Consumer Problems of the Klamath Indians
A Call for Action

This report has not been approved by the Commissioners of the Federal Trade Commission and hence all statements, conclusions and recommendations contained herein do not necessarily reflect the official views of the Commission.

A report of the
Seattle Regional Office
Federal Trade Commission
PREFACE

This report is the work of the Seattle Regional Office staff. It is based on testimony received during a public hearing on December 13, 1972 in Klamath Falls, Oregon, which examined consumer problems of the Klamath Indians, discussions with numerous Klamath Indians while investigational work was being conducted in the Klamath Falls area, and articles and research papers written on the Klamath tribe and other American Indians. The analyses, interpretations, and conclusions expressed in this report are solely those of the staff responsible for its preparation.
"I think that we have sat back and rather expected the business people or lawyers, the bankers, the real estate agents to deal with us honestly because we feel they are in a reputable business in a reputable community, supposedly, that they would deal fairly with us, and now we know better and we know that actually they do not deal with us honestly and fairly and actually our money is more valuable to them than to us..."

Annabelle Bates, a Klamath Indian; Testimony on 12/13/72
I. INTRODUCTION

In 1954 the United States Congress authorized the sale of the Klamath reservation and terminated federal supervision over the Klamath Indians ("Klamaths"). Since 1961 certain Klamaths have received $91 million for their reservation property. In the near future another $70 million will be distributed to other Klamaths. These payments ("termination payments") reimburse the Klamaths for the loss of their most important asset, their land. But receipt of this new and liquid form of asset -- lump-sum cash -- creates an urgent set of problems for the Klamaths. These problems, if not dealt with in time, could prevent the Klamaths from realizing effective compensation for their land and could vastly impede their chances for future economic independence.

In November 1972 the Seattle Regional Office was contacted by the Native American Rights Fund ("NARF"), a privately-funded Indian legal services organization headquartered in Boulder, Colorado. NARF stated that Klamath recipients of the initial termination payments in 1961 had been exploited by a variety of unfair and deceptive practices which had largely deprived them of the benefits of those payments. Since termination payments to other Klamaths were about to be made, this office was asked to assist in preventing repeated occurrences of such unfair and deceptive practices.
Through NARF, this office contacted the Organization of the Forgotten American ("OFA"), an organization of Klamaths formed in 1969 to represent Klamath interests in the absence of their tribal structure which had disintegrated after 1954. As a result of contacts with NARF and OFA, this office decided to hold a public hearing in Klamath Falls, Oregon, to investigate the alleged problems and abuses surrounding the Klamaths' receipt of the termination payments.

The hearing was held on December 13, 1972. The panel hearing the testimony of 16 witnesses consisted of the Regional Director of the Seattle Office of the Federal Trade Commission, the Chief Counsel of the Consumer Protection Division of the Oregon Attorney General's Office, the Klamath County District Attorney, and a Klamath Indian. The panel also received 14 affidavits which became part of the transcript. The time limitation of the hearing only permitted a select number of Klamath consumer problems to be expressed. Those mentioned in this report are only a sampling of those faced by Klamaths, but reflect the full range of problems confronting them.

Since the hearing, the Seattle Regional Office has conducted several investigations of alleged unfair practices which affect Klamaths.
As a result of the hearing and subsequent investigations, substantial evidence was amassed supporting allegations that Klamaths may have been subjected to unfair and deceptive practices. The hearing also disclosed that no effective relief was available at that time to prevent or redress such practices. Further, the hearing and investigations produced evidence that, even in the absence of unfair or deceptive practices, most Klamaths lacked the consumer and investor skills necessary to obtain the full benefit of their payments.

This report proposes urgent action to prevent the possible recurrence of such a problem. It proposes special consumer counselors for the Klamaths, funding for OPA, and coordinated law enforcement of consumer protection laws.

The combination of events and socio-economic factors affecting the Klamath tribe have produced a unique set of consumer problems for them. A brief historical overview of the Klamath tribe, particularly since termination, is instructive in fully understanding the special set of circumstances confronting the Klamaths.

II. TERMINATION

The Klamath Indian reservation, located in southern Oregon, was established by the Treaty of 1864 between the
United States government and the Klamath tribe, Modoc tribe and Yahooskin band of Snake Indians. The Indians ceded approximately 13 million acres to the United States in return for approximately 1 million acres of heavily forested land. 1/

In 1954 Congress authorized the sale of the Klamath reservation and terminated federal recognition of the Klamath tribe. 2/ This termination resulted in cessation of federal supervision over the Klamaths and abolition of all health, educational, and other services and programs administered by the Bureau of Indian Affairs. Many Klamaths believe that the tribe never was afforded the opportunity to approve this legislation. 3/ In accordance with the termination bill, however, an election was held to determine those tribal members who wished to receive a cash payment from sale of reservation land and those who wished to retain their shares in former reservation property and participate in a management plan later to be determined.

1/ Treaty of October 14, 1864 (as amended and proclaimed on February 17, 1870) 16 U.S. Stat. 707.


3/ Considerable controversy surrounds the termination legislation. Some Klamaths allege that when three members of the Klamath tribal council went to Washington, D.C. to obtain a $250 per capita payment, they also approved the termination bill. Allegedly, neither the Klamath tribe nor its governing council approved this action. The termination statute did provide for a $250 per capita payment.
Approximately 600 Klamaths ("remaining members"), or 22 percent of the tribal members, elected to retain their shares of reservation property or did not vote in the election. An arrangement was later established whereby their shares were held in trust by the United States National Bank of Oregon. Since the establishment of this trust, remaining members have received per capita payments derived from income obtained from the lease of the remaining reservation property.

1,659 Klamaths ("withdrawing members"), or 78 percent of the tribal members, elected cash payments. Accordingly, only 78 percent of the reservation was sold. 4/ The Klamaths electing cash payment each received $43,000 in 1961. This totaled $68 million. In December 1972, each withdrawing member received an additional $12,000 payment as settlement of litigation involving the original selling price of the reservation land. This totaled $23 million. Thus, the withdrawing Klamaths have received $91 million for the sale of their shares in the reservation lands.

In 1961 the Klamaths were not prepared to defend themselves against unfair economic practices, nor were they prepared to utilize the large sums available from termination for their long-term economic benefit. Prior to termination, the Klamaths

4/ The property was purchased by the U.S. Government. It is now part of our national forest holdings.
lived primarily on subsistence incomes provided through the sale and lease of reservation lands. Few Klamaths were employed. Administration of their economic affairs by the Bureau of Indian Affairs precluded their acquisition of viable financial management skills. In short, the Klamaths suffered from the lack of business and investor skills typically experienced by poor people. This deficiency was compounded by the Klamaths' noncommercial cultural heritage, many aspects of which were alien to a mercantile economic marketplace. Before the payments were received in 1961, the Oregon State Director of Indian Education summarized in a letter the general situation surrounding termination, including the problems which the Klamaths would face if they received large cash payments:

The public schools, the public school education problems have been bad. There has been a high rate of absenteeism. The facts do not support the thesis that the Klamath people have the necessary educational and business experience background, unanimity of purpose to manage their own assets as a corporation. It is a foregone conclusion that a high percentage of people will not have the necessary acumen to handle their proceeds judicially. Frankly, Congress, the Indian Bureau and the state of Oregon will face a fiasco unless the combined resources of all agencies are thrown into the programs to help solve the problems. 5/

Prior to the distribution of cash payments, the Oregon State Department of Education was contracted to provide for

the education and training of the Klamaths to earn a livelihood and to "assume their responsibilities as citizens." 6/ The program stressed general cultural and vocational assimilation. It did not focus upon providing specific investment counsel or developing financial management skills which could be utilized when the payments were received. Nor did it focus upon preparing the Klamaths to protect themselves against unfair and fraudulent business practices. Because of understaffing and this lack of focus, the program did not provide the training necessary to teach the Klamaths how to defend themselves against consumer abuses or prepare them to utilize the cash payments to establish their long-term economic independence. 7/

As soon as the Klamaths received their payments in 1961, the State Department of Education program ended. Until 1972 there were no other special programs which provided educational


7/ The BIA Report (see footnote 6) which was written on the Klamaths after termination concluded that termination funds were disposed fairly rapidly and the funds did not appear to improve the Klamaths' long-term social and economic status. A similar conclusion was reached in a report entitled, The Economics of Paternalism: Federal Policy and the Klamath Indians (1971), written by W. T. Trulove and David Bunting. Both authors in 1971 were Assistant Professors of Economics at Eastern Washington State College. Assistance was furnished to them in preparing this report by the Louis W. and Maud Hill Family Foundation in Saint Paul, Minnesota.
assistance and/or social services for the Klamaths. Ironically, the termination payments were considered a panacea to the Klamaths' problems, precluding the need for any further assistance. Thus, the payments made to the Klamaths since termination have obscured the real problems facing them, namely the range of consumer, health, educational, legal, and economic problems typically experienced by poor people. Most of these problems still confront the Klamaths today.

During the latter part of 1973 the 600 remaining members, pursuant to a vote taken in 1969 to terminate their private trust, will each receive approximately $120,000. The bill authorizing the government's purchase of the remaining tribal land has been signed by President Nixon, and only congressional appropriation of funds for this purpose remains. 8/ After this payment, disposition of reservation property will be complete.

The urgency of the Klamath situation is due to the impending payments next month to the remaining members. These payments will be the last the Klamaths will receive from termination. The payments to the remaining members as well as any termination funds still in the possession of withdrawing members must be protected from unfair and fraudulent business

8/ Public Law 93-102.
practices. Testimony received in Klamath Falls last December indicates that serious consumer problems still plague the Klamaths.

III. CONSUMER PROBLEMS OF THE KLAMATHS

The majority of Klamaths reside either in or around Klamath Falls, Oregon, or in Chiloquin, Oregon, which is about 30 miles from Klamath Falls. Klamath Falls has a population of 16,500 people. Chiloquin is the main town on the former reservation property and has a population of approximately 850 people. Klamath Falls and Chiloquin are both within the county of Klamath, which is situated in the southeast portion of the state and has a population of approximately 50,000, most of which is concentrated in the Klamath Falls vicinity.

The nearest city of any size equivalent to Klamath Falls is Medford, Oregon, which has a population of 27,400. Medford is 75 miles from Klamath Falls. Due to this geographical isolation, residents of Klamath Falls are "captive consumers" of local businesses unless they take the time to travel substantial distances to do comparative pricing and examine alternatives in Medford or other communities in Oregon or California. The lack of another readily available business market to provide competition to the Klamath Falls business
community affects all Klamath area consumers. For the Klamath Indians, however, it is but one more factor among many which combine to produce an especially serious impact upon their economic welfare.

The relationship of the Klamath Indian community with the predominantly white community of Klamath County is also a contributing factor in the occurrence of consumer abuses suffered by the Klamaths. Many non-Indian Klamath County residents believe that termination payments are gifts from the public or "special treatment" given to Klamaths. 9/ Also, racial discrimination against the Klamaths has been cited by numerous individuals, including various Klamaths, a local attorney, the Klamath County District Attorney, and the Klamath County Superintendent of Schools. 10/ These attitudinal factors serve to alienate the Klamath Indian community from the predominately non-Indian local business and professional community. The testimony presented suggests that the result may be reflected in the standard of business conduct practiced in commercial

9/ The Seattle Times, May 24, 1973, "Indians Feel They're At Bottom Of Totem Pole In White Majority Society." "The money the Indians received at termination poisoned some people's minds. They felt the Indians were getting something for nothing. They didn't stop to think we were losing our land, our home." (Statement of Don Schonchin.)

10/ Tr. pp. 96, 195-197, and The Seattle Times, May 24, 1973, "Indians Feel They're At Bottom Of Totem Pole In White Majority Society."
dealings with the Klamaths. Also, given the Klamaths' status as "captive consumers," these factors create an environment in which the Klamaths often feel powerless to avoid abusive business transactions and to seek proper redress of any such abuses when they do occur.

A. Problems with Businesses

Testimony was received at the hearing that Klamaths were often charged more than non-Klamaths for the same goods or services. 11/

One Klamath woman testified that she was quoted a price of $3,663 for a 1972 automobile at a car dealership in Klamath Falls. A Caucasian woman residing in Klamath Falls testified that on the same day she and her husband, also Caucasian, were quoted a price of $2,900 for the same 1972 automobile. 12/

Another Klamath woman testified that in 1969 she and her Caucasian husband were quoted a price of $1,500 for a used trailer home at a local mobile home dealership. The

12/ Tr. pp. 19-23. A Truth in Lending order involving this automobile dealership, File No. 732 3165, has been provisionally accepted by the Commission.
woman later learned that her father-in-law, who is Caucasian, had looked at the same used trailer home that day and was quoted a price of $750. 13/

The same woman also related a similar incident involving the purchase of a home. When her husband went alone to price the home, he was quoted a much lower price than was quoted to her when she went alone to see the home. The woman stated that she believed such price discrimination against Indians was a common occurrence in the Klamath Falls area. "We find it all the time; that's the reason my husband goes first and I go later," she said. 14/

Many Klamaths feel that discrimination exists when they seek credit. Apparently many financial institutions do not grant loans to Klamaths as a general policy because a number of prior loans to individual Klamaths have caused trouble for the financial institutions. There are a number of Klamaths who might be good credit risks but who are refused because of the general attitude toward Indians as debtors.

The testimony provided evidence that some Klamaths have been subjected to fraudulent and deceptive practices. One elderly Klamath, now deceased, described how he was deceived.

14/ Tr. pp. 59-60.
by a local realtor into signing a warranty deed for the sale of a 160-acre piece of property. In late 1965 the Klamath authorized the realtor to list the property for about $44,000. Later, the realtor had him sign a blank document which the realtor claimed was an authorization to advertise the property. The realtor expressly denied that the document was a deed. When few people came to view the property, the Klamath arranged to sell the property to a relative for around $40,000. A Klamath Falls bank informed the relative that the realtor had already sold the property to the elderly Klamath's neighbor for around $20,000, using the blank document the Klamath had signed as a deed. The case was taken to court and a judgment of fraud in the sale transaction was found against the realtor. A private appraiser hired by the Klamath assessed the property value at around $40,000. Nevertheless, the Klamath stated that an all-white jury awarded him only $2,500 in addition to the $20,000 for which his property had been fraudulently sold. 15/

Other testimony provided an example of door-to-door solicitations aimed at Klamaths several weeks before receipt of cash payments last December. This involved a vacuum cleaner demonstration. According to the testimony, the product was represented as being "the best in the world...it had an

15/ Tr. pp. 128-132.
activated charcoal air filter system...and would prevent colds, cause sound sleep, and reduce air pollution." The initial offering price of the vacuum unit differed among the Klamaths ranging from $448 to $475. The salesman allegedly told one Klamath that after January 1, 1973, the vacuum unit would not sell for less than $500 even though the final offering price in December varied from $280 to $310. 16/

Some Klamaths believe that local merchants fail to honor advertised specials when Klamath customers are involved. One example furnished by a Klamath witness at the hearing was a tire sale offered by the local branch of a national retailer. The Klamath read an advertisement for the special tire sale which ended on November 26, 1972. The morning of November 26, the witness, obviously a Klamath, was told by two different salesmen that the sale had ended the night before. He purchased the tires at the full regular price but returned one week later with the ad in hand and was refunded the difference between the regular price and the sale price. The only explanation given was "there must have been some mistake." 17/ Such incidents, the Klamath related, are "something we have to go through all the time...it's a common occurrence." 18/

16/ Tr. pp. 153-156, 144-146.
17/ Tr. pp. 24-27.
18/ Ibid.
Klamaths frequently purchase automobiles. Consequently, substantial sums of money can be lost if the transactions are subject to unfair practices. One withdrawing Klamath woman testified that the following violations of the Truth in Lending Act occurred when she and her husband purchased a truck from a Klamath Falls car dealership in late November 1972, shortly before the additional cash payments to withdrawing members. She and her husband understood that they could buy a $4,000 truck without penalty or finance charges by paying $1,600 down, and the total balance the next month when the woman's payment arrived. The salesman even noted on the order form that the couple planned to pay the total balance the next month. The salesman had them sign a blank retail installment contract which had no figures or finance charges written on it, only "two check marks" where they were to sign. The completed contract, arranged on a 36-month payment basis with a finance charge of $600, was mailed to the couple a week later. The contract provided that, if the Klamath prepaid the balance when she received the termination check, she would have to pay a prepayment or acquisition charge. 19/

19/ Tr. pp. 157-159. The Klamath woman's husband, a Warm Springs Indian, also testified that after he drove the vehicle the seller asked him, "What are you going to do - finance it?" When the seller found out his wife was a withdrawing Klamath "...he (the seller) didn't hesitate to make the deal then... he jumped at it." Tr. p. 161.
Charges that incidents such as that reported above have occurred are not uncommon. Subsequent to the hearing, two other allegations of Truth in Lending violations were reported in connection with automobile transactions with Klamaths. Private suits against two local automobile dealerships were filed on behalf of these Klamaths. One of the suits was against the same automobile dealership mentioned above in the Klamath woman's testimony and the suit alleged practically the same circumstances.

Testimony was also received from one Klamath who went to Medford, Oregon, to obtain a better purchase price on a new truck. After purchasing the truck he learned that Chrysler's warranty would not be honored in Klamath Falls because the warranty limited servicing to the selling dealer's place of business. Consequently, he has to make a 150 mile round trip to have servicing done under the warranty. The warranty limitation was not mentioned by the seller at the time of the sale, so the buyer was unable to bargain for an adjustment on the selling price. 20/ This kind of warranty limitation obviously discourages Klamaths from seeking competitive prices and better servicing arrangements outside of Klamath Falls. This occurrence also evidences the Klamaths' critical

need for assistance to protect themselves in business transactions where technical variables such as warranties can make a substantial difference in value to them.

B. Problems with Trusts and Guardianships

Many Klamaths have had unusual difficulties with the handling of their trust or guardianship accounts. Of the original 1,659 withdrawing tribal members, nearly 1,200 had the proceeds from their shares placed in trusts or guardianships.

Complaints concerning the handling of Klamath trusts were quite diversified. A number of trust accounts were established to protect the original termination payments of approximately $43,000 per Klamath. Some trusts were established by the Bureau of Indian Affairs in 1961 to protect minors and incompetent adults. The remaining portion of trusts were voluntarily arranged by the recipients of the payments.

Testimony was received concerning the refusal by a trust officer to give an accounting to the beneficiary. When the trustee informed the trust officer that the audit could not be legally denied, the trust officer agreed to do the audit but only at a cost of $600 for photocopying expenses. 21/

21/ Tr. pp. 13-14.
Another trust beneficiary stated that he never received an accounting from his trust, and state tax representatives advised him that he had lost a considerable amount of money from the trust even though similar investments at that period of time had shown consistent gains. 22/

An affidavit furnished at the hearing gave the following description of how a local attorney is alleged to have obtained a loan from the affiant's trust to purchase a commercial car wash: The loan was granted out of the trust assets. When the attorney later sold the car wash, the beneficiary requested the bank to have the money returned to the trust. The trust officer refused and two local attorneys refused assistance to the beneficiary because the matter involved another attorney as the potential defendant. 23/

One attorney in Klamath Falls testified that he had firsthand knowledge of trust departments referring a beneficiary to their loan department for consumer loans, rather than furnishing cash from the trust and thereby saving the beneficiary finance charges. This same attorney testified that he had direct knowledge of trust officers treating Klamaths discourteously and even refusing to speak to Klamath beneficiaries. The attorney also

22/ Tr. pp. 54-58.
23/ Tr. pp. 175-176.
stated that some banks refer Klamaths to a select number of local lawyers. 24/

Guardianships have also allegedly been the source of improper practices. One Klamath furnished an affidavit which stated that an attorney who was in charge of her guardianship was paid $30,000 by the successor guardian, a bank in California. This Klamath has never been able to obtain an accounting for this $30,000 expenditure. 25/

An alarming juvenile delinquency rate exists among the Klamaths 26/ and an Oregon law involving incarcerated juveniles works to their detriment. The law requires an individual to pay for the cost of care while he or she is incarcerated at a state correctional institution. The monthly custodial charge levied by the state is determined by the individual's income, excluding that amount spent for basic needs. If the person later dies, however, the law allows the state to reassess the value of the individual's estate. Thus, the state can later charge a higher custodial rate for the incarceration

24/  Tr. pp. 89-90.

25/  Tr. p. 40.

26/ The Klamath County District Attorney estimates that the Klamath Indian population comprises approximately 4-5 percent of the Klamath County population, but that approximately 15 percent of the juvenile cases referred to the District Attorney's Office involve Klamath Indians.
period. One Klamath mother, who was the guardian of her son, was required to pay approximately $80 a month for his care while he was incarcerated at the McLaren School for Boys. Her son was a remaining Klamath and thus received per capita income from his pro rata share of tribal property held under trust. During the period of his incarceration at McLaren's, the son's guardianship had minimal remaining balances after expenditures for his basic living needs. Thus, the initial custodial charges assessed by the state were approximately $80 a month. The son died and the state examined his assets. The state took into consideration the cash value of the son's tribal property, even though it was not yet liquidated, and for the same incarceration period, increased the custodial charges to as high as $630 a month. The new charges represented an increase of over $6,000 above the total charge of $963 which was initially assessed. 27/ Thus, the guardianship has been charged $7,000, all of which is to the detriment of the son's Klamath heirs.

C. Problems With Attorneys

Klamath problems with attorneys have existed for some time. For example, in the 1960s a local Klamath Falls attorney was convicted of embezzling $100,000 from the estates of two Klamaths. 28/ No restitution of funds was made to these victims. 27/ Tr. pp. 141-143.

28/ This reported conviction was confirmed by the staff from the files of the Klamath County District Attorney.
During the hearing and in subsequent investigations, numerous Klamaths voiced common complaints of an attorney refusing to return phone calls, furnish accountings, or to bring suit when a fellow attorney was a defendant. Such behavior discourages Klamaths from turning to attorneys for legal assistance to settle disputes and grievances, with the result that many problems and abuses go unresolved.

Affidavits of two Klamaths were presented at the hearing describing problems they had experienced after they had given powers of attorney to their lawyers. In the first affidavit the following facts were alleged: A withdrawing Klamath gave her lawyer a power of attorney while she was in the Oregon State Penitentiary in 1964. The attorney sold her car and home and two real estate lots. He also authorized, without her consent, an $8,000 payment to another local attorney who had been disbarred for mismanagement of Indian trust and guardianship accounts. Her attorney has repeatedly refused to give her an adequate explanation of the sale of her property or the unauthorized $8,000 payment. Her accountings show payments made from her estate to banks of which she has never heard. 29/

29/ Tr. pp. 50-53.
In the second affidavit, another withdrawing Klamath testified that while she was in jail her attorney had her sign papers which authorized him to sell her house in Chiloquin and some property in Fort Klamath, Oregon. She stated that the attorney has repeatedly refused to explain where her land and the money from its sale have gone. 30/

One of the most difficult problems for attorneys in a small community like Klamath Falls is simultaneously representing clients whose interests are in conflict. Some Klamaths, for example, are being represented by attorneys who also represent the very party against whom the Klamath is complaining or seeking redress. Another problem has been the advancement of money or the arranging of credit for a Klamath by attorneys prior to receipt of termination payments. In one case a fee of $1,000 was to be charged for this service. This attorney, when questioned, stated, "a lawyer can charge as big a fee as he wants...If you come to me for my services and I say my fee is $10 million, you can pay it or not." 31/

In short, many Klamaths do not feel they can turn to local attorneys for adequate representation and counsel in consumer and financial matters.

30/ Tr. pp. 176-179.
IV. PRESENT PROGRAMS TO AID THE KLAMATHS

A. The Organization of the Forgotten American

Eight years after termination found the Klamaths disbanded and without an informal tribal council. In 1969 the Organization of the Forgotten American was formed to represent their interests in the absence of a tribal structure. OFA is a group of remaining and withdrawing members of the former Klamath tribe. In 1972 it received a $30,000 one-year-only planning grant from the Office of Economic Opportunity. This grant project was intended to establish the needs of the Klamath Indian community and to submit project proposals to satisfy those needs. The grant began on November 1, 1972, and expired on November 1, 1973. During this period OFA obtained an attorney to represent the Klamaths on a full-time basis for eight months. The National Consumer's Union furnished the funds for the attorney. This attorney, among other things, has filed four Truth in Lending private suits 32/ and two consumer protection actions pursuant to Oregon statutes. Another suit resulted in the entry of a consent decree against municipal judges in Klamath Falls. This decree requires the judges to appoint

32/ Among these four suits, one was in behalf of the withdrawing Klamath woman who testified at the hearing concerning Truth in Lending violations which occurred when she and her husband purchased a truck from a local automobile dealer in November 1972. The woman's testimony is discussed in detail on pages 14-15 of this report. (cont. on page 24)
counsel for indigents and not to imprison them should they be unable to pay fines. Prior to the consent decree, it was common for Indians to pay off their fines in prison at the rate of $2.50 a day. Consequently, Klamath Indians would frequently be incarcerated in municipal jails for weeks at a time without having had the opportunity to be represented by counsel.

OFA has also been able to obtain $108,000 from the federal Office of Education to establish better educational opportunities for Klamath Indian children. This money will be used to develop a program of Indian culture and history in area schools, to plan an alternative school for Indian dropouts, (Klamath school officials estimate 50-65 percent of the Indian students have dropped out of the local schools)

(cont. from page 23)

A suit on behalf of another withdrawing Klamath alleged that practically the same circumstances, misrepresentations, and violations as in the suit mentioned above occurred in his purchase of an automobile from the same dealership. The Klamath alleged that he contracted orally with the dealership to make a $263 down payment on a 1973 car and to pay off the balance of $5,000 one month later when he received his resettlement check. The Klamath claimed he was not properly informed of the financing terms, but agreed to sign a blank retail installment contract. He alleged that he received a completed copy of the contract a month later which obligated him to monthly payments, $725 in finance charges, and a pre-payment penalty.

Another suit was filed on behalf of a member of the Wintoon Indian Tribe against a local used car dealership for violations of the Truth in Lending Act and Oregon state consumer protection laws.
and to hire teachers to implement the program. 33/ This is the first federal money ever received by the Klamaths for educational programming purposes since 1961. OFA has also been able to obtain several VISTA personnel to assist them in the Klamath community.

B. Office of the Klamath County District Attorney

The District Attorney for Klamath County has jurisdiction to independently investigate and correct violations of the Oregon Unlawful Trade Practice Statute. The District Attorney has established a separate consumer protection component and since the hearing on Klamath consumer problems, the office has experienced a substantial increase in the number of reported consumer complaints by Klamaths. 34/ The District Attorney receives 10 to 15 complaint calls a week and has obtained a judgment against one firm. Six other cases are being investigated.

The District Attorney has apparently made substantial progress in making his office available to receive Indian consumer complaints. One of the problems prior to the hearing was that the District Attorney's Office had a reputation based upon criminal prosecution, and it was staffed by whites.

whom the Klamaths felt they could not trust. However, a recent newspaper report stated that "the (FTC) hearing sparked a militant awareness among Indians...," and they are beginning to register their complaints.

C. Remaining Responsibilities

An urgent situation still exists in the Klamath community. Recent enforcement activities by the District Attorney and the Federal Trade Commission have not remedied the underlying social and economic problems of the Klamaths. Compensation for their loss of property does not eliminate the fact that they still have many of the problems faced by poor people. Unfair and fraudulent practices and lack of job opportunities and education can cause termination monies to rapidly disappear. We have, therefore, set forth several recommendations which will aid in furnishing long-term benefits to the Klamaths. These should be acted on immediately and supplemented through socio-economic activities by other interested parties.

35/ Tr. p. 214.

V. RECOMMENDATIONS

A. Recommendation I. A Congressional appropriation and private grants for a consumer counseling staff experienced with investments.

The difficulties of the Klamaths' relationship to the local business and professional community and the nature of their consumer problems indicate a need for an outside consumer counseling staff experienced with investments. Considerable distrust surrounds investment advice available in the local community from financial institutions, realtors, attorneys and businessmen. Consequently, to enhance the use of the investment advice made available, it is important that the consumer counseling staff not be associated with local-vested interests. In addition to investment counseling, the staff should counsel the Klamaths in other consumer purchasing situations and represent Klamaths in obtaining credit and planning business ventures.

In order to create this staff funding must be found. We believe that United States Congressional Representatives and Senators should jointly consider means by which an appropriation can be passed to pay for these vital services. In addition, private foundations and investment firms are encouraged to
consider grants of money or services to aid the consumer counseling staff to carry on these services for an extended period of time.

We suggest that any appropriation, volunteer effort or grant for investment services be coordinated with the Organization of the Forgotten American. OFA can assist in community contacts for the counselors and is the most appropriate vehicle for securing receptivity to any counseling program.

Section 26 of the Termination Statute states that it did not preclude any federal agency from undertaking with funds appropriated to it any program for the education and training of the Klamaths. 37/ Thus, the Congress may want to consider a special appropriation to a federal agency which would assist in furnishing education or training services. The selected agency should not be connected with the sale of the Klamath reservation or have been active in Indian affairs. In essence, it must be an agency that the Klamaths will trust or they will not utilize the consumer counseling services. We believe a consumer counseling program would provide the Klamaths with investment education and training and would be within the spirit of the termination statute.

Such a program could also be implemented by a special authorizing bill or appropriation rider.

The ultimate goal of this recommendation is to protect the Klamaths by preventive measures, furnishing them with the opportunity to use termination money for their long-term benefit with competent and trusted advice. We envision a staff of people, working in coordination with the OFA, which can take a personal interest in a broad range of Klamath affairs, including investments. The staff would also train qualified persons from the local Klamath Indian community to perform consumer and investment counseling functions. After a period of time these Klamaths could carry on a substantial part, if not all, of these responsibilities. In view of the past and forthcoming substantial payments to the Klamaths, we urge Congress, as well as appropriate private institutions, to furnish funds for a consumer counseling staff experienced with investments and other consumer matters. 38/

B. Recommendation II. Funding for the Organization of the Forgotten American.

In November 1972 the OFA received a $30,000 planning grant from the Office of Economic Opportunity. The grant was

38/ Reference should be made to the OFA "Proposals for Short-Term Emergency Funding to Provide Investment Advice and Community Development Assistance in Connection with Distribution of Indian Trust Assets." This is on file in the Seattle Regional Office.

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on a one-year-only basis and expired on November 1, 1973. Approximately $35,000 in additional funds were secured from private sources. Most of the private funding was also on a one-year basis and has recently expired. With the $65,000 in OEO and private funding, the OFA operated most of the year with a four-member operating staff. In addition, in January, 1973, the National Consumer's Union provided funds to support a full-time consumer attorney to represent the Klamaths for an eight-month period. The consumer attorney worked out of the OFA offices from approximately mid-January to mid-September of 1973. The OFA has also recently obtained the services of several VISTA volunteers. The OFA staff coordinates its efforts with the Klamaths and is supervised by a Klamath board of directors.

The OFA staff has been involved in a broad range of activities including community organization; resource development and planning for programs to meet the legal, educational and health needs of the Klamath people; consumer protection through education and litigation; and distribution of information of interest to the Indian community. During the year the OFA succeeded in obtaining funds for several programs to assist the Klamaths. In addition to the funds provided by the National Consumer's Union for the consumer attorney, $108,000 was granted by the federal Office of
Education to implement programs to improve educational opportunities for Klamath youth. OFA prepared the project proposal and assisted in the hiring of program staff. The program operates quite independently from OFA, with its own project director and board of directors. None of the $108,000 grant is available to the OFA for its own funding needs.

The OFA has expanded its activities well beyond its initial planning goals. Among other things, the OFA is currently involved in several lawsuits to protect the consumer and civil rights of the Klamaths. It is imperative for the success of this litigation that the OFA retain the services of a full-time attorney. Since the grant funds for the attorney have recently expired, the OFA must assume the funding for this position. Thus, with the basic $65,000 annual operating budget and an additional $30,000 a year to fund a full-time attorney and supporting staff, the OFA needs an annual operating budget of approximately $95,000. It is anticipated that this annual budget will be required for several years for the OFA to continue to increase its current activities and to provide further self-determination planning. HEW recently furnished the OFA with $30,000, which is approximately one-third of OFA's operating budget for last year, including the National Consumer's Union funds for the consumer attorney.
The OFA is the vital hub of community contact, organization and coordination of the various projects and planning activities occurring in the Klamath County area for the benefit of the Klamaths. If adequate funds are not given to the OFA, the effect would be the cessation of the bulk of ongoing and projected consumer protection, civil rights and community service activities for the Klamath Indian community.

We recommend that all interested federal agencies, private foundations and corporations consider funding assistance to aid the OFA in its development and assistance programs.

C. Recommendation III. Coordination of federal, state and local enforcement consumer protection organizations.

The Seattle Regional Office, as part of its Federal-State Project, recommends close liaison between the Klamath County District Attorney, the Oregon Attorney General's Office and other state and local consumer groups. A coordinated effort among these interested parties will assist in providing swift action should consumer abuses be discovered and will deter unfair practices. Furthermore, close communication will allow the enforcement agency which has proper jurisdiction
to take immediate action without a duplication of effort.
It also furnishes the acting party with necessary information
and expertise from nonparticipating organizations.

D. Recommendation IV. A study and analysis of dis-
regard programs to determine whether legislative
action is needed to provide low-income Klamaths
with support to satisfy subsistence living needs.

We suggest that the Oregon Congressional delegation
and the Oregon Public Welfare Division explore the possibilities
of the Montana Disregard program for use in the state of
Oregon, including whether or not termination payments can
be disregarded as earned income.

The Department of Welfare in the state of Montana
recently began a program where it disregards per capita pay-
ments as earned Indian income. Unearned Indian income, such
as per capita payments, is not computed in determining whether
an individual qualifies for public assistance. Thus, per
capita payments do not have to be used for subsistence living
needs and can be used to promote economic independence consistent
with cultural needs. 39/

39/ An evaluation of this program and its progress has been
written by Urban Management Consultants, 680 Beach Street,
San Francisco, California 94109. A copy of this report is
(cont. on page 34)
The system whereby tribal income was distributed through per capita payments discouraged use of aggregate tribal assets for the long-term benefit of the Klamaths. Per capita payments divided tribal wealth into units too small for major investment or economic development purposes. They provided a subsistence income usually sufficient only to cover basic living needs, and thereby discouraged Klamath employment and education. Similarly, termination payments are frequently used to satisfy subsistence needs. The Trulove and Bunting and BIA reports revealed that the 1961 termination payments were used primarily for subsistence living needs such as food, clothing, housing, health and medical care. 40/

A number of Klamaths, but for the termination money, would qualify for public assistance. Due to a lack of education and employment opportunities for these persons, termination money must be used to pay for living needs. If the reservation property had not been sold, these Klamaths

(cont. from page 33)

on file in the Seattle Regional Office. It is interesting to note that the report states "past experiences...indicate that a successful economic development program requires only about $2,000 per Indian on the reservation over a ten-year period." (p. 6)

40/ Trulove and Bunting, pp. 12 and 19; BIA Report, pp. 10 and 34.
would qualify for assistance. 41/ Yet, the replacement of property for cash misleads people to believe they are self-supporting. Many withdrawing Klamaths have spent their termination money on basic necessities and have not been able to break out of their cycle of poverty because they could not find self-supporting income.

Consequently, we recommend that a study be done to determine the number of Klamaths who would qualify for public assistance, disregarding the termination payments. Then, if feasible, assistance would be given to those Klamaths until they are self-supporting. If termination money is thereby freed for use in areas of long-term benefits, it would substantially assist future generations of Klamaths.

41/ The 1970 Census, as reported by William Chapman of the Washington Post disclosed that Indians are the most impoverished American and their income is below all other minority groups. In fact 40 percent of Indian families live on incomes below the poverty level.
"Three times we have been taken, first by beads, then by bullets and now by politics. I guess we are safe. We have nothing they want but our pride and they sure as hell can't cash in on that." 42/

42/ Tr. p. 9.