



Integration of the Montana Indian into the state of Montana workforce  
by Gary Melvin Small

A professional paper submitted in partial fulfillment of the requirements for the degree of Master of Public Administration  
Montana State University  
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Abstract:

Affirmative Action is an aggressive plan to eliminate social and cultural barriers that keep minorities from job opportunities. However, American Indians, Montana's largest racial minority, are not represented in the State Government's workforce. In part, this is because the State of Montana has never implemented an Affirmative Action plan for recruitment ' of Native American applicants. Therefore, Montana Indians do not receive an opportunity for representation in the workforce due to cultural and racial barriers, and this contributes to discrimination.

The reason for the Montana State Government's failure to implement a successful Affirmative Action program for American Indians may be that this group is significantly different from other minorities. As an indigenous people, the Indian tribes have a distinct though diverse culture that provides the basis for rejection of cultural assimilation, often the underlying assumption of Equal Employment Opportunity and Affirmative Action programs.

Before an effective recruitment program can be designed and implemented, it is necessary to take into account the nature of the American Indian culture and the unique character of each tribe/reservation. The information vital for program design includes matters of history, geography, culture-traditions, education, employment, and natural resources. To illustrate such an approach, this professional paper focuses on the Northern Cheyenne Indian Reservation in southeastern Montana.

The research shows that the tribe has been dependent on Federal funds for its programs and has not, in the past, seen the need for State contracts or employment. Also, Federal funding to the tribe has been and continues to be reduced even though the tribal members are in need of these programs. Therefore, if the funding trend continues, the tribe will have to seek other forms of revenue. The paper shows that the Cheyenne prefer to work for the good of the Cheyenne Tribe rather than the general population, due to cultural differences, and prefer to stay in close proximity to their families and Native people. Finally, the study shows the difficult and complex problems concerning the Cheyenne Reservation, which in turn illustrates the need for a narrowly tailored and specific recruitment program.

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A professional paper submitted in partial fulfillment  
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APPROVAL

of a professional paper submitted by

Gary Melvin Small

This professional paper has been read by each member of the graduate committee and has been found to be satisfactory regarding content, English usage, format, citations, bibliographic style, and consistency, and is ready for submission to the College of Graduate Studies.

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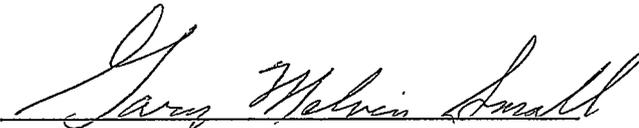
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## ABSTRACT

Affirmative Action is an aggressive plan to eliminate social and cultural barriers that keep minorities from job opportunities. However, American Indians, Montana's largest racial minority, are not represented in the State Government's workforce. In part, this is because the State of Montana has never implemented an Affirmative Action plan for recruitment of Native American applicants. Therefore, Montana Indians do not receive an opportunity for representation in the workforce due to cultural and racial barriers, and this contributes to discrimination.

The reason for the Montana State Government's failure to implement a successful Affirmative Action program for American Indians may be that this group is significantly different from other minorities. As an indigenous people, the Indian tribes have a distinct though diverse culture that provides the basis for rejection of cultural assimilation, often the underlying assumption of Equal Employment Opportunity and Affirmative Action programs.

Before an effective recruitment program can be designed and implemented, it is necessary to take into account the nature of the American Indian culture and the unique character of each tribe/reservation. The information vital for program design includes matters of history, geography, culture-traditions, education, employment, and natural resources. To illustrate such an approach, this professional paper focuses on the Northern Cheyenne Indian Reservation in southeastern Montana.

The research shows that the tribe has been dependent on Federal funds for its programs and has not, in the past, seen the need for State contracts or employment. Also, Federal funding to the tribe has been and continues to be reduced even though the tribal members are in need of these programs. Therefore, if the funding trend continues, the tribe will have to seek other forms of revenue. The paper shows that the Cheyenne prefer to work for the good of the Cheyenne Tribe rather than the general population, due to cultural differences, and prefer to stay in close proximity to their families and Native people. Finally, the study shows the difficult and complex problems concerning the Cheyenne Reservation, which in turn illustrates the need for a narrowly tailored and specific recruitment program.

## CHAPTER 1

## INTRODUCTION

The 1960's marked an era in which racial minorities vehemently protested against discriminatory practices in this country. Because of the Civil Rights Movement, Federal policy was enacted and implemented to give equal opportunity to all regardless of race, color, sex, religion, national origin, age, marital status, and political belief. Through this Federal policy, minorities were guaranteed the constitutional right to public services, public facilities, housing, education, and employment.

However, even with the Equal Employment Opportunity Act of 1964, minorities were still doing poorly. Minorities were at the bottom of all economic indicators, poorly educated, and were not represented in the workforce in proportion to the population. The reason for this, in part, is that Equal Employment Opportunity programs do not address the existing imbalances caused by previous discriminatory practices; nor does Equal Employment Opportunity address inequality of opportunities previous to employment, such as social and cultural barriers.

To address this problem, the Kennedy and Johnson Administrations implemented a succession of executive orders that

set a framework for new Federal and State employment policy, called Affirmative Action. Where Equal Employment Opportunity is passive, broad in scope, and addresses more blatant and overt discrimination, Affirmative Action is an aggressive, goal oriented program, narrow in scope, that is applied to specific minority related problems at specific locations and institutions. Affirmative Action plans are to break down social and cultural barriers that inhibit minority populations from being equitably represented in the workforce.

#### Affirmative Action in Montana

Like other states, Montana also has an Affirmative Action plan; however, Montana's largest minority population, the American Indian, is not equitably represented in the State Government workforce. This is due, in part, to the fact that the State has never implemented a program specifically designed to recruit and retain American Indians. The reason for the Montana State Government's failure to implement an effective Affirmative Action program for American Indians may be that this group is significantly different from other minorities. As an indigenous people, the Indian tribes have a distinct though diverse culture that provides the basis for rejection of cultural assimilation, often the underlying assumption of Equal Employment Opportunity and Affirmative Action programs.

On the surface, the obvious solution is for the State to implement a specific program to recruit Indians into the Montana State Government's workforce. However, before an effective recruitment program can be designed and implemented, it is necessary to take into account the nature of the American Indian culture and the unique character of each tribe/reservation. The information vital for program design includes matters of history, geography, culture-traditions, employment, and natural resources. To illustrate such an approach, this professional paper focuses on the Northern Cheyenne Indian Reservation in southeastern Montana. The paper is divided into the following chapters:

Chapter 2 presents the background of, and justification for, the Affirmative Action program. More importantly, the chapter defines the difference between Equal Employment Opportunity and Affirmative Action, which are often mistakenly viewed as one and the same. Finally, the chapter supports an Affirmative Action program for Montana Indians.

Chapter 3 describes Equal Employment Opportunity and Affirmative Action procedures. The Montana University System is used as an illustration of the procedures. The chapter concludes with perceived weaknesses in the selection process that may hinder American Indians from obtaining employment.

Chapter 4 presents an historic discussion of Federal Indian policy. Since the American Indian is the only minority that has a trust responsibility with the Federal

Government, it is important that this policy be understood. The chapter concludes by showing that Federal policy has been a dismal failure, due in part to the Federal Government's policy of culturally assimilating the American Indian and terminating the tribal structure.

Since Indian tribes are culturally distinct, separate Affirmative Action programs must be designed to be effective. Chapter 5 provides a history of the Northern Cheyenne Tribe as illustration. The chapter provides an historical perspective on the Northern Cheyenne People and the origin of the Northern Cheyenne Reservation. This perspective is important because the history of the Cheyenne People has shaped the present day culture on the Northern Cheyenne Reservation, a factor that must be taken into account in order to design an effective Affirmative Action plan.

Chapter 6 is a profile of the present day Northern Cheyenne Reservation. The chapter describes the reservation's geographical and environmental characteristics. It also describes the tribal government and services located within the reservation boundaries. Due to the complexity of the Indian/Federal Government relationship, this information is essential for use by State Government representatives in order to implement a State employment program for the Montana tribes. Finally, the chapter includes an abstract of the present day Northern Cheyenne culture which provides essential criteria for designing an effective Affirmative Action

program. The abstract obviously cannot exhaustively describe the complexity of the Northern Cheyenne People. Rather, the abstract is offered to present an introduction and framework for understanding the unique characteristics of the Northern Cheyenne culture. Since most non-Indians will find the Northern Cheyenne culture quite different from their own, this abstract may also aid in the communication process between State Affirmative Action officials and Northern Cheyenne representatives by providing some basic information to State representatives who may be culturally uninformed.

Finally, Chapter 7 summarizes the important aspects of the paper. It also includes recommendations on those aspects that must be taken into consideration in the design of an Affirmative Action program for the State of Montana.

## CHAPTER 2

## DISCRIMINATION AND AFFIRMATIVE ACTION

Introduction

The Equal Employment Opportunity Act of 1972 was mandated by law to ensure that all people are treated equally in hiring and promotional procedures. Affirmative Action, however, is a more aggressive plan to eliminate social and cultural barriers that keep minorities from job and educational opportunities. Mandated in 1965 by Presidential Executive Orders 10925 and 11246, Affirmative Action is, in part, based upon the premise that government should be representative of its population to ensure representation in government policy and decisions. Furthermore, such representation will ensure that the talents, knowledge and resources of the population will be better utilized. In support of Affirmative Action, Mosher stated that representative bureaucracy "will bring to bear upon decisions and activities, different perspectives, knowledge, values, and abilities."<sup>1</sup> Affirmative Action is to ensure that minorities are not systematically excluded from opportunity and representation through employment and education practices, procedures, and policies.

The government of Montana does not practice Affirmative Action to achieve a representative bureaucracy. In this state, 4.8 percent of the total population is American Indian, making this group Montana's largest racial minority. Yet, among the State of Montana's employees, only 0.5 percent are members of a racial minority and, of this fraction, the majority is of racial groups other than American Indian. The argument here is that the State of Montana has never created a recruitment plan designed specifically for Montana Indians. Consequently, in part due to cultural and social barriers, Montana's largest minority population is not equitably represented in the State Government.

To rectify this problem, the obvious solution is to design an Affirmative Action program for Montana Indians that will effectively hire and retain Indian employees. Before this can be accomplished, however, the problem must be more clearly defined. In this chapter, the concept of racism and discrimination will be discussed to set a framework for a better understanding of the aforementioned problem. Furthermore, Affirmative Action, its history, and the differentiation between it and the more broadly recognized "Equal Employment Opportunity" must be explained to fully address the Indian/Montana workforce problem.

Discrimination: The Result of  
Racism and Prejudice

Affirmative Action is an active move to address the problem of discrimination. Discrimination is the result of racial prejudice that is apparent in many contemporary cultures and societies. Through discrimination and discriminatory practices, minorities are systematically excluded from employment and educational opportunities and this results in unequal opportunity for minorities. As Michael A. Walker, director of the Fraser Institute of Canada, stated, "Nothing abuses a person's sense of natural justice more than unequal treatment of equals."<sup>2</sup>

On September 26, 1967, the UNESCO Conference, held in Paris, France, issued a statement with regard to racial prejudice. The statement suggested that groups

. . . commonly evaluate their characteristics in comparison with others. Racism falsely claims that there is a scientific basis for arranging groups hierarchically in terms of psychological and cultural characteristics that are immutable and innate.<sup>3</sup>

The Conference also offered three conclusions about racial prejudice. Prejudice causes social and economic inequality in employment, housing, education and political participation, and can be observed where ghettos have emerged. Also, individuals who exhibit "certain personality troubles may be particularly inclined to adopt and manifest racial prejudices."<sup>4</sup> Furthermore, these individuals may be part of

organizations or associations that "sometimes preserve and transmit racial prejudices."<sup>5</sup> The foundation of the prejudices lies, however, in the economic and social system of a society. Finally, the UNESCO group concluded that racism is often cumulative. Since discrimination deprives minorities of equal opportunity, they are perceived as a problem and are blamed for their economic conditions, "leading to further elaboration of racist theory."<sup>6</sup>

This last observation can be applied to U.S. Government/American Indian relations. The U.S. Government perceives Indians as a problem and blames them for their present condition. Former Bureau of Indian Affairs (BIA) Deputy Commissioner, Theodore Taylor, stated that Indians remain on the reservation "in part due to the perverse economic incentives involved in the current reservation system."<sup>7</sup> Taylor explained that Indian homes and lands are not taxed by states, and subsidized housing as well as free medical care are available to the reservation Indian.

Free management of land is available through BIA and income from such lands may be forthcoming without any personal effort. . . . Economic security is available through the extended family and welfare payments are assured if no other means of support are available.<sup>8</sup>

Subsidized housing and reduced cost medical care are available to qualified individuals on the reservation, only because the Indian's average income is 75 percent less than the national average. Furthermore, as many as 50,000 Indian

families live in substandard housing, with low life expectancy, high infant mortality, and teenage suicide one hundred times that of White society. Clearly, if natural "economic incentives" existed, the American Indian would not have such deplorable living conditions. To the contrary, an Indian lives on the reservation because the Indian chooses not to live in non-Indian society, regardless of the costs, due to a cautious attitude and resentment toward Indian policy and its pressure to conform to White society.<sup>9</sup> In summary, statements such as Taylor's only reconfirm the unsubstantiated belief that minorities such as the American Indian are the cause for their own situation. Racism and prejudice are, in essence, the real problems today.

#### The Origin of Affirmative Action

Racial discrimination was first addressed by the Federal Government in 1941, during the Roosevelt Administration, in Executive Order 8802. The executive order was administered by the Fair Employment Practices Committee (FEPC) of the Office of Production Management. It barred discrimination in employment in the defense industry and the Federal Government. Unfortunately, the executive order gave no power to sanction offenders. Two years later, Roosevelt issued another executive order (Executive Order 9346) which gave more appropriations to the FEPC, but it was still deprived of power to sanction. After the Roosevelt Administration,

Presidents Truman and Eisenhower wrote six additional executive orders to stop discrimination in employment, but all failed to provide enforcement power to sanction to the FEPC. Hence, these numerous executive orders stated that discrimination existed, but did little to rectify the problem.<sup>10</sup>

The Kennedy Administration was the first to give some powers to sanction all federally assisted construction projects as well as government employment through Executive Order 10925 in 1961. The FEPC could now cancel contracts and fine contractors for noncompliance.<sup>11</sup>

In September 1965, the Johnson Administration, through Executive Order 11246, and in October 1968, through Executive Order 11375, not only clearly prohibited employment discrimination, but required contractors to establish Affirmative Action plans. The executive orders gave administrative powers to the Department of Labor, Office of Federal Contract Compliance (OFCC), which can also delegate power to other agencies. The OFCC defined Affirmative Action more clearly in its guidelines (Order No. 4 and Revised Order No. 4).<sup>12</sup>

An affirmative action program is a set of specific and result-oriented procedures to which a contractor commits himself to apply every good faith effort. . . . Procedures without effort to make them work are meaningless; and effort, undirected by specific and meaningful procedures, is inadequate. An acceptable affirmative action program must include an analysis of areas within

which the contractor is deficient in the utilization of minority groups and women, and further, goals and timetables to which the contractor's good faith efforts must be directed to correct the deficiencies and . . . thus to increase materially the utilization of minorities and women, at all levels and in all segments of his work force where deficiencies exist.<sup>13</sup>

Affirmative Action has been strengthened by legislation and court decisions. Congress has passed two laws which, though not defined as Affirmative Action, have nonetheless strengthened the powers of Affirmative Action. The Civil Rights Act of 1964 prohibits discrimination based on race, creed, color and sex. The Equal Employment Opportunity Act of 1972 expanded and strengthened the power and jurisdiction of the Equal Employment Opportunity Commission (EEOC).<sup>14</sup> Supreme Court decisions have also strengthened Affirmative Action in several cases. The Supreme Court clearly stated that procedures that systematically discriminate against a minority are unlawful. One Supreme Court opinion that explicitly supports Affirmative Action is that rendered in the case of Griggs v. Duke Power Company, 1971. This case

. . . made clear that an employer's lack of discriminatory intent does not make legal any personnel procedures which operate as built-in obstacles to any racial, ethnic, or sex group and are not essential predictors or measures of successful job performance.<sup>15</sup>

Equal Employment Opportunity and  
Affirmative Action Compared

When the terms "Equal Employment Opportunity" (EEO) and "Affirmative Action" (AA) are used, it is a common fallacy that they are considered one and the same. In fact, they are quite different. EEO, or the Equal Employment Opportunity Act of 1964, is based in the Constitution, in the "due process of law" and "equal protection" clauses of the Fourteenth Amendment. EEO was introduced by the Kennedy Administration and legislated by the 1964 Civil Rights Act.

The basic principle of EEO is antidiscrimination or equal treatment in employment and education. In other words, all people must be given equal opportunity for employment and education regardless of race, color, sex, religion, national origin, age, marital status, and political belief. Hence, EEO is designed to safeguard against current and future blatant and overt discrimination, but it does not address any existing imbalances caused by previous discriminatory practices. Furthermore, EEO does not address the issue of inequality of opportunities previous to employment, such as the social and economic barriers that have systematically kept minorities from employment opportunities. Finally, the burden of proof of discrimination is on the individual, and is not presumed by virtue of the fact that one is a member of a minority group.

AA was not enacted by Congress, but was created by Executive Order. This is not permanent and can be rescinded in the same manner. While AA emphasizes the value of equality, it stresses social equity. The compelling reason behind AA plans is that conditions for minorities are often not equal prior to applying for employment or higher education. Furthermore, seemingly neutral practices such as employee and student testing have been found to systematically rate minorities lower than nonminorities even though they show no evidence that high scores result in significant differences in performance. These practices are commonly called minority roadblocks or barriers, and are usually the targets for removal by Affirmative Action plans. Finally, under AA, discrimination against a whole minority group may be proved by the sanctioning agency (usually the EEOC) rather than relying on the individual to supply proof in each case. Minority discrimination by employers or educational institutions is usually demonstrated by statistical evidence.

The significant difference between EEO and AA is that EEO is broad in scope and states that virtually any employer or educational institution is required by law to comply with equal opportunity practices and procedures. AA is narrow in scope and is applied to specific minority related problems at specific institutions. Each institution writes its own

individual AA plan that deals specifically with its respective minority population.

#### Comparative Arguments for Affirmative Action

Since its inception, AA has been a controversial subject that has been argued before the U.S. Supreme Court numerous times. Advocates of AA base their argument in compensatory and distributive justice. Compensatory justice in this case applies the principle that minorities have been deprived of opportunity in the past and should be compensated. Distributive justice supports the position that everyone should benefit equally from social goods.

The advocates of AA claim that it will achieve a representative workforce that is beneficial because of its social utility. The idea of social utility argues that everyone has something to offer. A representative workforce will offer greater resources and wider perspectives. Furthermore, through a representative workforce, benefit will be received from responsiveness to minorities. Responsiveness is alleviating the alienation minorities feel when dealing with an unsympathetic or culturally uninformed, nonminority bureaucracy. A bureaucrat who is not knowledgeable of minority culture may be less empathetic with minority clientele. Finally, through responsiveness, minorities gain role models for younger generations to emulate and communicate with.

Opponents of AA have rarely argued against the above reasons for or the stated benefits of AA. Instead, they present two main arguments: (1) AA is reverse discrimination and innocent people must pay the price, and (2) AA produces unqualified personnel due to preferential hiring and quotas.

### Reverse Discrimination

Unfortunately, seldom is every applicant who applies for a position hired for that job. Chances are, there is one position and several applicants. Therefore, hiring one applicant over another is in itself a discriminatory process. The issue is: What criteria and standards should be used to discriminate among applicants?

Public employers obviously discriminate when they hire people. They discriminate by demanding specialized skills, knowledge, or experience. They also discriminate by selecting candidates who possess skills, knowledge, and experience, and reject candidates who do not appear to have these characteristics. Public employers discriminate by selecting people with potential. In other words, the very process of hiring requires discrimination.<sup>16</sup>

Both sides of AA state that they do not want a system that arbitrarily discriminates against a group, be it White or minority. Does AA cause reverse discrimination?

Most proponents of AA state that reverse discrimination is a myth. The proponents of AA point to statistical data that show that though some progress in representation in the

workforce has been made, there is no evidence of reverse discrimination.

To date, to be black or hispanic and/or female is to be at a considerable disadvantage, averaging twice that of white males. Furthermore, if reverse discrimination existed, white males in managerial and craft jobs should have diminished in recent years.

In summary, opponents of AA lack any empirical evidence to show reverse discrimination. The proponents of AA, however, have pointed to statistical data that prove their claim of widespread discrimination and lack of cooperation from institutions. The reverse discrimination myth has been attributed to the perspective of the media in the 1970's, when commercials showed women in traditional male positions, implying that the use of their product may help in achieving this status. Moreover, many television shows and nightly broadcasts showed women in new roles. After this saturation by the media, viewers mistook novelty for commonplace.<sup>18</sup>

Merit, Unqualified Personnel,  
and Affirmative Action

Perhaps the most threatened criterion for the opponents of AA is based on the public employment merit system. The opponents state that if a merit system is not adhered to, there is no justification for choosing the most qualified applicants. Therefore, unqualified minority and female applicants will obtain positions due to AA plans. The main

challenge from the proponents of AA is focused on the validity and objectivity of the merit system. AA proponents state not only is there a lack of validity and objectivity in the public employment merit system, but the system selects chosen people who resemble the people doing the choosing, thus preserving the status quo. Lastly, as no evidence exists that Affirmative Action has produced reverse discrimination, no evidence exists that unqualified minority applicants hold any positions.<sup>19</sup>

Last, its opponents claim that AA is nothing more than a quota system. However, nowhere does AA require the use of quotas. Goals are established in workplaces where minorities have been systematically excluded. These goals are not mandated by any governing agency but are written by the institutions themselves. The institution sets its own reasonable goals which are relinquished once representation is achieved. Timetables have been implemented by the courts in situations where employers have shown blatant disregard for Equal Employment Opportunity procedures. However, these have been narrow in focus and very specific.<sup>20</sup>

Justifying Affirmative Action  
for Montana Indians

The advocates of AA take the position that minorities are systematically kept from obtaining employment and educational opportunity. They support their claim, that

hiring and testing procedures discriminate against minorities, by offering statistical data on unemployment rates, segregation of occupations, minority workforce representation, and median earnings. If the validity of this approach is accepted, then a review of statistical employment data for the State of Montana will prove the need for an AA plan for Montana Indians.

#### Unemployment Rate

According to the 1980 census, Montana has a total non-Indian population of 786,690, while the Montana Indian population is 37,153.<sup>21</sup> According to the Montana Job Service, 8.2 percent of all non-Indians were employed in 1983. Comparatively, the Bureau of Indian Affairs' report on labor force showed an average unemployment rate of 63.4 percent for five of the seven reservations residing in the state's boundaries. The Rocky Boy Reservation showed the highest unemployment rate, with 72.9 percent.<sup>22</sup> In summary, within the state boundaries, Montana Indians have an unemployment rate roughly eight times higher than non-Indians.

#### Education

Currently, 76.2 percent of all non-Indian Montana residents are high school graduates, while only 56 percent of all Montana Indians have received a high school

diploma. Higher education data separate Montana Indians even further from the non-Indian population; 15.7 percent of all non-Indian Montana residents have four or more years of college compared to 4.2 percent for Montana Indians.<sup>23</sup>

### Occupations

According to the EEO "Detailed Occupation Report," which lists 61 occupation categories, Indian males are nonexistent in 32 of these categories.<sup>24</sup> Indian females are nonexistent in 47 categories. The report shows the largest concentration of male and female Indian employees in the salaried management and administrative category, with a total of 515.<sup>25</sup> Of these 515 employees, most are employed by tribal governments or the Bureau of Indian Affairs. With the above exception, Indians are severely underrepresented in most occupations.

### Summary

After a review of unemployment and education data, it should come as no surprise that Montana's Indians have a considerably lower income than non-Indians. Per capita income in Montana is \$6,783 for non-Indians compared to \$3,833 for Indians. This represents 43.5 percent less income. With considerably lower income, 35.1 percent of Montana Indians live below the poverty level, compared to

12.3 percent for Montana's non-Indian population.<sup>26</sup> Evidence supports the argument that Montana Indians are deprived of the employment and educational opportunities available to non-Indians, and that this is associated with high levels of poverty. This provides a strong case in favor of Affirmative Action for Indians in Montana State Government.

This chapter has set a framework for the concept of racial prejudice and discrimination which is the reason why Affirmative Action programs exist today. The chapter has further defined the Affirmative Action program and explained the significant difference between Affirmative Action and Equal Employment Opportunity programs. More importantly, the chapter has shown evidence that Montana Indians are deprived of employment and educational opportunities, and thus are afflicted with high levels of poverty. Since the State of Montana has failed to gain a representative workforce through its current Affirmative Action efforts, the material supports a strong case in favor of an effective Affirmative Action plan specifically for its Indian residents. In the succeeding chapter, the current Montana Equal Employment Opportunity and Affirmative Action programs will be reviewed and a discussion will be offered as to why these procedures may have contributed, in part, to the failure to establish a representative workforce in Montana.

End Notes

<sup>1</sup>Frederick C. Mosher, Democracy and the Public Service (New York: Oxford Press, 1982), p. 12.

<sup>2</sup>W.E. Block and M.A. Walker, Discrimination, Affirmative Action, and Equal Opportunity (Toronto, Canada: The Fraser Institute, 1981), p. 5.

<sup>3</sup>Ibid., p. 8.

<sup>4</sup>R.P. Bowles, J.L. Hanley, B.W. Hodgins, and G.A. Rawlyk, The Indian: Assimilation, Integration or Separation? (Toronto, Canada: Prentice-Hall of Canada, Ltd., 1972), p. 32.

<sup>5</sup>Ibid., p. 33.

<sup>6</sup>Ibid.

<sup>7</sup>Theodore W. Taylor, American Indian Policy (Baltimore, MD: Lomond Publications, Inc., 1983), p. 3.

<sup>8</sup>Ibid.

<sup>9</sup>Vine Deloria, Jr., Behind the Trail of Broken Treaties (New York: Delacorte Press, 1974), p. 8.

<sup>10</sup>Nijole V. Benokraitis and Joe R. Feagin, Affirmative Action and Equal Opportunity: Action, Inaction, Reaction (Boulder, CO: Westview Press, 1978), pp. 7-10.

<sup>11</sup>Ibid.

<sup>12</sup>Ibid., pp. 12-13.

<sup>13</sup>Federal Register 36, no. 234, 6 December 1971.

<sup>14</sup>Benokraitis and Feagin, p. 15.

<sup>15</sup>State of Montana, Equal Employment Opportunity and Affirmative Action Guidelines (Helena, MT: Personnel Division, Department of Administration, 1986).

<sup>16</sup>Jeffrey D. Straussman, Public Administration (New York: CBS College Publishing, 1985), p. 193.

<sup>17</sup>Clarice Stasz, The American Nightmare (New York: Schocken Books, 1981), pp. 40-46.

<sup>18</sup>Ibid., p. 38.

<sup>19</sup>Benokraitis and Feagin, pp. 180-184.

<sup>20</sup>Ibid., pp. 172-179.

<sup>21</sup>U.S. Bureau of the Census, 1980 Census of the United States (Washington, D.C.: Government Printing Office, 1984).

<sup>22</sup>Bobby Wright, Teaching the Culturally Different: A Manual for Teachers of American Indian College Students (Bozeman, MT: Center for Native American Studies, Montana State University, June 1986), p. 2.

<sup>23</sup>Ibid.

<sup>24</sup>Ohio Data Users Center, "Detailed Occupation Report," U.S. Bureau of the Census, Equal Opportunity Special File [compilation] (Dayton, OH: The Ohio State University, 1983), p. 29.

<sup>25</sup>Ibid.

<sup>26</sup>Wright, p. 2.

## CHAPTER 3

MONTANA EQUAL EMPLOYMENT OPPORTUNITY  
AND AFFIRMATIVE ACTIONIntroduction

The current Montana State Government Affirmative Action plan has not succeeded in recruitment of Montana Indians. Therefore, it is essential to review Montana's hiring and recruitment procedures for weaknesses that may hinder Montana's Indians from gaining employment. From these weaknesses, recommendations can be formulated for an effective Affirmative Action program specifically for Montana Indians. In this chapter, the Montana State Government Affirmative Action procedures will be described. The Montana University System will be used as an illustration of the procedures. Last, the chapter will conclude with perceived weaknesses in the selection process and inadequacies of recruitment in the current Affirmative Action plan.

Administration of the Montana  
Affirmative Action Program

The State of Montana administers its Equal Employment Opportunity/Affirmative Action (EEO/AA) program through the Department of Administration, agency heads, appointed EEO

officers, and the Human Rights Division. The Department of Administration's responsibilities include developing EEO/AA guidelines and standards. It also must review and approve all agency AA plans for Federal and State law compliance. In addition, the Department of Administration provides an annual report to the Governor evaluating the progress of agency AA plans.

Agency responsibilities include providing each agency with an EEO officer that will establish and implement an AA plan. Each plan includes a policy statement and a plan for corrective measures. Agencies are to review and update their plans on both a quarterly and yearly basis.

The Human Rights Division is responsible for enforcing the Human Rights Act and the Code of Fair Practices Act. It is designated as the "706 agency," which investigates discrimination claims before an individual can be eligible to present a case to the Equal Employment Opportunity Commission. The agency also has the authority to review all AA plans for effectiveness regardless of whether or not a complaint exists.<sup>1</sup>

#### Montana EEO/AA Hiring Procedures

Characteristically, agencies with the largest workforce have the most elaborate hiring procedures. Hiring procedures also vary depending on the position being filled. The Montana University System, which employs the largest number

of state employees, assigns to its EEO/AA officers responsibility for the following: display of EEO/AA posters, policy information, position announcements (on campus), orientation meetings, adherence to Federal and State regulations, and monitoring of recruitment and hiring practices.

The AA office monitors all hiring by using a voluminous computer data base/spreadsheet. This spreadsheet, called a "roster," compiles all employees into the following categories: (1) employee by department, (2) degree of education, (3) date of degree attained, (4) job title, (5) rank, (6) EEO code (groups similar jobs together), (7) hiring date, (8) starting salary, (9) FTE, (10) sex, and (11) ethnicity.

This list allows the AA office immediate access to any department's hiring practices. The Affirmative Action plan is monitored in the following manner. The roster is compared to data supplied by the State of Montana, Department of Labor. The State supplies the AA office with data informing that office of people in the state (or area) who are available to work. These data are categorized in a fashion similar to the roster. From the roster and the State's data, the AA office calculates "underutilization." Underutilization is defined as

. . . employment situations in which there are significantly fewer persons of a particular group (i.e., women or minorities) serving at a particular level or holding a particular kind of position than might be expected when compared to availability.<sup>2</sup>

To quantify underutilization, the following equation is used:

Percent of classes available [divided by] available positions (minority, women) [minus] classes already represented [equals] underutilization.

After the utilization factor is computed, the AA office assigns the various departments to one of the following categories shown in Table 1.

Table 1. Affirmative Action utilization categories.

Category	FTE
No underutilization	0.0
Statistical	0.1 - 0.9
Mild	1.0 - 2.4
Moderate	2.5 - 4.9
Severe	5.0 - 9.9
Extreme	10.0 or more

Problems exist in the underutilization data. The data compiled by the Labor Division, State of Montana are calculated from the 1980 census. Unfortunately, it has come to the attention of the Montana Indian reservations and the State of Montana that the 1980 census was poorly implemented on the seven reservations, particularly the Crow and Cheyenne Reservations.<sup>3</sup> This, in turn, has made the underutilization data inaccurate for calculating utilization of Montana Indians. Competent census personnel must be used in the 1990 census if underutilization data are to be accurate. If the 1990 census is accurate in regard to Indian population, underutilization figures will very likely rise.

Appointing Committees for Recruitment and Hiring Procedures

After a search budget is approved, the first step in the hiring process for a department is to establish a committee. There are three types: (1) search committee, (2) screening committee, and (3) selection committee. The search committee is most frequently used. Some of the responsibilities of this committee include providing job descriptions, advertising, selection, interviewing and recruitment.

Representation on committees must include 25 percent women. Though it is recommended that the women on the committee be permanent, tenure track faculty members, any adjunct or nonfaculty member may be considered for appointment to the committee. Furthermore, if an off campus authority can offer expertise, he or she may also be appointed to the committee. Finally, a committee chair is recommended to discuss procedures with the hiring authority. The first meeting of the committee is usually an orientation meeting with the AA officer to discuss AA hiring procedures.

This selection of committee members is void of any stipulation of any racial minority members serving on the committee. If there is reason for women to be represented on the committee, surely the same reasoning should apply toward recommendations for representatives of Montana's largest minority, the Native American.

### Position Description and Vacancy Announcement

Job descriptions are the next step in the hiring process. The description must contain the obvious information such as job title, description of duties, required and preferred qualifications, application procedures, starting date, and EEO statement. Most of the information is self-explanatory and does not need further clarification. The AA office is responsible for approving all job descriptions and for checking the descriptions for any sexist language or unwarranted qualifications. Though it is feasible for a department to write a job description for certain desired applicants to the exclusion of other qualified applicants, it is usually highly noticeable and is brought to the department's attention by the AA officer. In summary, to give preferential treatment to desired applicants would be difficult using the job description alone.

### Selection Criteria

Minimum requirements are based on the position description and applicants are evaluated according to these requirements, not by comparing applicant to applicant. This is the first step in narrowing the field of applicants. All applicants that do not qualify are no longer considered. This step is once again approved by the AA office and any attempts at preferential hiring are usually noticed by the AA officer.

Next, comparative criteria are established by the committee to compare weaknesses and strengths of the applicants. If necessary, successive screening can be done to further narrow the final pool of applicants. However, the basic criteria cannot change with each successive screening. As for AA monitoring, subjectivity increases with each step of the hiring procedure, making monitoring and recognition of preferential hiring attempts increasingly difficult for the AA officer. Screening criteria can easily be written to aid the preferred candidate without being openly blatant. Only experience as an AA officer can help to stop any abuse of this hiring procedure.

#### The Candidate Pool

It is presumed that anyone in the candidate pool is capable of performing the job. The names of the candidates are sent to the AA office where it is determined if any of the candidates belong to a "protected class." These classes are usually one or more of the following: (1) Blacks, (2) Hispanics, (3) Asian, (4) American Indian/Alaskan Native, (5) handicapped, (6) Vietnam era veterans, (7) disabled veterans, and (8) females.

With regard to the racial classification, it is important to note that only the Native American has to prove by document that he or she is of Native American origin. No other race is required to show documentation.

### Interviewing the Candidates

Confidentiality is most important at this stage. Unauthorized calling of friends or associates to check on candidates is not allowed unless the applicant has given permission to the committee. If the position is of middle or upper level entry status, the applicant is likely to be employed. Any unauthorized calling could jeopardize the applicant's present job. However, unauthorized calling is very difficult to monitor and the less ethical person can easily make these calls to a confidential friend or acquaintance.

One of the strongest actions that the Montana State University AA office takes is the requirement that all protected class members in the finalist pool be granted an interview. Interviews must be kept as equal as possible, showing no preference to any individuals. AA warns that any internal personnel who apply for the position must be treated in as neutral and confidential a manner as the rest of the applicants. After interviews are completed, tabulation is done on feedback sheets and evaluations and recommendations are presented to the hiring authority.

The AA hiring manual contains a section regarding gender and ethnic differences in interviewing. It states that women may seem less enthusiastic because women generally do not project their voices as forcefully as men. It

further states that Native Americans may seem less competent because Indians do not practice eye contact and do not like to answer questions immediately after the question is spoken. This is a helpful section, but it is doubtful that these characteristics are on the minds of the committee members during the time of the interview. One suggestion would be to have the AA officer present during these interviews to serve as a reminder to the committee of ethnic differences.

Finally, confidentiality is lessened for all final selection applicants. Applicants do not have to be notified of any inquiry into their past employment. This can easily be abused if a committee should want to eliminate a final candidate based on bias. Equal treatment is not practiced at this step of the process either. A committee conceivably can call any number of references until the committee receives a negative or unfavorable reference, while a favored candidate may have only been inquired about once or twice. It is not entirely clear why there is such a wide range of discrepancy at the final stage of selection; perhaps it is necessary in order to deal with unique situations. However, it seems that if efforts are made to treat applicants with impartiality in previous steps, such efforts should be continued throughout the entire process.

#### Perceived Weaknesses

Although the recruitment and hiring procedures are attempts at impartiality and are meant to break down

cultural barriers to allow protected classes equal opportunity, these procedures are not foolproof. After attendance by the author at an orientation meeting, it became obvious that some members of the committee were not interested in the guidelines to ensure fairness. However, these same committee members were very attentive once they learned of the diversity of criterion for the finalist selection. Furthermore, confidentiality was nonexistent before the meeting when committee members freely talked about applicants and who they preferred for the job.

As stated earlier, it would be difficult for a committee to manipulate one step of the hiring process to achieve a preferential hiring. However, nearly all the steps have weaknesses and through a combination of job description, screening, and interview manipulation, the preferred candidate can make the final selection pool and easily be hired. More strict procedures could be established in some areas; however, it is important to leave the procedures with enough flexibility for various and diverse positions. As the procedures stand now, hiring practices rely on the ethics of the individual committee members and the sensitivity and expertise of the AA officer in recognizing those situations where appropriate practices are not being followed.

### Inadequacies of Recruitment

Depending on the position, recruitment is done locally, statewide, regionally, or nationally. Advertisements must be published in a local, statewide, regional, or nationally distributed newspaper, respectively. It is required that an announcement be sent to the National Indian Employment Resource Center in Denver Colorado. These are basically the only stipulations required by AA, most likely due in part to the diversity of job descriptions.

Recruitment is the weakest step in the process for hiring Indian minorities in most Affirmative Action plans in Montana. AA makes the assumption that these requirements are enough effort to assure that the Montana Indian can apply for State of Montana jobs. However, Montana Indian culture is different from non-Indian culture and recruitment efforts must take into account these cultural differences. The Montana EEO/AA Report to the Governor for 1985-86 states that Native Americans do not apply for State positions at the rate of their representation in the workforce. The report further states that this underutilization will not be corrected unless further recruitment measures are attempted.<sup>4</sup> Special recruitment efforts to gain qualified Montana Indian candidates are nonexistent in the State of Montana. The existing methods of recruitment are ineffective for Montana Indians and need to be addressed by AA in the future.

With regard to the National Indian Employment Resource Center (NIERC), it is inconceivable that one centralized agency can effectively help the 4.5 million Indians from tribally diverse cultures and locations enough to qualify alone as an effective effort in recruiting Montana Indians. However, the NIERC represents a positive step toward achieving AA goals and should be utilized.

Last, it is feasible for a department to target areas that are locations of desirable employees to the exclusion of other qualified applicants. This is not always as apparent to the AA officers as a blatant overqualified and specific job description. Carefully worded but intentionally biased job descriptions, along with targeted recruitment, can feasibly aid in discrimination in hiring.

#### Summary

No single facet in the State of Montana's hiring or recruitment procedures is responsible for the ineffectiveness in hiring Montana Indians into the State Government's workforce. Rather, the weaknesses in each step of the hiring and recruitment process have a cumulative effect that has rendered these procedures a stumbling block for Indian applicants. However, to strengthen these procedures would not by itself greatly improve the ratio of Indians hired into the State Government's workforce. Montana Indians are disadvantaged prior to employment and this must be addressed

to formulate an effective Affirmative Action plan. Chapter 4 incorporates a discussion of the Indian Nation's disadvantages due to a clash of cultures and war with the Federal Government, which has had a significant impact on the status of the Indian tribes today.

End Notes

<sup>1</sup>State of Montana, Equal Employment Opportunity and Affirmative Action Guidelines (Helena, MT: Personnel Division, Department of Administration, 1986).

<sup>2</sup>Montana Employee Relations Bureau, Montana Equal Employment Opportunity and Affirmative Action Program: Report to the Governor, July 1, 1985 to June 30, 1986 (Helena, MT: Personnel Division, EEO Section, Department of Admission, 1986).

<sup>3</sup>Linda S. Davis, State EEO/Disabled Employment Coordinator, State Personnel Division, Montana Department of Administration, Helena, MT: Various telephone conversations with author, November 1986.

<sup>4</sup>Montana Employee Relations Bureau.

## CHAPTER 4

## HISTORY OF FEDERAL/INDIAN POLICY

Introduction

The intent of this chapter is to provide an understanding of U.S. relations and policy in the area of the American Indian tribes. It is imperative to review the history of Federal policy, since these policies have shaped the current status of the American Indian. The chapter will also show that Federal policy has been a dismal failure, due in part to the Federal Government's practice of culturally assimilating the American Indian and terminating the tribal structure. Consequently, these policies have contributed to a multitude of problems for the American Indian and greatly disadvantages them in education and employment.

The Colonial Period, 1492-1776

There is much debate over the question of which early European explorers first arrived on the North American continent. However, the voyages of Christopher Columbus had the most impact on the Indian, bringing many European settlers to the North American continent. The Columbus voyages, in turn, brought the British settler to the eastern

shores of America. Most accounts agree that Indians were friendly and assisted many of the settlers who were unfamiliar with the environment and were destitute and starving.<sup>1</sup>

After the Europeans had settled on the continent, the question of land ownership was addressed. Deloria stated that the mythical concept that American people hold is that the first Thanksgiving meant that land was empty and ready for the claiming of White settlers, when in reality land was divided among European settlers by the "Doctrine of Discovery." This doctrine was used to legitimize the right to land ownership by European settlers and was written as an agreement among the European nations as to which country had legitimate claim. The doctrine gave no rights of land ownership to the existing Indian tribes. After self proclaimed rights to the land were claimed under the doctrine, relations between Indians and the colonies were diverse. Some colonies forced the Indians from the claimed land, while others sent missionaries to educate and assimilate the Indian into European culture.<sup>2</sup>

Deloria stated that the European settlers were faced with a moral dilemma based on their own Anglo-Saxon law. No European settler wanted to settle on or purchase any land that might later be claimed by the Indian. However, the settlers did not want to face accusations from other countries stealing land from its inhabitants. Thus, if European settlers wanted to justify themselves as having the

God-given right to the land, they must have compelling reason. According to Deloria, the settlers espoused theories justifying the taking of land on religious grounds. He stated that Europeans felt they had the right to Indian land because Indians were not Christians and were barbaric hunters rather than farmers, "monsters rather than men, or by the reason . . . of the fact that the King owned everything."<sup>3</sup>

What finally ensued, from 1830 through 1850, was the removal of thousands of Indians from the southeastern states to what is now Oklahoma, an area thought by White settlers to be uninhabitable. Although treaties of consent were signed by some tribes, it is now clear that the tribes had been coerced or physically forced to relocate.<sup>4</sup>

#### The Treaty Period, 1783-1871

The perceptions of the Indian by Europeans in the 1800's were by no means defined by a rule of measure or literary definition. However, the Federal Government did come to a consensus on its views of Indians. Prucha supported this by stating:

The opinions (of Europeans toward Indians) varied from the extreme disdain of the aggressive frontiersman, who equated the Indians with wild beasts of the forest, fit to be hunted down at will, to the romantic ideas of novelists like James Fenimore Cooper and poets like Henry Wadsworth Longfellow, who exalted the super-human qualities of the 'noble savage.' But in between, among the reasonable and respected public figures of pre-Civil War America,

there was a reasonable consensus, out of which grew official government policy toward the Indians.<sup>5</sup>

During the late 1700's and 1800's, more and more Europeans arrived on the continent with a concept of land ownership that pressured Indian tribes to move further west. While many Indians unwillingly were relocated from the southeastern states by military force to what is now Oklahoma, other Indians proved worthy opponents of the U.S. Army and roamed the plains well into the late 1800's.

At this time the Federal Government viewed the Indian tribes as independent nations. Indian policy was first implemented by what many historians label "the Treaty Period" (1783 to 1871). These treaties would cede millions of acres of land to the government and in return obligate the U.S. Government to provide services and material goods to the Indians. The early treaty policies were established with the tribes as a peace keeping policy between tribes and European settlements. However, with the discovery of gold in the western territories, the U.S. Army was unable or unwilling to curtail trespassing of Europeans onto the newly established Indian territories set forth by the early treaty agreements.

As tribes succumbed to military strength, sickness and hunger, treaties were used as a coercive device by the Federal Government to gain Indian territory in exchange for subsistence and educational benefits. Many tribes had no

choice but to sign treaties due to sickness, inability to fight the U.S. Army, and diminishing buffalo herds which were slaughtered for hides and sport by Europeans. The Indian treaty period was marred by the Federal Government's disregard for upholding its agreements with the tribes. Indian territories were reduced to small areas of land which are still intact today, called Indian reservations. With regard to the treaty period, Vine Deloria stated, "It is doubtful that any nation will ever exceed the record of the United States for perfidy."<sup>6</sup>

Federal Indian Assimilation  
Policy, 1871-1930

Out of this less than admirable period of Federal policy came the birth of the Federal Indian Assimilation Policy. As stated earlier, a number of treaties promised education to Indians as part of their annuities. After 1871, the Federal Government implemented a guardianship over the Indians, under which Indians were seldom consulted as to the betterment of their living conditions. The Federal Government tried to assimilate Indians through the promise of education stipulated by these early treaties. Macgregor stated, "The education of the American Indians in federal schools began as a means of bringing about their rapid assimilation into American society."<sup>7</sup> Various techniques were used in the assimilation policy. Boarding schools were

used to separate children from the traditional ways of their Indian families. Programs were implemented to teach the Indian farming and/or ranching. Missionary efforts were also implemented to Christianize both young and old.

Most administrators believed that the Indian race was not inferior, only that their circumstances did not allow the Indians to achieve the lifestyle of White society. President Thomas Jefferson was one of these believers. Commissioner of Indian Affairs, T. Hartley Crawford, in 1844, also noted that Indians were not inferior, but merely in a less fortunate circumstance.

By the 1870's, Indian policy had changed drastically from the treaty period into a paternalistic policy. Previously, Indian tribes were treated as independent nations, whereas the paternalistic period of Indian policy sought to shape the Indian culture into a European image. No longer would the Indian nations be consulted as to their future. Secretary of War, John C. Calhoun, in 1820, stated the following to Congress:

They must be brought gradually under our authority and laws, or they will insensibly waste away in vice and misery. It is impossible, with their customs, that they should exist as independent communities, in the midst of civilized society. They are not, in fact, an independent people, nor ought they to be so considered. They should be taken under our Guardianship; and our opinion and not theirs, ought to prevail, in measures intended for their civilization and happiness. A system less vigorous may protract, but cannot arrest, their fate.<sup>8</sup>

Thus, Indian policy was set for the 1800's. Policy was to assimilate the Indians into the ways and lifestyle of American society and Christianity. The Indians' lifestyle and pagan religion precluded them from achieving the living condition and lifestyle of American society. Education of young Indian children was the most efficient way to assimilate the Indian society, while education for adult Indians was aimed at turning the hunter and warrior society into a farming and ranching society.

#### The Dawes Act of 1887

Concurrently with the assimilation through education policy, other assimilation policies were implemented in the mid and late 1800's. The most aggressive policy was the Dawes Act (also referred to as the Land Allotment Act) of 1887. The philosophy behind the Dawes Act was that if an Indian was to be assimilated into American society, the Indian should then own individual property. The individual can pursue, through farming and/or ranching, an income and thus find his place in society. Most opponents of the Dawes Act claim that this act was not just an attempt at assimilation, but also an attempt to dissolve tribal government and its jurisdiction. The tribe, as a governing body, would not have a say in common affairs if the individual Indian had property and could be dealt with on an individual basis. Opponents of the Dawes Act also contend that the act was

used to further decrease the amount of Indian land. The reservation land was not divided among the individual members, but rather handed out in 160 or 320 acre allotments. Surplus land was opened up to White purchase or settlement.

Regardless of ulterior motives of the Dawes Act, it was indeed within the philosophy of the Christian reform of the period. The Indian cannot become a part of American society if he does not have the property to be self supporting. Prucha stated:

The individualism of the evangelical Protestants was tied closely to the Puritan work ethic. Hard work and thrift were virtues that seemed to be at the very basis of salvation. The reformers could conceive of no transformation for the Indians that did not include self-support. Annuities to the tribes and rations to subsist the Indians were blocks that prevented realization of the ideal. Until these were abolished and the Indians made to labor to support themselves and their families, there would be no solution to the Indian problem.<sup>9</sup>

The policy of the late 1800's had two main flaws that sealed its failure. The policy denounced the Indian culture, and assimilation of the Indian was to be completed as rapidly as possible. No attempt was made to allow for a rational progression of traditional Indian culture to European ways. Secondly, the education of adult Indians did not instruct efficient farming techniques that could financially support the Indians. Land allotments were small in acreage, and often infertile land was allotted to the

agriculturally uneducated Indian while prime farm and ranch land was sold to Whites. The adult Indians, who were more familiar with the prestigious traditional hunter/warrior society, saw little reward in the mundane techniques of farming. Many parties sold their land to Whites and had nothing left after doing so. In the ten year span between 1880 and 1890, Indians had lost one-third of their land under the Dawes Act.

Indian assimilation policies failed not only in their intent, but in their implementation. Officials in Washington had no real account of conditions in the field because supervision was not introduced until 1869. Supervision was organized with the creation of the Board of Indian Commissioners, Department of Interior. This group was appointed by the President and members were paid only for travel expenses and were untrained for their supervisory duties. Furthermore, the board had no official duties other than to serve in an advisory capacity. The only official representative was the Indian agent. Indians most often had only the agent as a means to communicate with the Federal Government. The Indian agent was also a notorious character in the history of the Federal Government. One agent's record showed over \$300,000 accounted for in 1832. Also, agents were not required to give a replacement agent his records until a law was passed in 1875 requiring him to relinquish them. The law also forced the agent to prove

that his employee list and payroll were legitimate. At this time in history, the spoils system was under way and many agents hired inexperienced friends and family.

#### The Implementation of Indian Assimilation

Although the Federal Government established Indian education policy in the mid-1800's, educating Indians was begun earlier by missionary groups. Missionary schools date back to the 1500's and spread throughout the following centuries. It was also the mission schools that conceived the idea of boarding schools in order to separate the children from their family Indian traditions.<sup>10</sup> Although the Constitution separates church and state, Indians knew little of constitutional law. Furthermore, the nation at the time was very Christian minded.

The United States was an openly admitted Christian nation. It is true that the establishment of a particular church ended with the Revolution and that the Constitution prohibited any further establishment. But this principle should not obscure the fact that the American people and their government were dominated by a religious sentiment that affected all aspects of national life--including Indian policy.<sup>11</sup>

What prompted the missionaries to educate Indians was not necessarily the caretaking of a race of people thought to be genetically inferior. What prompted the missionaries to educate Indians was the fact that they could not accept the Indians' non-Christian religion. Prucha stated, "They

(Whites) saw pagan religion, and although they were no longer inclined to see Satan immediately behind Indian beliefs and ceremonies, they compared the Indians' religions unfavorably with their own biblical Christianity.<sup>12</sup>

Since the missionary schools were already established, the Federal Government funded many of the missionaries for their efforts to educate the Indians until about 1915 when Federal courts decided that support from the Federal Government was not constitutional. However, the lack of Federal funding did not mean an end to the missionary schools. At the turn of the century, many of the missionary schools stated that their schools were still a better alternative to the Federal Indian schools of the early 1900's. Some of these schools were supported by the tribes who also recognized a favorable alternative to shipping their children to distant Federal Indian schools. Subsequently, some of these missionary schools exist today and are supported by the tribes themselves through the tribes' annuities.

#### Federal Indian Schools

Previous to 1879, the Federal Government took responsibility for Indian education only to the degree of subsidizing missionary efforts. The Federal Government, dissatisfied with the inefficient and dishonest efforts of the Indian agent, increased supervision and audits to curb the autonomous power the agent once held. The government

was also becoming increasingly dissatisfied with some of the educational techniques of the missionaries. Missionaries were continually competing for the generous funding and had to be assigned areas and/or reservations to keep peace among the denominations. Other missionaries were ignoring the rapid assimilation policy and were teaching Indian students bilingually. This was in direct violation of the government's regulation that all schools use the English language exclusively. The Federal Government took its first active step in Indian education in 1879 with the first Federal school for Indians.

The Carlisle Indian School was established by General Richard H. Pratt in Carlisle, Pennsylvania. General Pratt's philosophy was to remove Indians from their environment, and thus approved of the boarding school method. General Pratt's idea for the school came from his previous duty of caretaking Indian prisoners at Fort Manion. He observed a rapid assimilation of Indians at the prison and attributed the assimilation to the fact that the Indians were away from their natural element and could therefore more easily adapt. The school opened with 185 students and international acclaim for its athletes, such as Jim Thorpe. Other schools were created after Carlisle, often established in the buildings of military forts.<sup>13</sup>

The Federal schools grew more numerous, as did the appropriations. The education program became a centralized

The Federal schools grew more numerous, as did the appropriations. The education program became a centralized system in contrast to the autonomous and decentralized Indian agent system. In 1885, the organizer of the Education Division of the Department of Indian Affairs, John H. Oberly, was also an advocate of the boarding school system with compulsory attendance and reform schools for the less cooperative Indians.<sup>14</sup> Oberly also advocated that the teaching methods and materials be uniform, as well as the construction of new buildings, preferably off the reservations. Oberly also implemented a merit system for all personnel. His successors also increased supervisory and field observation powers in the late 1800's. However, only approximately 60 percent of all Federal schools were visited before 1899 and many were found to be poor in condition, facilities and personnel.

The Federal schools estimated that the Indian student population under their jurisdiction was about 36,000; yet only 10,500 appeared on the actual school rolls. Before 1893, the Indian agent often used persuasive means to coerce Indian families to enroll their children in the boarding schools. Often, Indian agents would withhold supplies and annuities to the parents if their children were not in attendance. After 1893, the Secretary of the Interior was responsible for such sanctions. Corporal punishment was a

The new Indian education program had grown rapidly in the late 1800's. As many as 27 boarding schools opened in 1885. Annuities had risen from about \$800,000 to \$2.3 million by 1893. Although the appropriation increase may suggest that the Federal Indian education system was successful, it was not. Nonreservation boarding schools proved to be expensive undertakings and were no more effective than boarding schools located on the existing reservations and military establishments. Nonreservation schools had to bear the cost of transportation and boarding. Furthermore, the nonreservation schools bore the hostility and protest of Indian parents against the kidnapping of children for enrollment quotas by the Bureau of Indian Affairs' Police. Proponents of the reservation school stated that the Indian child bore problems of alienation on his return to the reservation and reverted back to his own culture. Last, the reservation schools produced an education comparable to that of nonreservation schools. The Indian traditional ways, which were to become nonexistent through isolating Indian children, were still intact and practiced by the tribes.

Administrators of the time perceived that the public school system should also take in local Indian students. Since the Dawes Act, more non-Indian families either now obtained previously owned Indian land or were leasing Indian land. Thus, more non-Indian families were now living in close proximity to large Indian populations. This

non-Indian population also brought public schools closer to the reservations. Boarding schools slowly started to close their doors and, by the 1920's, more Indians attended public schools than Federal schools.

#### The Meriam Report

The mid-1920's saw another reform of Indian education with the advent of the Meriam Report. In 1926, Secretary of the Interior, Hubert Work, called for an investigation into the department's Indian services and appointed Dr. Lewis Meriam, of the Brookings Institution, to direct the inquiry. Lewis then appointed W. Carson Ryan, Jr. to survey the educational services of the department. Ryan was a nationally recognized educator who had worked for the U.S. Bureau of Education for eight years and was considered an expert in educational surveys. Ryan was also a leading contemporary supporter of then current education methods and research. He later became the Director of Indian Education in 1930. In 1928, the staff submitted its 900 page report to the Secretary, entitled "The Problem with Indian Administration." Although the report did not dwell on past administration, it revealed the appalling conditions that existed on the reservations, even though the administration professed to be acting in the Indian's best interest. The report stated that the Land Allotment Act was a dismal failure at assimilating Indians into farming. The report

stated that education was also a failure and that outmoded theories of separating Indian children from their families should cease. By the time the Meriam Report was published, a large population of Indian children was already enrolled in Indian reservation day schools or public schools. However, the Meriam Report clearly stated that the remaining boarding schools were the root of the Bureau's evil and described to the Senate the embarrassing and horrifying conditions of disease, overcrowding, and malnutrition that existed among the children. For the first time the report stated to the U.S. Government that some Indians preferred to be Indian and would not fully adapt to European ways; they furthermore had the right to make this choice, though Indians could not realistically be set apart from contact with Whites. In summary, the Meriam Report called for reform and stated that the seven administrations' (since the Dawes Act) steadfast goals of assimilation and cultural extinction were unrealistic and were inhumane.<sup>15</sup>

The Meriam Report was full of recommendations to help solve the Department of Interior's weaknesses. Ryan had made a three-fold recommendation: (1) the development of a community school system to meet the needs of existing Indian populations, (2) Federal/State education contracts for Indian children attending public schools, and (3) the gradual extinction of the boarding school while improving the conditions of the schools during the interim. From 1928































































































