants to.

19 One thing is housing, you know. If the
20 government paid their tuition just like if they were back on
21 the reservation -- most of these kids went bad. That's what
22 the pity of it is.

23 MR. LILLEHAUGEN: Did you say back or bad?

24 MRS. ALBERTS: Bad..

25 MR. LILLEHAUGEN: Why?

1 MRS. ALBERTS: Because, in the first place,
2 I feel when this school gave the initiative, they could think
3 ahead, and this is what they wanted. The government is always
4 telling us, "You want, we'll do it for you," but never have.
5 What they are saying, "I want to stay in Wahpeton, go to high
6 school, but there's no way to do it," so, then, these kids
7 don't go to school. If they go to Flandreau, they run away
8 and come home. They drop out because they are not doing what
9 they really want to do.

10 MR. LILLEHAUGEN: What do they really want
11 to do?

12 MRS. ALBERTS: To go to school right in
13 Wahpeton at the high schools there, but there are no living
14 facilities for them at the Indian schools. The superintendent
15 said he wished there was some way to keep the kids there.
16 They could make good if they were doing what they wanted, but
17 right there they cut off the initiative. Just like the Indians,
18 they said, "You don't live in the Black Hills; go to Pine
19 Ridge" or something. This is the same thing that happened to

20 MR. LILLEHAUGEN: You are employed at the
21 university part of the time?

22 MRS. ALBERTS: Yes.

23 MR. LILLEHAUGEN: What are you teaching
24 them, or what is being taught there? We are talking about
25 education. What are you doing at the university?

1 MRS. ALBERTS: Last year I taught the
2 Sioux language, a little bit of culture, and some history and
3 a lot of personal feeling.

4 MR. LILLEHAUGEN: Who takes the classes?

5 MRS. ALBERTS: The teacher aides.

6 MR. LILLEHAUGEN: Do any non-Indians take
7 it?

8 MRS. ALBERTS: Yes, there was from the
9 university itself, but their program and plan was such that
10 they couldn't be there every time.

11 MR. LILLEHAUGEN: How many Indians, about,
12 came to study on your future?

13 MRS. ALBERTS: I taught 11 -- well,
14 altogether 62.

15 MR. LILLEHAUGEN: How long do they study
16 it, about?

17 MRS. ALBERTS: Three weeks at a time, and
18 one day a week at home, but the three weeks are spent at the
19 university, and one week at home. On Fridays I would go into
20 the school where they were, and we had a room where I taught
21 them.

22 MR. LILLEHAUGEN: Do you think that is one
23 of the answers?

24 MRS. ALBERTS: I think so. Just like I
25 was telling Mr. Milligan -- he said there was no teachers.

1 I said, "Wait, we have got some teachers, they'll be going
2 into senior year next year, and they'll have their degree,
3 Indians. It's not their nature to be all set up.-- they are
4 at home. They are working, also, taking care of their
5 families, and still going to college, and they'll get their
6 degrees in four years."

7 MR. LILLEHAUGEN: When they go back to
8 work in their home community, do you think they'll do a
9 better job?

10 MRS. ALBERTS: Yes, very much.

11 MR. LILLEHAUGEN: Are many Indians
12 interested in this?

13 MRS. ALBERTS: There are quite a few now.

14 MR. LILLEHAUGEN: Are you getting
15 information out to them?

16 MRS. ALBERTS: Yes. When they graduate
17 from high school, they come in there -- see, the first ones
18 we had to take were people who had missed out somewhere. You
19 know, they finished high school, and got married, and there
20 was nothing for them, no jobs or anything, and they have
21 always wanted to go to college, but they couldn't because of
22 the money, so this has come about through the program that I
23 hope everybody in North Dakota will support.

24 MR. LILLEHAUGEN: Do you think that is the
25 big answer?

1 MRS. ALBERTS: I think so. They are in
2 the -- they are there every day as teacher's aides. They are
3 helping the teacher. The teacher is helping them. They are
4 getting experience day to day with these children, but the
5 thing they needed most was to let this child know that you are
6 an Indian. I am an Indian. Well, you know, I worked as a
7 counselor's aide for some years. This is how I related to
8 them. I spoke Indian with them, told them stories in Indian,
9 and sometimes if they were retractable, you couldn't do
10 anything with them, then I talked to them as an Indian. I
11 appealed to them in Indian, and they began to feel that they
12 are worth something, I think so, I think I see it in some of
13 the kids.

14 MR. MILLIGAN: Let's go back to Wahpeton
15 again. What she is trying to bring out -- Wahpeton, you have
16 an unusual situation, a very healthy situation in the
17 community, and if those Indians could stay there and go to
18 high school -- then if some of them wanted to go to trade
19 school, Wahpeton is one of the schools, if you look back over
20 the past, they were always trying to close it. It was only a
21 few years ago when we had that fight to get that new dormitory.
22 Most people in North Dakota do not realize you have a school
23 there, a healthy community for these children from broken
24 homes. This is one of the schools that should get more
25 preference, and I think you people should know that.

1 MR. RUDELL: I wonder between the two of
2 you could you sort of give us your opinion of why you think
3 Wahpeton is different from these other towns? All we have
4 heard about is why everybody is against the Indian. What has
5 made them different?

6 MRS. ALBERTS: I think that the
7 superintendent that has been there for many years -- I think
8 he probably was the man who got in the chamber of commerce,
9 got those people interested, and from there -- when it is a
10 good feeling, you can't help but to invite somebody else in
11 with it so that the people in the community, even the little
12 towns around there, invite these kids there. Somebody come
13 up with the idea, let's invite the kids, two, three children
14 to our home, and churches got ahold of it, and this is how it
15 spreads.

16 MR. MILLIGAN: The same thing with the
17 Boy Scouts troops. They have these camperees. The outlying
18 Boy Scout groups would invite one of the Indian schools to
19 come out and have a camperee with them.

20 MR. RUDELL: It is a mingling of contact
21 with each other.

22 MRS. ALBERTS: And I think it got started
23 with that superintendent. He was going to retire. I don't
24 know if he has, but now I wanted to get back to something
25 that is very, very hard for me to take, and that is this

1 bootlegging business.

2 On our reservations, of course, like all
3 of North Dakota, no places are open on Sunday, and I believe
4 people in the past have made a thriving trade in bootlegging
5 on the reservation right within the housing area. We have a
6 circle of new homes that are pretty close together, and I know
7 at one time the Indian police went in there and made an arrest,
8 and walked in behind these people and found cases of wine and
9 beer sitting on the floor. They couldn't confiscate those.
10 I don't know what law is against it.

11 I'll tell you another incident that goes
12 directly against that. The other evening some people were
13 driving home from Devils Lake. They had to take a roundabout
14 route because they had planned to go to Cheyenne, and they
15 picked up this man who said, "You give me a ride to Cheyenne,
16 and I'll fill your tank." Here comes a police car, stopped
17 them, searched them, there was beer in there, and then he
18 said, "Report over to the police station." This man didn't
19 go, but the other two people went, so they called me at 3:00
20 o'clock in the morning, so I went with them, and he gave each
21 of them a summons to appear in court on Monday, so I went over
22 home, and got the code out and read it, and if any of you are
23 interested, the Sioux code states in there unlawful seizure;
24 your person, your home may not be searched without a warrant.
25 A automobile may be searched if he has reason to believe

1 something is wrong.

2 Those people didn't know which way to
3 plead. One of them said he owned the car, so they said it was
4 true they was in the car, but they plead not guilty. They
5 went to the higher court on Thursday, but that judge dismissed
6 the case, but I said to myself, why could this police do that,
7 and this other guy walked in the home and that stuff was
8 laying there, and he couldn't pick it up. He did arrest them,
9 but he couldn't charge them.

10 Now, this happened a little over a year
11 ago.

12 The bad thing about the bootlegging that
13 gets me -- about a year and a half ago, I went into Devils
14 Lake. My grandson was in jail, so I went to get him. They
15 said he is charged; he'll have to appear before the
16 commissioner.

17 Oh. I told my grandson -- I said, "I'm
18 all for you all the way, but I want you to do one thing."
19 I said, "It's going to be hard to do." I said, "Tell me who
20 bought you the liquor," and he wouldn't at first. It took all
21 the way driving into town, and we sat in the juvenile
22 commissioner's office, and he finally spoke up and said who
23 it was. There was another boy with him, and he said his name.
24 Then I said, "Are you going to do anything about this person
25 that bought the liquor"? He said, "Well, it's pretty hard

1 to do. What do you say we let it go this time and see if there
2 is another time."

3 There was another time within three months,
4 and we went back up there, and I asked him again, "It's the
5 same person; what do you say now"? Oh, he said, "We can't do
6 anything." He said, "In other words, either you or I have to
7 be there and see the transaction." Well, who the heck is
8 going to give my grandson any liquor while I am standing there
9 or while the commissioner is in view somewhere. Well, that
10 grandson of mine got hold of liquor several times after that.
11 In one of his passed out times, he got killed. The two boys
12 that killed him were 15 and 16 years old. They also got their
13 liquor somewhere. Now, this is the thing that I don't like.

14 MR. BENNETT: Tell me who the juvenile
15 commissioner is.

16 MRS. ALBERTS: Varries in Devils Lake.

17 MRS. SUMMERS: In North Dakota, the
18 juvenile commissioner or judge -- the code reads that he must
19 be an upright and honorable man, and that is all.

20 MR. BENNETT: But he isn't connected with
21 the reservation or tribal government or anything?

22 MRS. ALBERTS: I don't know, but he has
23 to take these boys off the reservation when they are juveniles.
24 They have to go before them.

25 MR. MILLIGAN: He has, I think, five

1 counties because I know he also has Rolette County.

2 MRS. ALBERTS: I know he doesn't serve just
3 the Devils Lake area.

4 MR. MILLIGAN: I was going to say, the
5 boy that was killed -- I have heard about this jail --did they
6 lock them all in jail, and they did not search --

7 MRS. ALBERTS: I understand they did
8 search, and nothing was found. At least, that's what Mr. Price,
9 the officer, told me, and I went there -- I had been away.
10 I was down at Bismarck, and he wasn't in my custody at the
11 time, either, because he was sort of hard to handle. He was
12 the boy waiting to go to the Mandan Training School. That was
13 the recommendation of the welfare board because --

14 MR. MILLIGAN: They were fighting before
15 they were put in the cell?

16 MRS. ALBERTS: No. As Mr. Price told me,
17 my grandson was passed out on the road, Highway 57. They
18 picked him up and put him in the police car. They were on
19 their way, and they got another call and said come and pick up
20 this other guy, he was fighting his grandmother, so they
21 picked him up. They were together. My grandson was passed
22 out. They took them into town and put them in jail together.
23 About 40 minutes later, they had got a call that this other
24 boy had a knife and was threatening his sister, and they
25 picked him up, and about 30 minutes later when they went back

1 to the cell, they found him laying there, and the damage had
2 been done.

3 MR. LILLEHAUGEN: How did he die?

4 MRS. ALBERTS: He was beaten to death.

5 The undertaker said he was going to do the best to fix him up.
6 He couldn't even be viewed in the casket. He was all cut up,
7 and there was no weapon any where on those two boys, nor
8 any where in the cell until about a week later when they
9 opened the drain, they found two razor blades, and this one
10 boy had been known to put razor blades between his fingers
11 and attack people and he had had a history of viciousness.

12 MR. SMITH: This is which jail again?

13 MRS. ALBERTS: Fort Totten.

14 MR. SMITH: Have there been any other
15 deaths in the jail?

16 MRS. ALBERTS: No, not in the jail.

17 In fact -- I don't like to say this, because to many it is
18 kind of a desperate situation about liquor. There have been
19 six people that died. Five of those were attributed directly
20 to alcoholism. Young people. I am not talking about old
21 people. One was an elderly person. The other five were
22 young.

23 MRS. SUMMERS: Fort Totten is right off
24 the square?

25 MRS. ALBERTS: Yes, right off the square.

1 MRS. SUMMERS: That is part of the tribal
2 government, the police?

3 MRS. ALBERTS: Yes.

4 What I didn't understand -- they have
5 inter-com there. They can listen to any part of the jail.
6 It comes right on the inter-com all the time, and if they want
7 to, they can talk back to the prisoners there, too. Well,
8 I said, "How come you didn't hear anything?" The dispatcher
9 said they didn't hear a thing. The people in the jail cells
10 said they heard things. They told me that the tribal police --
11 two of them had walked in there, and one of the other
12 prisoners said, "You should go check back there; there's
13 something going on." He said, "Oh, they're always fighting
14 when they are drunk." I believe if he had walked around the
15 corner, I think they could have prevented a murder.

16 MRS. SUMMERS: But the juvenile
17 commissioner is in Devils Lake?

18 MRS. ALBERTS: Yes.

19 MR. LAYMON: How old were these boys?

20 MRS. ALBERTS: 15 and 16.

21 MR. RUDELL: Did they have any motive,
22 any reason -- I mean had they been fighting before?

23 MRS. ALBERTS: They were fighting
24 somebody else before. My grandson at one time stated the one
25 that was put in last was his best friend. This is what he

1 said at one time.

2 MR. RUDELL: I mean there wasn't a hatred
3 between them beforehand?

4 MRS. ALBERTS: No. Well, I'll tell you,
5 I had this boy, the one that was put in the jail last, when
6 I was counselor aide. There was days he would miss school.
7 He had been in Wahpeton. He wanted to go back, but he put in
8 his application in too late. The school was too full, so he
9 couldn't go back, so then when I went after him one day --
10 he had been absent two, three days in a row, and I finally
11 went to get him. The first time he told me he was sick. The
12 second time I found him walking on the highway, so I put him
13 in the car, and I said, "Do you want to go to Wahpeton that
14 badly," and he said, "I surely would like to go." I said,
15 "You know you are really hurting your mother." He said,
16 "My mother, I'd like to kill her." I think the answer is
17 right there.

18 MR. LILLEHAUGEN: What do you mean by that
19 "right there."?

20 MRS. ALBERTS: The parental attitude
21 towards the children. They have no -- we try to counsel the
22 parents but because they are educated, too, and they are
23 smart, they drink a lot and leave families days at a time,
24 nights, bring different men to their homes -- what could a
25 kid think.

1 MR. LILLEHAUGEN: Is there something wrong
2 with our education?

3 MRS. ALBERTS: Back away probably.

4 MR. LILLEHAUGEN: How?

5 MRS. ALBERTS: Like I said, these people
6 feel frustrated. This mother had a good education. She
7 could have got a job and could have worked, but, no, the
8 minute she went to work, she got herself in trouble. There
9 should have been a counselor there or her boss should have
10 counseled her, but the bosses are way up there, and the worker
11 is down there. They don't ever tell their employees what not
12 to do or what to do until they do something wrong, and then
13 they are fired.

14 MR. LILLEHAUGEN: You talk about the kids
15 that go bad. Do most of the kids want to do better or is it
16 that they don't care?

17 MRS. ALBERTS: When they come back from
18 Wahpeton, they are so clean and so polite to people you just
19 can't help but to love the kids. It takes them two weeks,
20 and they are right back to where they were before they went
21 to Wahpeton.

22 MR. LILLEHAUGEN: Why is that? Why do
23 they go back if they don't want to be that way?

24 MRS. ALBERTS: A lot of these kids, they
25 are just 15, 16 years old. They go in there, and they want a

1 job, and every day it's filled, but the programs are always
2 held back for some reason and another. We should see that
3 that program starts in March so that maybe the minute the kids
4 step out of school they go to work.

5 Another thing about NYC, it helps them to
6 give them jobs, but there is really no direction there. We
7 see things to be done, and the common people say to the higher
8 ups, to the directors, "Look, why can't they do this?" Why,
9 policy says they can't.

10 There is a place at home where everybody
11 takes them when they are in trouble, and this is where lot of
12 things go wrong, this shelter belt, the kids can hide in there
13 forever, so we say, "Why don't you go in there and clean that
14 up?" No axes, no hoes, nothing to work with. Why put up a
15 program when you don't have anything to work with. The first
16 year this come, my husband loaned all the tools to work with
17 and lost them.

18 MRS. SUMMERS: Are there any families at
19 Fort Totten whose children come home from Wahpeton and go on
20 to high school somewhere?

21 MRS. ALBERTS: Yes.

22 MRS. SUMMERS: Where do they go?

23 MRS. ALBERTS: They go to either Oberon
24 or Maddock, and then there is Devils Lake Central.

25 MRS. SUMMERS: If they go to Devils Lake

1 High School, do they like it?

2 MRS. ALBERTS: I had three of my
3 grandchildren there. They liked it.

4 MR. DILLON: Do you have any closing
5 statement?

6 MR. LILLEHAUGEN: Have you ever talked to
7 Governor Guy about this?

8 MRS. ALBERTS: Not personally, no.

9 MR. LILLEHAUGEN: I think you should.
10 I know him, and sometime when I see him I am going to mention
11 you to him.

12 At the university do you get to talk to
13 other teachers, go to classes, or are you working around in
14 a little circle by yourself?

15 MRS. ALBERTS: No, I get around.

16 MR. LILLEHAUGEN: Do people listen to you?

17 MRS. ALBERTS: I don't know.

18 MR. LILLEHAUGEN: Do the professors listen
19 to you?

20 MRS. ALBERTS: Yes, I think they do.

21 MR. MILLIGAN: Mrs. Alberts, at Fort Totten,
22 like so many other reservations on these fringe problems, are
23 there sometimes involved quite prominent white people?

24 MRS. ALBERTS: I have got one here where
25 a young boy is in jail -- no, he's out, I think, on parole or

1 something, but he's accused of stabbing a white man, very
2 vicious cut on his face here. Now, the story we got was that
3 they were good enough to give him a ride, good enough to give
4 him a drink, and then they stopped for some reason, and he
5 jumped out, and drew a knife, and cut this man who was just
6 home from Vietnam. That was the story we got, but as it went
7 deeper, we found out -- this boy told me -- he's just a
8 youngster -- he said, "I was walking on the highway, and these
9 two men told me, "We'll get you some liquor if you'll tell us
10 where we can get a couple Indian women." He said, "I didn't
11 make any attempt to get anybody. I told him, 'There's a
12 place over here.' " He said they said, "If you don't get us
13 those women, we are going to kill you." He got out of the
14 car and ran in the trailer house. The one man from Vietnam
15 pulled a knife and stabbed him. This was the story behind it,
16 but this goes on quite a bit, too. I don't like to say it
17 because I don't know myself, but I just hear that this man
18 was given liquor to procure the woman. I don't know how the
19 case is going to come out. I'd like to see. If a woman has
20 been left at home sitting with the children day after day,
21 and because she is sick of it, and someone comes along and
22 says, "There's a guy over here that wants to take you out to
23 get you something to eat and take you to a show," she's going
24 to go.

25 MR. DILLON: Thank you.

1 I would like to call the next witness.
2 Larry Juelfs. Is Larry Juelfs in the room?
3 (No response.)
4 MR. SMITH: Have you seen him here at all?
5 (Member from the audience) No, I haven't
6 seen him.
7 MR. DILLON: We will go to the next witness.
8 Isaac Dog Eagle.
9 MR. RUELLE: He isn't here. I know him.
10 MR. DILLON: Is Marie Bear in the room?
11 MRS. BEAR: I have another person with me.
12 MR. DILLON: You are waiting for another
13 person?
14 MRS. BEAR: Yes.
15 MR. DILLON: We will take a short break.
16 (Recess taken.)
17 MR. DILLON: I would like to call the
18 session back into order.
19 I would like to call witness Thomas
20 Smithson to the witness stand, please.
21 Mr. Smithson, could you state your name
22 and who you represent.
23 MR. SMITHSON: Yes. My name is Tom
24 Smithson. I am an attorney admitted to practice in the state
25 of South Dakota, and I am a practicing lawyer in Pine Ridge,

1 South Dakota. I represent no one, really, except my own
2 views, my own observations. I am not authorized to speak for
3 the tribe or for any Indian people in particular.

4 The program of which I am a part is sort
5 of a gerry-built legal services program. When the legal
6 services program was originally conceived in various parts of
7 the country in '64, '65, the Oglala Tribe never completed
8 the application process. Whether that is attributable to the
9 tribe attorneys, to the state bar of South Dakota or to whom,
10 I am not just certain at this point. The result was that no
11 legal services program was founded and, until about October of
12 1969, with the exception of summer students, legal services
13 to approximately 10,000 Oglala Sioux people were provided by
14 Dennis Hill, a Rapid City lawyer, who is traveling to Pine
15 Ridge every Saturday or every other Saturday.

16 In October of 1969, I was able to return
17 to the reservation. I had been there one summer under the
18 sponsorship of an Indian association out of New York, which
19 was an OEO funded program, paid for my salary. As of July
20 1st, 1970, OEO has picked up the office expenses and the
21 secretary's expense as well. There are no immediate prospects
22 of any enlargement of that office in spite of the need in
23 Pine Ridge.

24 MR. SMITH: What is your opinion of the
25 responsibility of the legal services program on the

1 reservation particularly with regard to what approach do you
2 take when you are presented with a legal problem that involves
3 an Indian against an Indian or individual Indian against the
4 tribe?

5 MR. SMITHSON: Well, my position is one,
6 that is based partly on the belief that as a non-Indian I
7 have no right to interfere in certain tribal matters and
8 partly on economic measures as far as time is concerned, and
9 my position is roughly this.

10 In Pine Ridge, there is an active tribal
11 bar association, lay attorneys. All of them to my knowledge
12 untrained, and there is also a tribal court with untrained
13 judges.

14 MR. LAYMON: How many judges do you have?

15 MR. SMITHSON: Hobart Keith, and two other
16 judges, Delora and Peter Two Bull is an associate judge.
17 There is also an appellate court which at this time functions
18 but little. It is on the books, and they very rarely are in
19 order, very rarely any appeals. I felt, as the only lawyer
20 in Pine Ridge, and having to pay my own mileage out of my own
21 pocket, so I don't have enough money to run the office, I
22 could not afford what Mr. Janklow can afford at Rosébud. There
23 is a program there in which he has a client function -- if I
24 should take a case in a tribal court, an Indian against an
25 Indian, what that amounts to is representing one side leaving

1 the other side without representation, in effect, trying the
2 tribal court in the long run. That may not or may be a good
3 thing, but I think that is a decision the Indians have to make
4 themselves. I have just felt that I couldn't interfere.

5 MR. SMITH: In the kind of cases that you
6 take, that your program has handled, what types of problems
7 are reflected regarding, you know, broad areas -- in other
8 words, problems with regard to, you know, inadequate services,
9 you know, from state institutions and state service problems
10 with regard to voting problems -- I understand, for instance,
11 that there was a gerrymandering situation existed that you have
12 knowledge of.

13 MR. SMITHSON: Let me describe that first
14 if I can. I will go back to the larger question. In 1964,
15 in the general election, an all Indian school board was
16 elected for Shannon County. I assume this was partly as a
17 result of the Johnson landslide. In a session of the
18 legislature of South Dakota in March of 1965, or thereabouts,
19 a bill was passed which in conjunction with some statute that
20 you have to read in terms of highway commissioners and
21 highway districts, the election in my judgment was stolen
22 from the people.

23 What happened was that the South Dakota
24 legislature has an emergency bill enacted, a law, which said
25 essentially that in counties, unorganized counties which have

1 populations in excess of 2500 in which there is a school
2 district -- then in those counties the members of the county
3 school board, county board of education will be elected from
4 the highway commissioner's district. This means in essence
5 that the candidate has to live in the district from which he
6 runs, although, all the people in the entire county are
7 entitled to vote. There was no strict one-man-vote, and there
8 is a supreme court authority to that effect. This case is a
9 very difficult kind of case to handle, and this occurred in
10 1965. No lawyer to my knowledge ever advised the tribe or
11 the Indian people what could be done in an effort to combat
12 the circumstances that have arisen. In my judgment, absent
13 to any federal constitutional claim, that legislation was
14 invalid under the South Dakota Constitutional legislation
15 without any adequate basis. Just to elaborate on that briefly,
16 there are three unorganized counties in South Dakota. Todd
17 County has an incorporated municipality mission, which on the
18 condition, I neglected to mention, omitted the application of
19 that law from that county.

20 Washabaugh County is sparsely populated,
21 has a population of less than 1700 people or 1750, and the
22 legislation accordingly did not apply to the county, and that
23 leaves Shannon County, and looking at it with four, five years
24 hindsight, it appears to me the South Dakota legislature
25 adopted a piece of legislation which would permit them to

1 take that election back from the Indian people. I have no
2 hard evidence with respect to the motivation of the
3 legislature, but to my mind, one can infer racialism. In
4 fact, some of the members of the board of education were
5 elected, and as I recall Hobart Keith was one and Johnson
6 Holy Rock was another one -- actually received the certificate
7 of election. They never actually took office. Then when the
8 districts were drawn, the school board, which was elected was
9 three Indians and two non-Indians, so at least one of those
10 persons has two certificates of election for the same period
11 of time. Since that time, the state legislature has said
12 that in counties, as I recall, where school boards are
13 elected at large, they will now be elected from the county
14 commissioner's district. I think it is too late to do
15 anything about it, but let me offer one observation if the
16 Indians hypothetically at that time were interested in the
17 electoral process, and had any faith in the state government,
18 not there a bit to participate, when a legitimate election is
19 taken from them -- it is logical to assume that there is some
20 apathy that builds up, some unwillingness to vote and so on --
21 that has ramifications for the validity of selecting jurors
22 to vote --

23 With respect to the broader problem of
24 state services, Indian jurisdiction in South Dakota is a very
25 complicated matter. It is fascinating in particular to a

1 lawyer, and not very satisfactory to many Indian people,
2 I think. The current posture of the Indian jurisdiction in
3 South Dakota in my view is roughly this.

4 The state asserts the power to tax and
5 asserts the right to deny many services. In spite of Pourier
6 against the board of county commissioners which decided the
7 personal county tax on the reservations, and that I can
8 elaborate on if you like. In spite of that case, the state
9 government, local units of government continued to tax
10 personal property, which was a narrow subject to that decision.
11 They also continue to tax other personal property of Indians
12 on reservations.

13 With respect to services, I have only one
14 or two examples that occur to me.

15 I have a case presently pending before
16 Judge Parker. It doesn't involve the taking of any testimony.
17 It is simply a legal issue.

18 I have an Indian girl on the reservation
19 who is severely retarded and wishes to be admitted to the
20 Redfield State School. The sub-commission on mental retardation
21 in Fall River County declined to admit her on the basis that
22 there was no jurisdiction of her in view of her Indian status.
23 As a consequence, we filed a mandamus action against that
24 board, against the board of charities and corrections, against
25 the Redfield State Hospital and School and against some other

1 sundry defendants trying to settle this question. This case
2 has been hanging fire for five to ten years. There is a 1942
3 attorney's general opinion in South Dakota which suggests
4 there isn't no jurisdiction to commit a reservation Indian,
5 and I agree if that is an involuntary commitment. Here, we
6 proceeded through the tribal court. The tribal court agreed
7 that the child has to be committed. Nevertheless, while they
8 have a certain right to tax certain property, with the mother
9 petitioning the county sub-commission, they have declined to
10 admit her. We are not asking for any preferences or special
11 treatment. We realize there is a long waiting list, and we
12 want to be --

13 MR. LAYMON: The tribal court does give
14 divorces there, don't they?

15 MR. SMITHSON: Yes.

16 I also have a couple of other actions
17 which are related in sort of an ancillary fashion. I have
18 seen a full credit problem in divorces. The state maintains
19 that the department of vital statistics has no jurisdiction
20 to birth certificates, to revise the birth certificate to
21 show adoptions. It seems to me if they are going to register
22 an Indian birth and count that person for needs they get,
23 they ought to make all the other changes that are required by
24 the fact that that child is registered in South Dakota.

25 MR. LAYMON: I can give you a for instance

1 on this. Three, five years ago, somebody wrote me from the
2 Attorney General's office, and they asked whether or not the
3 state had to recognize an adoption which took place at Pine
4 Ridge, and I dug around, and I found a case from New Mexico
5 or some place that a divorcee in tribal court was entitled to
6 full recognition, so I wrote back and told them about this,
7 and I saw the people out in the Attorney General's office
8 subsequent to this, and I said, "What did you ever do about
9 that," and he said, "We cannot recognize those things for
10 welfare purposes."

11 MR. SMITHSON: The case perhaps he is
12 referring to is white against the federal court in Colorado
13 in which a man proceeded to get a divorce in court, and the
14 case was dismissed. The reason was that if a valid divorce
15 was granted it is valid everywhere.

16 Let me give you another example of related
17 things in the social rehabilitation service. HEW says for
18 the purpose of payment of ASFC, foster care, the state
19 department of welfare is required to recognize termination of
20 parental rights by a tribal court. This is somewhat
21 analogous as well. There are a few other holdings, that the
22 tribal court is absolutely sovereign within the scope of the
23 jurisdiction that Congress permits it to exercise, and it
24 ought to be afforded full credit although the tribe is not a
25 state in terms of the constitution.

1 MR. LAYMON: Do they enforce the section
2 of law on automobiles down at Pine Ridge? I cannot imagine
3 some of the automobiles I have seen --

4 MR. SMITHSON: My understanding of the
5 application of state motor vehicle laws on the reservation is
6 that they don't apply. In other words, the state inspections
7 do not apply.

8 As a practical matter, many Indian people
9 that I know license their cars, pay the taxes on them, have
10 them inspected and so on. After all, they do drive off the
11 reservation.

12 Let me just go a bit more broadly into
13 the jurisdiction problem, because I think it suggests if
14 everyone involved would sit back and view it from a standpoint
15 of good will, there is a good deal of progress that could be
16 made in the relationship between Indian tribes and state.

17 For my money, as a white man, the Indian
18 people ought for themselves decide when and how much state
19 jurisdiction they will consent to or whether they will ever
20 consent. It seems to me people of good will can hardly fail
21 to recognize that Indians are going to be subjected to all
22 kinds of disadvantages if they are forced to compete in the
23 business level exactly like a non-Indian. I think Congress
24 recognized that requiring that the consent of the -- the
25 United States Supreme Court hinted that it might be possible

1 for the state to assume jurisdiction and for the tribe to
2 relinquish or grant some jurisdiction in areas where there was
3 mutually a desire for a different kind of administration.

4 In Pine Ridge, for example, there has been
5 an agreement between state revenue department and the tribe
6 with respect to collection of sales tax. The state recognizes
7 it has no jurisdiction to tax sales by Indians to anyone, and
8 by non-Indians to anyone, and as a result, there has been an
9 agreement to apportioning revenue, and the tribe could
10 conceivably have a good deal of revenue. That could be
11 expanded in many other areas such as motor vehicle personal
12 property taxes or license fees and so on, and the tribe could
13 eventually be in position where it would simply develop within
14 itself on boundaries dealing with the state as a coordinate
15 kind of sovereign in which one party deals with the other
16 fairly and very openly, and we decide how to assist the
17 jurisdiction without wishes for general wishes of the Indian
18 people.

19 MR. SMITH: Let me ask you a related
20 question regarding criminal rather than civil jurisdiction.
21 I assume that the Pine Ridge tribe does not have criminal
22 jurisdiction over non-Indians.

23 MR. SMITHSON: With respect to criminal
24 jurisdiction, I would say that may be true. There is a
25 beginning on the part of the tribe over non-Indian people

1 who have contacts with the reservation that they really ought
2 to submit to the jurisdiction. For example, grazing permits.
3 By and large, these amount to civil actions.

4 MR. SMITH: Are you aware of any
5 provision that prevents the tribe from asserting criminal
6 jurisdiction over non-Indians?

7 MR. SMITHSON: 25 per cent of these don't
8 get into tribal court.

9 MR. LAYMON: Let me say that we drew up
10 a model code at the university, and it has been adopted at
11 Turtle Mountain, and part of it elsewhere, and they have asked
12 for copies at Rosebud, and I think maybe you asked for a copy,
13 and various other places requested it, but when we were in the
14 process of drawing that up, I used to go to Washington at
15 least once a month to discuss these provisions with people at
16 BIA, because I thought we are never going to get anything
17 adopted unless it all conflicts with their approach, but at
18 any rate, this question that you just raised was brought up,
19 and that was our thought, that by gosh the tribals should have
20 jurisdiction over a white man that comes in on a violation of
21 their law, so we said, "Why don't we just write it in," and
22 BIA said, "No, you can't." I said, "Why not?" So they sent
23 a guy down to the archives, and the most he could come up with
24 was a sentence in Cohen's Handbook without any authorization,
25 no substantial -- just says that the tribal authority doesn't

1 have it. There is no law. They could find no law but,
2 nevertheless, there is reluctance on the Indian's part to take
3 this.

4 MR. SMITHSON: I would frankly for my part,
5 and my personal opinion is that I would like to see the
6 extension of the same jurisdiction that the state exercises
7 over its citizens exercised over the people within the
8 boundaries of the Indian reservation. From a non-Indian
9 standpoint, I am afraid the tribal court is not currently
10 equipped to handle that kind of jurisdiction without getting
11 the tribe into an endless civil rights litigation. Frankly,
12 I have been urging the law and order committee of the tribe
13 to hire a professional attorney to be a judge, like down in
14 Rosebud, an Indian, if you can find an Indian lawyer who will,
15 you know, move to the reservation to be a judge, an older
16 attorney if you can, but a professional lawyer or training
17 for the judge seat, and this has happened before, but it
18 hasn't produced any.

19 Now, let me point out that I think we have
20 a difference between civil and criminal, as to what standards
21 they are to adhere to.

22 In the criminal jurisdiction, I have
23 talked to Mr. One Feather, and he feels there is no question
24 but what every right on an exactly analogous basis ought to be
25 afforded Indian defendants in tribal criminal proceedings.

1 In civil proceedings, however, there is a
2 reluctance to follow the same kind of adversary materialistic
3 kind of procedure that we use in non-Indian courts, and if the
4 Commission wishes to look further into this, I would command
5 to your attention Harvard law review notes on the constitution
6 of Indians' rights and what it means, and I suggest that the
7 Indian tradition and the Indian custom ought to be paid a
8 great deal of attention in developing conditions as applied
9 to Indian tribes.

10 MR. SMITH: You are assuming that the
11 difference through tribal culture and tribal customary
12 procedure greater effort should be paid to the civil areas
13 as opposed to the criminal?

14 MR. SMITHSON: I am repeating by and large
15 the conclusions Mr. One Feather expressed to me. There are
16 some Indian people who resent the passage of the Indian bill
17 of rights at all, but I think -- I think the criminal
18 standards, or many of them, are going to be precisely what
19 they would be on the outside society. A South Dakota Supreme
20 Court decision just came down, and it appears the Indian bill
21 of rights has placed an awfully unfair burden on tribal courts.

22 MR. SMITH: Besides the jury trial
23 provision, if the act was enforced thoroughly at Pine Ridge,
24 what other kind of authorization would have to take place?

25 MR. SMITHSON: I don't practice in the

1 criminal process at Pine Ridge, but there are several
2 procedures that would be called into questioning, I think.
3 Their statute of limitations of criminal prosecution would
4 have to be looked into and enforced, the tendency to keep old
5 when it is convenient for whatever purpose --

6 There is a fee required to rescind a
7 complaint or withdraw a complaint, eight dollars -- maybe that
8 sounds too permissible but it certainly seems rational to me
9 to prevent the court from intruding all kinds of simple little
10 disputes. At the same time there is a burden on indigent
11 people who simply can't handle that kind of money and have a
12 good basis.

13 MR. SMITH: You say there is a lay council
14 system at Pine Ridge?

15 MR. SMITHSON: There is a lay council
16 system there. There are Indian people who are required under
17 the tribal code to have a knowledge of the tribal code
18 basically, and they practice in the tribal court. It's not
19 a system in the sense it has been funded or trained or
20 developed adequately so that the tribes continue to rely on
21 those lay council, and expect that they would stand up to any
22 kind of professional --

23 MR. SMITH: Do most of the defendants
24 going in before a criminal matter have lay council or is that
25 the exception?

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MR. SMITHSON: My guess would be exception because they want cash on the barrel head. \$5.00, \$10.00 is simply too much to pay for a misdemeanor case. There is also another practice, and this is the bonding practice. I would suspect 9 out 10 people on the reservation live there, have jobs there, have families there, have land there, have so many times on the reservation, they simply aren't going to leave, and yet the bonds are cash bonds, the required security bonds are greater than the federal district court charges or assesses in a felony case.

MR. LAPOINTE: I'd just like to make a comment, even though we did, or have attorneys who -- let's put it this way.

In Rosebud, they started out with the tribal court, the judge was the prosecutor, the defender, the whole works. Then when legal aid came in for the defense, well, then the balance of justice swung the other way towards the defendant, so then they hired a temporary prosecutor, but still it didn't work, so what has happened is now in tribal court they have returned to a lay council or type of system because they found when you get professional attorneys for the defendant, naturally the prosecution is going to suffer because the tribes don't have that much money for a full time prosecutor.

MR. SMITH: You are talking about Rosebud.

1 MR. LAPOINTE: Yes.

2 MR. SMITH: Recently, I think Cheyenne
3 River, one of the districts, made a resolution to the tribal
4 council that professional attorneys will be withdrawn from
5 tribal court until such time the tribe could afford a
6 prosecutor because they felt the tribe was losing all sorts of
7 income by so many acquittals.

8 MR. LAYMON: Could I ask why did the
9 prosecutor system not work down at Rosebud?

10 MR. LAPOINTE: They hired a professional
11 attorney who would work for one day a week for \$20.00, and
12 you can't do too much when you got the Oglala attorneys every
13 day of the week working 12 hours a day.

14 The other thing I'd like to comment on is
15 the bonding practice. I don't want the Commissioners to get
16 the idea that all the tribal courts are the same because like
17 the Rosebud, we do have this personal recognizance bond
18 system. We do have the withdrawal complaint system. There
19 is a big fight whether or not it is right. Law and order,
20 so many taking the stand kind of if you don't have this, every
21 little thing would come up. Now, there is one other type of
22 thing that we have been trying, and that is sort of return --
23 it's not the adverse theory type of system, even in a criminal
24 case, if somebody gets in a fight with somebody else, they
25 try to treat these people something like a judge, take them

1 in before the judge, and let both sides talk it out, and
2 afterwards if they find they cannot agree, then they will go to
3 court, but they find if they can make up, there's no sense to
4 go into court.

5 MR. SMITHSON: I think that is one of the
6 big problems, you are building up people against one another.
7 It just carries on. You don't have no other way out. It's
8 not a criminal matter so much. From what Mr. One Feather told
9 me that kind of adversary is a habit that eventually will be
10 engrained like the land habit has been engrained -- could have
11 a very adverse impact on whatever remains of the desires among
12 the Indian people to the fact of harmonious settlement of
13 problems. Mr. One Feather hopes to find positions that are
14 sort of like lay -- I get the impression there is a concept
15 which I can't simply put into words about a third person, a
16 mediator who is to become between contending parties. Very
17 often I suspect it would be some older person or respected
18 person in the community, and that in this traditional way,
19 very many disputes were settled and perhaps this is what some
20 tribal leaders are driving towards in proving the lay advocate
21 system and in suggesting plans where there should be a level
22 of adjudication below the formal tribal courts which, after
23 all, have been imposed upon the Indian people.

24 MR. DILLON: Are there any more questions
25 at this time?

1 MR. LILLEHAUGEN: In brief, what would be
2 your recommendation?

3 MR. SMITHSON: One thing I think emergency
4 employment legislation is pending now which absolutely has to
5 be passed, has to be funded on a level where we can make the
6 government an employer of last resort in the Indian country
7 at a very minimum. This has been a proposal the tribal
8 attorneys have made for years. This would have the effect,
9 in addition to some of the spiritual things that I am aware of
10 that some Indian people are pursuing, of reinforcing the
11 nuclear family, giving the individual male -- even if it's
12 government WPA work, which as I have heard, was very highly
13 respected on the Indian reservations, this would enable the
14 family structure to be strengthened where many of the problems
15 would not be recurring in another generation or so. I don't
16 think it will be an easy problem.

17 With respect to law and order, the
18 problems of law and order among tribal courts, I think the
19 BIA has to stop saying, here, we'll contract with you to
20 operate the police force, and give them inadequate money,
21 training and supervision. The result is the Indian people
22 are -- there is sort of a rude tribal control over the police
23 force but in fact the special officer himself may control the
24 task force which is doing some of this. I think the tribal
25 courts have to be operated -- they have to be funded at an

1 adequate level so they become courts of record. The Indian
2 people have to make their own decision as to what way they
3 want to proceed. I have seen, you know, tens and scores of
4 people come into my office over two years who are simply not
5 happy with the way the tribal court operates in Pine Ridge.
6 I think Bill Janklow has discussed this on occasion. Perhaps
7 the legal service lawyers have been barking up the wrong tree.
8 It doesn't make any sense to handle these things on a bandaid
9 basis with limited resources. What we need is economic
10 development if the people are to regain control of their land,
11 to run their cattle rather than someone else accepting
12 payment. Or perhaps location of outside industries, if the
13 Indian people should choose that that is something acceptable
14 to them.

15 If I may, unless there are other questions,
16 I would like to refer to one or two other things that occur
17 to me.

18 I'd encourage taking a look at the tribal
19 work experience program to the extent that the Indian tribe
20 uses this -- the people are happy to have any job to be given
21 them, and BIA should create civil service positions for these
22 people. I think it amounts to slave labor. It's something
23 like the work incentive program. The BIA has been reluctant
24 to conduct prior hearings in welfare matters. Every time a
25 hearing case comes up, the BIA scurries around attempting to

1 dissuade the people from having a hearing.

2 BIA should enforce rules with regard to
3 licenses, Indian transfers on the reservation. The BIA has
4 the power to control prices, prevent pawning of personal
5 property. The BIA refuses to regulate Indian traders. Even
6 in South Dakota, to get to outside stores, the Indian traders
7 are futile bearers as far as I can see.

8 If I may, I have one more thing I'd like
9 to mention.

10 I have been trying to represent an
11 individual man who wants a civil service status with the
12 branch of social services in Pine Ridge. I have been
13 negotiating for about a year on this. Our theory is that the
14 BIA signed a new carrier contract, which it committed itself
15 to give them jobs, and the BIA personnel was attempting to
16 welch on that position, but an attorney with whom I work in
17 Rapid City was called by the former employee in Pine Ridge
18 and told that if I didn't back off the representation of that
19 individual, in trying to seek his employment, the welfare
20 legal service program might be in jeopardy on the reservation
21 if there was a change in administration, and maybe the
22 attorney contract with the tribe would be in jeopardy.

23 A long ways has to be covered before we
24 get anything like the self determination that has been
25 promised and denied.

1 MR. DILLON: Thank you, Mr. Smithson, for
2 your statements.

3 Is Marie Bear here?

4 (No response.)

5 MR. DILLON: Is Elizabeth Fast Horse here?

6 MRS. FAST HORSE: Yes.

7 MR. DILLON: Mrs. Fast Horse, would you
8 state your name for the record.

9 MRS. FAST HORSE: Elizabeth Fast Horse.

10 MR. DILLON: Who do you represent?

11 MRS. FAST HORSE: Well, I represent many
12 things here. I want -- this is -- I want to talk about police
13 brutality and some alcoholism and housing, but I am old, and
14 I don't have the education like most of you have. I only
15 graduated from the 8th grade on the reservation when they had
16 no high schools, no nothing, and I couldn't go on. I wish I
17 could, but I couldn't, but I did write my statement here, and
18 I will read it to you.

19 MR. DILLON: Could you summarize the
20 statement, summarize what you have before you leave.

21 MRS. FAST HORSE: Yes.

22 MR. SMITH: Will you tell us where you
23 are from?

24 MRS. FAST HORSE: Rapid City.

25 Here is about the police brutality.

1 First of all, one of my sons -- I have five sons, and one of
2 them got arrested by the police -- that was the first brutality
3 I had in the family -- and they took him to the police station.
4 When they picked him up, I was there. There was no blood on
5 his shirt and nothing, and these two brothers was picked up
6 with him, and they went to the police station, and after they
7 got him in there -- my two boys later on got out on bond, and
8 they wouldn't let my son that they beat up out on bond. They
9 beat him up down there with night sticks, and he was bleeding
10 so bad, and one of my other sons was already in the police
11 station, so the police made him hurry up and wipe up the
12 blood laying all over. He was about half dead. So when the
13 two boys got out, they came back about 5:00 o'clock in the
14 morning and said, "Mom, you had better get up there; they
15 half killed my brother. You should go down there and do
16 something about it." What can I do? Nothing I can do but go
17 down there and have it out with them is all I can think about.
18 So the next day, I went up there, and they said they didn't
19 go to court on account of his beating up so bad, so I went
20 then and told the chief of police -- I said, "Who will I tell
21 this trouble to so they can solve this problem of beating the
22 Indian boys." I have heard about too many of them before, so
23 I said that, and he said, "Well, go to your counsel, go to
24 your Indian counsel. What reservation do you come out of?"

25 What can they solve? Nobody can solve

1 our problems here, and this thing of beating up Indians here
2 in Rapid City -- I know their names, and I know who they are,
3 too, so they wanted me to go to my counsel or either my
4 reservation and tell my troubles. Well, this is out of the
5 jurisdiction. He can't come here and try to do something, so
6 they went on, and we had investigators come from Pierre, and
7 I even had pictures taken of his head. He was injured with a
8 night stick. And one of the investigators said, "This is all
9 we need." He says, "This is enough." Well, it went on and
10 went on, and he never did have anything done about it because
11 of some -- I suppose you all know what goes on here. And then
12 that went on. Never had nothing to do with it. I mean they
13 didn't do nothing about it.

14 And then it went on again. I was down
15 town -- I generally sit down town because I don't like what
16 the police do to the Indian boys, and another night I was
17 sitting in a cafe -- I was drinking coffee, and my son was
18 sitting in the car, and an Indian boy went over there and
19 struck him in the face, so he got out to chase this Indian
20 boy -- well, this Indian boy ran right straight for the police
21 and the police run and grabbed my son by the collar and
22 banged his face on the hood of the car, and I just saw it,
23 so I came out of the cafe, and I went over, and I said, "Why
24 are you banging his face on the car?" They wouldn't answer.
25 Well, I put a hand in it, and then they sent for five squad

1 cars after me and him. Why don't just two of them handle us.
2 They made my face so bad, blood -- they put me on resisting
3 arrest. Why? Because I couldn't see what way I was going.
4 My face was dripping with stuff, and then they put me on
5 resisting arrest, and the same with my son, and disorderly
6 conduct -- yes, it was disorderly conduct. And then I had to
7 pay \$50.00 fine. I still wish I could get my \$25.00 back
8 because I wasn't resisting arrest at all, and that's the thing
9 they put on every boy that they catch ahold down town when
10 they arrest them. When they arrest them, they put resisting
11 arrest. This boy hasn't the funds to pay the \$25.00, but I
12 managed to get my \$25.00 to pay for it, so when they arrest
13 an Indian, or any other person -- I don't care who he is --
14 I should that they -- you are under arrest, and then the
15 person would know, but they run in the back of them and grab
16 them in the back and twist their arms and bang their face
17 against the walls and everything. I have seen it myself.
18 They can't deny it, and I don't lie, and a while back -- well,
19 a while back, there was a boy got it in the jail here in
20 Rapid City, and some people say he was beat up by the police.
21 Of course, the jail boys inside the jail, I suppose they were
22 warned not to testify, so they had one that was in the same
23 cell with him when all this happened. After the boy died in
24 jail, they sent this boy to Yankton for alcoholism. I know
25 what it is; to keep it quiet so nobody else will hear about it.

1 They had a trial afterwards, and everything went to trial, and
2 the coroner said he died of natural cause or something, so that
3 died off right there, and then they had a grand jury trial
4 over this boy, and after they had closed door hearing and went
5 into this, they pronounced us Indians all liars about what we
6 are saying about the brutality of the police.

7 Could you people solve this in some way,
8 that we are not all liars, and what we say, we want to tell
9 the truth. That is the reason why we say those things and
10 tell what we see.

11 And here is my other problem. Christians
12 against our Indians. If only they have christian in them,
13 I don't think it will be so bad. Even little children know
14 how to be repentive towards the Indians because I had that
15 myself from little children. They call me dirty Indian and
16 every other thing. Naturally they heard it from their
17 relatives. Maybe at meal time they talk about it.
18 Employment and alcoholism -- boys and men go to the
19 employment office and sit all day, and perhaps get a few hours
20 job that cannot pay for their living expenses, so they go out
21 and start drinking to forget about jobs. We know it won't
22 solve the problems, but at least it keeps their minds off for
23 a while. No future. But there is still a big future for us
24 Indians if the people over us would change their selfish
25 minds and be justice to us. I suggest that we lift

1 ourselves out of the dump we are in with the help of the
2 God fearing people, and there won't be so much dispute in this
3 country. We want full rights from the federal government so
4 some of our sad mornings will turn into happiness. We still
5 sit in hope for what we have been hoping for our children's
6 children. The Indians have bright ideas for future, but we
7 look around and no hope. I have lots of plans for my family,
8 but I have no one to talk to or phone to use. To keep
9 ourselves alive, let us have the idea of our own and be
10 treated equal with the non-Indians so we won't be degraded
11 everywhere we go. This means every Indian and the Sioux Indian
12 I am speaking for.

13 Another thing we want -- we went up to the
14 North Junior High one time for my grandson's dispute up there
15 with some other children, or what went on, so we went up
16 there, and my grandson had to talk with a counselor and to
17 the principal, and we got -- we went on talking and the
18 principal said in the end -- he said we are prejudiced, and
19 the same as Mr. Coates up there in North Junior High -- he's
20 our principal up there.

21 Training programs, and waitress and
22 cleaning ladies, they have that job here -- the CAP job here
23 for appropriating money for certain people, but it doesn't
24 concern all the Indians. We all learn how to work ourselves.
25 I worked in this kitchen here seven years, and I learn

1 everything all by myself. I didn't have to have a seven,
2 eight, nine, ten dollar an hour person to teach me. I learned
3 them all by myself, and I worked here.

4 And there is another thing. We need a
5 legal aid lawyer urgently. We have one here that gave a talk
6 the other day, but what he talked about -- I think for the
7 best interest of the Indians, we should table this and
8 investigation be made because Indians to get jobs have to be
9 full blood.

10 There is one request one girl gave to me
11 to read here.

12 "Mrs. Leroy White's statement will not
13 reflect the general credit standing of a private person who
14 will not ask for a big bond loan. That should be tabled and
15 further investigation should be made, and her husband is a
16 white man. We want full blooded Indians in there so they can
17 be hired, they can hire Indians to work and not have a white
18 man in there to subcontract."

19 MR. DILLON: Does the panel have questions?
20 We have time for a few questions. She covered it quite
21 thoroughly.

22 MR. LILLEHAUGEN: What did you mean by
23 the last three, four sentences of what you read, where you
24 were talking about the attorney a few days ago?

25 MRS. FAST HORSE: That was Tom De Grazia.

1 He brought this up, but I belong to the same urban council,
2 but I didn't go to their meetings because it seemed to me like--
3 being me so stupid, I shouldn't be in such a place where all
4 educated people think they are better than I am.

5 MR. LILLEHAUGEN: I think you have done
6 very well.

7 MRS. FAST HORSE: I thank you, too.

8 MR. LILLEHAUGEN: But will you explain
9 a little more what you meant. You said something about full
10 blood.

11 MRS. FAST HORSE: This contract was --
12 money appropriated for Indian to get this construction job,
13 and it come out of this service council, I think, and Mr.
14 De Grazia talked about it in his statement, and that is
15 supposed to be full blood Indian to contract and hire Indians,
16 and from what I hear, her husband is a white man,
17 sub-contracting from this Indian girl. She's not full blood
18 either. That's one reason why it should be tabled. It should
19 be investigated and done right away, and the Indians will be
20 satisfied then.

21 MR. LILLEHAUGEN: You said one thing --
22 how long has it been since your son was beaten up? How long
23 ago was that?

24 MRS. FAST HORSE: It was about 8 years
25 ago, the first beating, and the second beating was about in

1 1958, and I was included. A lot of those Indian boys, they
2 stood around and said, "Look at that police beating up on a
3 65 year old woman," so then they didn't stop to listen to
4 nobody. They just went on. So when they threw me in jail,
5 they put me -- they said the charges, and he's the very same
6 man that beat up on one of my sons up in Sioux Addition. They
7 took him out there and beat him up and broke three ribs, and
8 they denied it up and down because they do those things where
9 nobody sees them. If they were brave enough, why don't they
10 do it right here like they did with me, and my son -- and
11 somebody can witness what they have done with the Indians.
12 But you know the crooks, they never work in the public; they
13 work out in the dark.

14 MR. DILLON: If there are no more
15 questions at this time, I would like to thank you for your
16 fine delivery.

17 MRS. FAST HORSE: Thank you.

18 MR. DILLON: Marie Bear.

19 Mrs. Bear, would you state your name and
20 who you represent for the record.

21 MRS. BEAR: I am Marie Bear, and I am from
22 the Fort Belknap Reservation. I am a cook for the emergency
23 food system. That is a program put on by the GAP.

24 MR. DILLON: Do you have a statement or a
25 documentation?

1 MRS. BEAR: I am here for the law and order
2 off and on the reservation. We have a big problem when our
3 Indians -- we don't have a jail on the reservation. They have
4 to take our people into Harlem, and there's nothing that --
5 well, what I am trying to say it is just the Indian that is
6 hauled into this Harlem jail.

7 MR. CHAPPELLE: That is off the
8 reservation?

9 MRS. BEAR: Yes.

10 You seldom see a white man in there, and
11 this was in June that my attention was really called to the
12 whole thing.

13 My daughter was brought in the jail for --

14 MR. CHAPPELLE: How old is your daughter?

15 MRS. BEAR: She's 17, and she was hauled
16 in there for being drunk. She said she wasn't, and for
17 loitering, and so they -- nobody notified me. And about, oh,
18 this was about 11:00 o'clock, two of the police -- one of our
19 chief tribal officers and the city police, they come
20 pounding on the door, so I went to the door. They asked for
21 my son, Elwood -- he's 18 -- and I wasn't told. I went out
22 and said, "What did he do," and he said, "Resisting arrest,"
23 and I said, "Well, he isn't here," so I asked them again --
24 I said, "Can't you tell me what he did," and they both got in
25 the car and left, but they didn't tell me that my daughter

1 was in there, so the next -- one -- I don't know how -- this
2 was on a Friday night, and this was -- I was so mad, and I
3 said to her in jail -- I said, "Well, I don't know what to do."
4 I don't drink myself. I have always been
5 against it, but I -- when I went and found out -- I went to
6 the jail, and they had my daughter locked up in the cell.
7 There was no bathroom facility. They didn't have a blanket,
8 and she had red eyes like she had cried all night, so I said,
9 "What happened." She said, "This cop pulled me around by my
10 hair," she said, so I said, "They wouldn't do that to a white
11 girl and get away with it," and so this chief of police of
12 Harlem, a white man, I asked him -- he said, "Well, not" --
13 he said, "not until she broke a broom over his head," and
14 when I told my daughter, she said, "Mama, I didn't." And I
15 said, "Well, show me that broom." I haven't seen that broom
16 to this day, but that's what this chief of police in Harlem
17 said to me. So I followed him around and tried to ask more.
18 He just ignored me like I was -- "oh, you dumb Indian,"
19 something like that. So I went and talked to my daughter.
20 They wouldn't let her out of jail. She had to stay there the
21 26th, 27th, 28th, 29th, and the first of the month, a
22 juvenile officer come from Havre, so I called legal service --
23 he was new then -- he hadn't gotten his feet yet on the floor.
24 He was just new then. So I told him about my daughter's
25 situation, and he said, "Well, you take in a coat, blanket."

1 I work in Hays. That's 35 miles from where I live, so I --
2 the quickest I could get there, I came back after I fixed-
3 supper for my family -- well, when I really got free it was
4 about 8:00, so I went to town, took some blankets. I had
5 another daughter with me. So we started to the police
6 department. We waited and waited, and there was no police
7 around town, so she said, "Well, Mother, it's 11:30, we had
8 just as well go home now." So we looked around town, and they
9 said this police officer is with the tribal police, they left
10 town, so I went home then, and we lived at the edge -- it's a
11 new housing area there, and they were parked -- I don't know
12 who they were watching, but they were parked there. I didn't
13 get to take the blanket into my daughter then, and the coat.
14 Well, this was on a Tuesday, so she stayed in there -- the
15 first was on a Thursday. I got off work as soon as I could
16 because he was going to be there at 9:00, but he wasn't, so I
17 waited until 1:00, and about 1:30 he came, this juvenile
18 officer from Havre, so he asked to talk to me, so he asked
19 me about all my children, how many I had, and how many was
20 going to school. I have 9 in all. So when they found my
21 daughter and she said, "I didn't break no broom over his head,"
22 he said, "Well, let's not talk about it. You just go home
23 with your mother," he said.

24 And I had a son, also, that's been from
25 the time -- oh, he's 18 now. He was suspended from high

1 school as a freshman.

2 MR. BENNETT: Mr. Chairman, may I inquire?

3 On your daughter, she went home then?

4 MRS. BEAR: Yes.

5 MR. BENNETT: She had been in jail how
6 many days?

7 MRS. BEAR: 26, 27, 28, 29, 30, and then
8 the 1st, they let her out, and she was in this cell -- she
9 was locked in there, and she had to stay in there for 8, or
10 whenever they came around the next day. There's never a
11 policeman around that jail, and she had to hold herself from
12 going to the bathroom, so when she got out of there, she was
13 kind -- she was kind of sick, so I had to take her to the
14 hospital. She has this infected bladder from holding herself
15 too long.

16 MR. BENNETT: Was she fined?

17 MRS. BEAR: No. They just let her go.

18 MR. BENNETT: Was there ever a sentencing?

19 MRS. BEAR: No. They said they would
20 sentence her later.

21 MR. BENNETT: No sentencing?

22 MRS. BEAR: No.

23 MRS. SUMMERS: What was she charged with?

24 MRS. BEAR: Helping her brother escape,
25 loitering and drunk.

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MR. BENNETT: Helping her brother escape from where?

MRS. BEAR: From the police.

MR. CHAPPELLE: Maybe you should explain the situation here that led up to her arrest when your son was being arrested by the police.

MRS. BEAR: Yes. She said -- well, I didn't see it myself. I hate to make the statement, but she said that they had this gun in his back, and this other girl -- I don't know where she came from -- she said, but when they saw this, this other girl hit the cop's arm, and the gun went up in the air, and it flew to the ground, and she kicked it under -- I don't know -- they said that she had helped him escape, anyway. That was all.

MR. BENNETT: Did she ever have a hearing before a J. P. or anything like that?

MRS. BEAR: No.

MR. BENNETT: You think she got out because the legal aid attorney came from Havre; is that right?

MRS. BEAR: I don't know. He never came. He just told me to take the bedding. He never came. It was this juvenile officer that came, and she told him, "I didn't break the broom over his head," and he said, "Well, we won't talk about that," he said, "You just go home with your mother."

MR. BENNETT: The juvenile officer?

1 MRS. BEAR: Yes.

2 MR. BENNETT: Is the juvenile officer a
3 legal aid person?

4 MRS. BEAR: No. He takes Havre and
5 Harlem, Malta. He takes a wide area.

6 MR. BENNETT: He is a probation officer?

7 MRS. BEAR: I think that's what it is.

8 MR. BENNETT: Does he work out of the
9 Havre court?

10 MRS. BEAR: Yes.

11 MR. BENNETT: As far as you know she was
12 never taken before a magistrate or --

13 MRS. BEAR: No, not in this case, but the
14 same girl was picked again by our tribal police, and I don't
15 know -- when they are onto one person, you go in and start
16 paying fines -- it seems like they are just after you
17 continuously. One boy -- the boy that was suspended, they are
18 always after him. Not only him but -- they say they have a
19 problem of drinking, but there's also whites. Like I say,
20 there is never a white in that jail. It's always the Indians,
21 and they don't inform the parents. They don't come and tell
22 us. That's been going on for as long as I can remember. It's
23 always the Indians that always pay heavy fines, and there's
24 a lot of people that have come to me, and I say, "Give me a
25 letter on this." They are afraid to. They are afraid.

1 So he comes up. He says, "What did I do?" And he said,
2 "I got to take you and book you for drunken driving," and he
3 said -- he was with his first cousin. I guess they were --
4 I didn't see it myself. Nobody saw it. The cops didn't see
5 him, but they said they were pushing -- they were stuck in the
6 snow bank, and they were pushing, and my son had hollered out,
7 "Get out of the way," and he slipped and fell, and the pickup
8 shot back. Well, he said, "Where is Rusty," and he said,
9 "He's in the hospital. His mother signed a complaint." That
10 was my sister-in-law, so I asked her, "Did you sign?"

11 "No, I did not." She said, "I didn't
12 sign a complaint," and so I had gone to somebody he said he
13 knew, and I said, "Did they have a warrant?" He said, "No.
14 He just come in and said, 'I got to take you.' "

15 Naturally my son pleaded innocent, so
16 here about three weeks ago, he tried to get in the army. He
17 said, "I'm always in jail." He said, "I drink, but I'm always
18 spotted outside. My partners, " and so on -- this was -- he
19 was sent to Deer Lodge the 18th for two years term for parole
20 violation.

21 MR. CHAPPELLE: Mrs. Bear, you stated
22 about persons being arrested on the reservation. Are there
23 "detention" facilities on the reservation?

24 MRS. BEAR: No.

25 MR. CHAPPELLE: What happens to persons

1 arrested on the reservation?

2 MRS. BEAR: They are hauled into Harlem.

3 MR. CHAPPELLE: You mentioned you visited
4 the jail at Harlem. Could you describe the conditions of the
5 jail there at Harlem.

6 MRS. BEAR: Terrible.

7 MR. CHAPPELLE: Your girl was a juvenile
8 when she was arrested?

9 MRS. BEAR: Yes.

10 MR. CHAPPELLE: Was she detained with
11 adult prisoners?

12 MRS. BEAR: They have no juvenile section.
13 They had her locked off in this one cell by herself.

14 MR. CHAPPELLE: I think you mentioned
15 the jail was locked up at night?

16 MRS. BEAR: Yes, it's locked up at night,
17 and there is -- I think there is nobody there from 9:00 o'clock
18 until 9:00.

19 MR. CHAPPELLE: There was no toilet
20 facilities there?

21 MRS. BEAR: No. But myself I never was in
22 jail, and I just can't --

23 MR. CHAPPELLE: You did go in the jail?

24 MRS. BEAR: I just stood out and looked
25 in, and when they opened the door, I just looked -- there's

1 a concrete floor. See, it's women, some of them doing 30 days.
2 It's terrible. Like this one lady -- they had fed them meat
3 loaf, and they all got sick from it. My son was in there.
4 That's the time -- no, my daughter got out, but this 18-year
5 old boy, he was in there, and I said, "I am not going to pay
6 this fine." I said, "You are going to sit here." I said,
7 "If you can't keep out of mischief, you are going to sit here,"
8 so he sat there 20 days. He was on this NYC, and they were
9 going to try to fix it up so that he could get out and work
10 and pay this fine and I said, "No, he could sit there." So I
11 don't know. I could -- this has been going on so long, but
12 when I seen these women -- they are my people. They should
13 be helped. Not treated as animals or always hauled in there.
14 There is no police woman. There should be. That's one thing
15 I found out later.

16 MR. CHAPPELLE: They are all men?

17 MRS. BEAR: - Yes.

18 MRS. SUMMERS: Do they let them out of
19 the cell once a day to go to the bathroom?

20 MRS. BEAR: Well, there is -- I haven't
21 been back in there, but they said there is a toilet facility,
22 but this was out, and this cell is over here. This cell here,
23 and then back in here must be -- but they say it's too dark
24 back there. They only stay in there. So they all sit in here.

25 MR. CHAPPELLE: Your daughter couldn't

1 get back there? She was locked in a cell?

2 MRS. BEAR: Yes. I had asked her, "Do
3 they let you out; how often?"

4 Well, "Just a little while, until I got
5 to the bathroom." And then we asked for toilet paper; they
6 didn't hear us, and we asked for towels; they didn't hear us.
7 I don't know.

8 MR. DILLON: Mrs. Bear, excuse me for
9 interrupting at this point, but let me ask you are you aware
10 that we do have the Crow Indian who is on the Montana State
11 Prison Board?

12 MRS. BEAR: No.

13 MR. DILLON: To handle a situation like
14 you stated, and I would suggest that you contact him. He is
15 in Billings.

16 MRS. BEAR: Well, somebody told me that --
17 "Your son was falsely arrested; you should appeal the case."
18 Well, I think we are beat down. We can't do anything.

19 MR. DILLON: I will help you when we get
20 back.

21 MR. LILLEHAUGEN: Mr. Chairman, may I ask
22 the judge a question.

23 Why couldn't you call this to the
24 attention of the proper authorities. I know we have no
25 official capacity. Nobody listens.

1 MRS. BEAR: Yes.

2 MR. CHAPPELLE: Do you have children in
3 schools either at Fort Belknap or --

4 MRS. BEAR: Yes, I have three in the lower
5 grades and then I have two in high school.

6 MR. CHAPPELLE: How far is the school on
7 the reservation? I mean what is the highest grade level?

8 MRS. BEAR: Well, it goes to the 12th
9 grade, and there's a public school up to the 8th grade.
10 That's why our children have to be -- well, I have a girl
11 that -- she's in the first year in college now, but she
12 refused to go to school when she was a freshman.

13 MR. CHAPPELLE: You mean a freshman in
14 high school?

15 MRS. BEAR: Yes, in Harlem.

16 MR. CHAPPELLE: She had to leave the
17 reservation and go into Harlem to go to high school, right?

18 MRS. BEAR: Yes. So we fixed it to go to
19 Flandreau, and she graduated from Flandreau this spring, but
20 she said, "I can't stand" --

21 MR. CHAPPELLE: You have had children in
22 the high school in Harlem?

23 MRS. BEAR: Yes.

24 MR. CHAPPELLE: Could you describe the
25 educational facilities for Indians on the reservation.

1 MRS. BEAR: Well, I think myself it is just
2 Indian money that they get for the Indian.

3 MR. CHAPPELLE: They got Johnson-O'Malley
4 funds?

5 MRS. BEAR: Yes. But since my husband
6 and I work, they told us we weren't eligible. We were both
7 making too much money, and when you are trying to put two
8 girls through college, I don't see why they say too much money,
9 and we have to pay \$24.00 a month for five hot meal tickets,
10 and myself and my husband both have land on the reservation,
11 and I was understood that you are eligible for free meals if
12 you live on the reservation and that -- but the past two years
13 now we have to buy meal tickets.

14 MR. CHAPPELLE: For lunch?

15 MRS. BEAR: For one hot lunch. For five.
16 I have two in high school and three in elementary.

17 MR. CHAPPELLE: Is there a high dropout
18 rate for Indian students in Harlem, schools for Indian
19 students?

20 MRS. BEAR: Yes. Just here recently there
21 was one Indian girl -- I don't know what happened, but she
22 was kicked out of school so she had to go to the Busby
23 Boarding School. She's been there about two weeks now. And
24 one of my older girls, she was telling me one day -- she came
25 home from school -- I don't know. This girl did something,

1 another white girl did, but -- he wasn't the principal, but
2 he was one of the teachers, and he told her -- he said --
3 he got after her, and he said, "And don't give me that Indian
4 look." He said, "I know that look when you Indians think
5 there's somebody down on you," so that's --

6 MR. CHAPPELLE: Things are pretty bad in
7 Harlem for you?

8 MRS. BEAR: Yes. Well, back -- they have
9 a new principal there, and the white girls wear their dress up
10 here, and my girl -- the principal told her, "You shouldn't
11 wear a dress like that." He said, "You are too big; you don't
12 look good." She said, "There's white girls dressed like me,
13 too," but they come back on us.

14 MR. CHAPPELLE: Is there an advisory
15 council committee in Harlem?

16 MRS. BEAR: I don't think so.

17 MR. CHAPPELLE: Are the Indians active
18 in the PTA in Harlem or on the reservation?

19 MRS. BEAR: Not much.

20 MR. LILLEHAUGEN: Do you belong?

21 MRS. BEAR: No.

22 MR. LILLEHAUGEN: Perhaps you should.
23 Have you ever thought about going? Maybe you would be good.

24 MRS. BEAR: Yeah, I have thought about it.

25 MR. CHAPPELLE: Do you have notice of

1 these meetings?

2 MRS. BEAR: No.

3 MR. BENNETT: I want to ask one more
4 question. Your daughter, the one that went to jail, had she
5 ever been in jail or trouble before?

6 MRS. BEAR: No. After that she's been
7 picked up, and this past -- this January, the chief of police,
8 he's the one that was hired and fired. Well, he's -- I
9 don't know what you call him.

10 MR. CHAPPELLE: You mean in Harlem?

11 MRS. BEAR: On the reservation. I always
12 thought if you have tribal policemen, shouldn't they be
13 working on the reservation?

14 MR. CHAPPELLE: Would you explain that.

15 MRS. BEAR: When your tribal policemen
16 are hired, tribal policemen, shouldn't they just work for
17 them on the reservation?

18 MR. CHAPPELLE: Where has he been working?

19 MRS. BEAR: Well, they are working in
20 Harlem.

21 MR. CHAPPELLE: Off the reservation?

22 MRS. BEAR: They are off the reservation.

23 MR. BENNETT: They work with the city
24 police, don't they?

25 MRS. BEAR: Yes. Our city police are

1 always on the reservation.

2 MR. CHAPPELLE: Are they deputized?

3 MRS. BEAR: I don't know that.

4 MR. BENNETT: Yes.

5 MRS. BEAR: We went to our tribal council
6 five times. We started in July on problems like this, but
7 they passed the buck, and now they put -- they were afraid or
8 something, but they heard the tribal deal, offer to our
9 superintendent now, and things seem to have gotten worse.
10 They foul people like this once -- my daughter and I were
11 watching -- this was a Saturday night, and this boy -- they
12 don't have a policeman in Hays. They don't have one in
13 Deer Lodge -- and he's just a young guy, and he was at the
14 police station, and he -- I don't know who he was following.
15 He came back -- the bars are all like together. He came
16 driving down looking around, he went back to the police
17 station and parked there, and he walked in there, and he was
18 talking, and he got back in his car, and he drove up by the --
19 well, this boy should have been in Hays; not in Harlem. It
20 seems to me our tribal police are in Harlem.

21 MR. BENNETT: What is your husband's name?

22 MRS. BEAR: Elwood.

23 MR. BENNETT: What is your daughter's
24 name?

25 MRS. BEAR: Mamee Jean.

1 MR. BENNETT: Is she at home now?
2 MRS. BEAR: Yes. She goes to school.
3 MR. BENNETT: She goes to which school?
4 MRS. BEAR: Harlem High.
5 MR. BENNETT: She was arrested I think it
6 was in Harlem and off the reservation?
7 MRS. BEAR: Yes.
8 MR. BENNETT: There was a tribal
9 policeman there at the time?
10 MRS. BEAR: Just the city police.
11 MR. BENNETT: Thank you.
12 MR. LILLEHAUGEN: May I ask you a
13 question.
14 Do you feel that you have no place to
15 turn? Is that the way you people feel?
16 MRS. BEAR: Yes.
17 MR. LILLEHAUGEN: Don't you have a good
18 minister or good priest? Do you ever go to them? I know you
19 are laughing, but that is what they are there for. Don't you
20 have a priest or minister? What do they do up there? Don't
21 you have a good priest there?
22 MRS. BEAR: You have to go to Hays, the
23 mission.
24 MR. LILLEHAUGEN: Have you ever gone to
25 the mission and told them?

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MRS. BEAR: No.

MR. LILLEHAUGEN: Why don't you try them. Maybe they would help you. Maybe. You never know.

MR. MILLIGAN: I'd like to interject. It's a well documented case, the Dave White case where this Sisseton boy, 17 years old, hung himself in jail after forty one and a half days without a hearing, and I think if any of the Commissioners have not read this, they should, and then you will understand.

MR. LILLEHAUGEN: We all know these things. It seems to me also we should perhaps give some sort of amateur advice as to where to go.

I mean there are people of good will. All of us here are concerned. I don't know half of these things. I think you should go to your priest and try. Why don't you go to the mayor; he seems like a good man. If these things come up, I think you should call those of us who are on the Civil Rights Commission. You have a judge in Montana. What better man can you have. I am sure all of us would at least try, but I can say in my case we don't get these things. Nobody tells us. You know what I mean, because these things are sad, and it is our job to try to help you. It seems to me that people are coming in that obviously are in difficulty, as this lady is. Maybe we should tell them a few things, down to earth things to do, and one thing is to go to your

1 clergymen. That is what they are for, and if they don't help
2 you, you have tried, you know.

3 MRS. BEAR: We started with our tribal
4 police. We vote them in there. We don't get no results.
5 Instead -- well, our tribal policeman, he was on two of the
6 reservations. I heard he was fired. Well, he was in Harlem.

7 MR. CHAPPELLE: You mean the one right now
8 on the reservation?

9 MRS. BEAR: The tribal police chief right
10 now. He's from Harlem, but who hires him, we don't know, but
11 we went to him. There's just one member on our council.
12 What can we do? This has been going on so long. I told our
13 judge -- I said, "I'm getting sick and tired of this." I
14 said, "If I am not here, I am over to Harlem." I said, "On
15 account of my kids." I said, "I don't tell them to drink."
16 I said, "I don't do it myself, but why should I come" --
17 I said, "I have been honest; I have been fair with my husband.
18 I have never " -- this is what I shouldn't say, but I was mad.
19 I said, "I never go around having sneaky love affairs."
20 That's what our chief of police now that we have -- I think
21 that is why he was fired from Harlem, but I don't know who
22 hires him, so when I had gone and I talked to him, I said --
23 this is the case with my son, before he was sent to Deer
24 Lodge -- "I am still waiting for -- you could at least have
25 the courtesy to come and notify me saying that your son is

1 in Harlem jail, he's been there" -- I was so mad I didn't go
2 this last time -- so they sent him to Chinook, and he was in
3 there 22 days, and they haven't notified me, so when I told
4 the chief of police, he said, "Well, he's 18," and I said,
5 "I went to somebody that knows something; I don't know too
6 much about law," I said, but they said he was falsely
7 arrested. I know when you came in there, you said" -- well,
8 naturally, he's going to plead guilty -- I said, "You didn't
9 see him driving that pickup or with the key in the ignition,
10 you didn't " -- and I said, "The other boy's mother didn't
11 sign no complaint," and he said, "Well, there was kids around
12 there as witnesses."

13 Well, at the time, there was just --
14 there was an old couple we live by, and our house and a
15 trailer house. They didn't see it. There was nobody in this
16 new housing area yet. This was just this past January, so
17 they said, "Well, there was other kids that saw it."

18 MR. BENNETT: Could you give me the date --
19 do you have the date well in mind when Mamee Jean was put in
20 the Harlem jail?

21 MRS. BEAR: June 26th, Friday evening.

22 MR. BENNETT: June of this year?

23 MRS. BEAR: Of this year. She was in
24 there until the Thursday on the first when the juvenile officer
25 comes down once a month, and it isn't only her, but there's

1 been other juveniles that they have picked up. Some little
2 boys up from this housing. I told the mother, "Would you give
3 me the letter." She won't. Instead of taking this little
4 boy to the mother and telling her or even telling her that
5 they were taking him in, they just let him off at the house.
6 They had kept him overnight. That's how they do it.

7 MR. DILLON: Do you have any further
8 statements at this time, Mrs. Bear?

9 MRS. BEAR: I have got this letter I'd
10 like to read here.

11 (Reading of a letter.)

12 MR. DILLON: Mrs. Bear, we thank you for
13 your information.

14 MRS. BEAR: I didn't mean to get
15 emotional, but --

16 MR. DILLON: Is Mr. DeSersa in the room?

17 MR. DESERSA: Yes.

18 MR. DILLON: Would you take the witness
19 stand, please.

20 Would you state your name and who you
21 represent for the record, please.

22 MR. DESERSA: Mr. Chairman and members of
23 the Commission, I thank you for giving me this opportunity.
24 My name is John DeSersa. I am publisher of the Shannon News
25 on the Pine Ridge Indian Reservation, and I am director for

1 the food program there, and a member of the district school
2 board. Presently I am here with my wife. She is secretary
3 of the tribe. She was supposed to be here, but she told me to
4 speak on her behalf, since I am familiar with the portion of
5 the tribal government and things that I am going to speak on
6 here.

7 First of all, I know that this Commission--
8 I don't know just how much they can do in order to solve the
9 problems on the reservation that need solving. I imagine some
10 of the reports will go up and some will be neglected as before.
11 I had the opportunity to appear before another commission by
12 our Commissioner of Indian Affairs, and being secretary of
13 the school board, the school board passed a bunch of
14 recommendations to this commission that was held in Pine
15 Ridge, and they appointed me to present them, so I went there,
16 and the commission chairman assured me that everything was
17 confidential until the report got back to the commission and
18 until he released it. Meanwhile one of the tribal members
19 was appointed to the commission, and in our report, they made
20 a mistake of saying that he received a political payoff in
21 protecting the former superintendent there, and I was arrested
22 for it, being secretary of the school board, and I was
23 arrested one day -- they sent me a notice of a civil action
24 in the mail, and I didn't pick up my mail, so I got a warrant
25 arresting me for not picking up my mail, and the second day

1 they had the hearing I plead not guilty, and the third day
2 they tried me. When they were getting ready to try me, tribal
3 council was in session, so I went before them to ask them to
4 intervene, and they said, "We don't interfere with the court,"
5 so I paid \$450.00, and I plead they had no jurisdiction on me
6 because I was not a tribal member on the reservation. I
7 asked for a decision from the Attorney General, and they
8 denied me that, but what I am going to get down to is one of
9 the cases -- this is what the people on the reservation are
10 faced with, and what I wanted to ask the Commission when and
11 how can this Commission act to bring the civil rights laws
12 down within the reservation to make it applicable.

13 We have no civil rights laws on the
14 reservation. We have no way of appeal whatsoever. We are
15 at the mercy of the judges there and the tribal council. We
16 have no way to appeal on the outside. We go to -- I have
17 this one case on appeal now in Rapid City by my attorney,
18 and by the time he gets into federal court, two, three years,
19 usually it's dismissed or throwed out. Every member of the
20 Oglala Sioux Tribe and Rosebud Tribe are being denied their
21 rights in court of appeal. There is no such thing. When you
22 talk of civil rights, you are talking about civil rights on
23 the outside; not on the reservation. We have nobody there to
24 help us. Just like the gentleman stated, go to a Catholic
25 priest. This is absolutely out. They couldn't help you if

1 they wanted to. First of all, the court would tell them to
2 keep their nose out of their business.

3 MR. SMITH: What you are saying is that
4 the Indian bill of rights is so ineffective they do nothing?

5 MR. DESERSA: They don't fit nothing.

6 MR. LILLEHAUGEN: What I meant is that
7 sometimes when you give people that ought to at least command
8 respect in the community -- if they can call attention to
9 these things is what I meant. I know they can't do anything
10 officially.

11 MR. DESERSA: Well, this is true, but even
12 if they call attention to it, then they are in jeopardy, too.

13 MR. LILLEHAUGEN: Yes, but if they are
14 people of considerable --

15 MR. DESERSA: Well, you don't find many
16 of these on the reservation. When you do get courage, you
17 are put in jail.

18 MR. LILLEHAUGEN: Not in the white man --

19 MR. DESERSA: Either that or he is
20 threatened to be kicked off the reservation.

21 MR. LILLEHAUGEN: I am talking about the
22 clergyman or the priest.

23 MR. DESERSA: Our Oglala lawyers, just
24 like Tom Smithson, and I respect him -- I don't know what his
25 purpose is. He gives advice when needed, but the people at

1 Pine Ridge are totally lacking any kind of defense. I was an
2 attorney there until I got into it with the judge, and when
3 my term expired, the judge would not sign another permit to
4 continue because of political differences and legal differences.
5 Our attorneys there -- I have been a part of it. I have been
6 in court. In other words, most of them haven't even got a
7 high school education let alone a college education, and they
8 go in, and if the judge likes the attorney, you can get him to
9 throw it out, but if you are political, then you get the
10 maximum in most cases.

11 MR. DILLON: Mr. DeSersa, at this point,
12 you know, the 1968 Indian Civil Rights Act, it seems that it
13 is pretty broad because it even deals with such things as
14 dehumanization, like making fun of the way a person talks if
15 he speaks Indian, like the case of Dodge vs. Nakai, in
16 which case I think they threw out because they couldn't
17 substantiate a few things such as he didn't have a witness.
18 Like with the Crow Tribe, we had a case where the secretary
19 brought an injunction under civil rights into the federal
20 district court in Billings, and the only reason that it was
21 thrown out is the fact that he did not protest in council,
22 so I think that you will find that if people were aware of
23 just how much teeth it actually has they could invoke this,
24 but it has to be done federally.

25 MR. DESERSA: This is true. It has to be

1 done federally but -- of course, you know the law and order
2 system on the reservation is a little bit different.. All the
3 ones I am familiar with has generally the same problems.
4 Pine Ridge, I find -- well, I find that the civil rights laws
5 don't apply there either to the tribal council or to the court
6 itself in any phase. I mean even their laws violate the
7 federal laws. If they don't want something, they will pass a
8 law, and it states in there they can't pass a law unless it
9 coincides with the federal law, but still they do it for their
10 own political purposes, and this denies the rights of the
11 people. I have tried several ways to get an appeal. We --
12 they had an appeal at court. I went to that appeal. There
13 were three judges. Well, after it was over, two judges
14 resigned. They said the chief judge wrote out their opinion,
15 and he agreed with himself on my sentence, and there was no
16 other appeal, and I couldn't take it to federal court. I
17 come up here, I paid the attorney money, and he is still on
18 it, and he says, "Wait, we'll try to get it in," but how is he
19 going to get in federal court. I think what we need is a
20 federal appeal court to handle a certain amount of
21 reservations where they can appeal direct to them and not have
22 all this waiting time and all this stoppage, because most of
23 the Indian people haven't got the money to come outside to
24 appeal, so then they are at the mercy of a dictatorship
25 within the reservation, and each year half of the people

1 suffer. One political group gets in and then the other half
2 suffer, and it just goes back and forth like this. There is
3 no justice whatsoever. Each political group runs their own
4 court system the way they want to run it. They sentence who
5 they want to sentence. They turn out who they want to. This
6 is why I say the civil rights law is ineffective on the
7 reservation.

8 MR. DILLON: In effect what you are
9 saying is that even your tribal government itself is actually
10 violating the civil rights of the people.

11 MR. DESERSA: Yes. The Pine Ridge
12 Reservation and Rosebud Reservation has denied people their
13 rights right through their own laws. Just like the other day
14 they passed -- they had a council meeting and -- I don't know
15 if most of you are familiar with this, but I'll just bring it
16 up as an example. It says the tribal government body has a
17 right to appoint tribal employees by two thirds majority,
18 and that was Section 22 of the code, and Section 23 says the
19 executive board has authority to employ temporary. Now, in
20 the case of Hobart Keith, the judge there, he went before the
21 council -- they have failed to get two thirds majority. His
22 term expired, and they brought him up to election, and they
23 failed to get two thirds, so the council said in the
24 resolution ordinance they passed we failed to get two thirds
25 majority, and we cannot get it, so we will call a

1 referendum vote of the people. Then they said, we'll put
2 Keith back in there temporary, which they do not have the
3 authority. The executive committee already appointed one.
4 So now he is sitting in there trying people without
5 authority, without taking the oath as a judge, and all these
6 people are being denied their rights. He's sitting there
7 illegally as a judge right now in accordance with the tribe's
8 only law, but you can't appeal to no civil rights. There is
9 no way to appeal. If you get in front of him, even though
10 he has not taken an oath or nothing, he can sentence you.

11 MR. BENNETT: I think under the civil
12 rights act you might very well be able to get your legal aid
13 attorney to take this to federal court.

14 MR. DESERSA: What legal aid?

15 MR. BENNETT: Don't you have a legal aid
16 attorney?

17 MR. DESERSA: Mr. Smithson, but he don't
18 take individual cases. He's more or less I believe as an
19 advisor to the tribe, legal portion, but they don't have to
20 take it.

21 MR. SMITH: The Indian Bill of Rights
22 has within it the habeas corpus provision, and it is not ~~require~~
23 ~~legal~~ that you have an attorney in order to apply for a writ
24 of habeas corpus. I would think that even a lay council
25 maybe with just the advice from Mr. Smithson, you know, like

1 yourself could fill out an application for a writ of habeas
2 corpus in a situation like that.

3 MR. BENNETT: And further I think you
4 should know that at least one United States district judge
5 doesn't think the 1968 civil rights act is limited to habeas
6 corpus.

7 MR. DESERSA: Well, we had one occasion --
8 the school board had one occasion to go up and ask -- I don't
9 know what grounds he turned it down on, but we asked him to
10 draw us up a resolution to present to the tribal council
11 there, and he didn't want to get involved because of political
12 reasons, and he didn't draw it up for us. I mean this is --
13 we have no -- unless we go on the outside and get an attorney
14 from the outside, then when an attorney comes in there, if
15 the judge wants him to sit in, he can, and if he don't want to
16 he says, "You are not licensed to practice here."

17 MR. BENNETT: I am pretty sure you can
18 get into the United States District Court in South Dakota
19 simply by -- like, you could draw a petition and ask the
20 removal of that judge under the 1968 Civil Rights Act.

21 MR. DESERSA: In time, yes. By this time
22 they will have a referendum vote and it will be settled.

23 What I say is we need a court of appeal
24 that we can go a lot faster than what the federal courts are
25 doing because by the time we get there, it is old stuff, and

1 they throw it out, but meantime during this period of time
2 all those people are under his mercy and are suffering from it.

3 MR. DILLON: You seem to have that on the
4 reservation or close to the reservation that the attorneys
5 that are available -- are you referring that they have a
6 conflict of interest so you can't get the representation?

7 MR. DESERSA: This is it -- I mean he
8 talked about the attorneys. I practice. I am not an attorney.
9 All they do is pay \$5.00 into the court, and they are
10 licensed under the court to practice. Regardless -- there is
11 no legal qualifications, no testing whatsoever. If you want
12 to be an attorney, you just go pay \$5.00, and they give it to
13 you. Now, this is not -- in fact, some of the people come up
14 before the judge for trial no more than their attorney, but
15 if you go down and sit in one of these courts, you would
16 understand. If you get up and start quoting the law, the
17 judge will say, "Shut up and sit down," and you shut up and
18 sit down or he'll find you in contempt. During my trial, my
19 attorney up here wrote me out a line of defense. I had my
20 papers before me. I was quoting federal laws to the so-called
21 judge down there, and he said, "What you got in that paper?"

22 I said, "This is my defense."

23 "Let me see them."

24 I said, "No, they are mine."

25 And he ordered the clerk to come and take

1 them, and I wouldn't do it, so he fined me \$15.00 contempt of
2 court. Now, this is the type of court we are faced with.

3 MR. LILLEHAUGEN: Did he take the papers?

4 MR. DESERSA: Yes, he took them. I give
5 them to him.

6 MR. LILLEHAUGEN: Always make two copies
7 of everything.

8 MR. DESERSA: Well, I got the copies back.
9 My attorney got them, but he took them, and made a copy, and
10 brought them back, but he fined me \$15.00 for not giving up
11 my defense papers. In the meantime he sat up there and read
12 them, what I was going to present in my defense. The
13 prosecuting attorney never said one word. The judge
14 prosecuted me. This is what the reservations are faced with.
15 I mean this is a laugh, but this is just the seriousness.
16 These people come up and tell about justice and infraction of
17 law, but there is no court on the reservation. It ain't even
18 a good kangaroo court.

19 MR. LAYMON: In spite of everything, you
20 say, though, nevertheless, the Indians by and large want to
21 retain their separate jurisdiction. This is a kangaroo type
22 of justice. How do you account for that?

23 MR. DESERSA: I will tell you there's a
24 lot of talk on whether they want to retain or not. I mean
25 as far as retaining it into the old category or into the new.

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A lot of them say that a legal judge cannot operate there, and it's been tried once, and they said it failed to a certain extent. I am aware of Rosebud. I felt the judge down there and the attorneys were so wrapped up in any tribal policy that they could not run the court right to begin with because every movement had to coincide with the people in power there, because if it didn't, then their program or their job would be in jeopardy, so how can you run -- how can you go ahead and make decisions against the people in power, the legal government. Pine Ridge is the same way. There is no attorney that can come in there and take up for people because the first thing they would be in jeopardy with the tribal council. They'd ask for their removal.

MR. SMITH: After the passage of the '68 act there was a program to train tribal judges. Do you know if the trial court judge at Pine Ridge has taken part in this training?

MR. DESERSA: Not to my knowledge. Anyway, he don't show any sign.

MR. LAYMON: Also as a part of the act they were supposed to draw up a model code, so what someone did was --

MR. SMITH: The code is now being redrawn.

MR. DESERSA: I think the only question

1 is for a person in order to retain his rights to any tribal
2 government is to have a special federal court system that just
3 pertains to the Indians on certain reservations. Say we have
4 one board in South Dakota where all the cases can be appealed
5 out of tribal court.

6 MR. SMITH: So you think there should be
7 an over-all Indian appeal court?

8 MR. DESERSA: Yes. This is the only way
9 within the next 10 years we are going to get justice on the
10 reservation.

11 MR. BENNETT: How are you getting along
12 with the United States Commissioner down in Rosebud?

13 MR. DESERSA: It's true, but the work load
14 that he has got and the time he sits in there, a lot of things
15 that are important to the Indian people is not really
16 important to him.

17 MR. BENNETT: You don't want to go to the
18 United States District Court?

19 MR. DESERSA: I'd rather have a special
20 court set up for the reservation only where we can appeal and
21 be heard within three weeks or something along that nature.
22 Our civil suits and our cases are a mockery of justice.

23 MR. DILLON: We are running overtime here,
24 Mr. DeSersa. You are giving us a pretty vital coverage of
25 the situation, and I think it is pretty dominant everywhere

1 else.

2 If there are no questions at this time,
3 do you have a few closing comments you want to make?

4 MR. DESERSA: I wanted to wait until after
5 dinner because I could testify better on a full stomach, and
6 I figured everybody would listen better. I did have a lot
7 more to testify regarding the Shannon County schools, and
8 some of the other rights that were denied, but I am glad that
9 you took the time to listen, and I hope that this Commission
10 can do something to alleviate the people on the reservation,
11 to help them get justice under the civil rights law and to
12 move this dictatorial system that we have even through our
13 tribal government, tribal court because this is why you get
14 so many complaints because you hear the people but you don't
15 go to the root of it.

16 MR. DILLON: Thank you.

17 At this time we will adjourn for lunch
18 until 1:30.

19 (Noon recess taken.)

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