from the National Center for Child Advocacy, under the auspices of the Minnesota Chippewa Tribe. The application was successful, and the American Indian Foster Care Project began operation Oct. 1, 1976.

The project hypothesis was that American Indian staff, operating under the supervision of tribal government and within the context of child welfare standards as adopted by the State of Minnesota, could more effectively deliver child welfare services to American Indian families.

We are now well into the second year of the project, and the social service staff of the Minnesota Chippewa Tribe have demonstrated that this hypothesis is valid. The American Indian Foster Care Project has demonstrated to us that the Minnesota Chippewa Tribe has the expertise and capacity to deliver Indian child welfare services in a thoroughly competent and professional manner.

The project has now expanded into the three other counties contained within the Leech Lake Reservation and has been received with open arms by the social service staffs of those other counties. It should be noted that none of the counties on the Leech Lake Reservation has ever had any Indian social workers on staff, and that the counties have been trying to deliver social services to Indian families for years with little success. I am sure that I represent the feelings of the social workers of these other counties as well as Cass County when I say that this project has demonstrated to us that there is a better way to provide services to Indian families than the way we have been doing it for the past 40 years.

The Minnesota Chippewa Tribe has the capacity and professional expertise to immediately assume responsibility for Indian child welfare services

on the Leech Lake Reservation, and we in Cass County would strongly support such a plan should it become legally and financially possible. Bearing in mind that this capacity has been developed in less than two years, and that there is now a core of experienced staff, the Minnesota Chippewa Tribe could develop the capacity to provide Indian child welfare services to all six reservations in Minnesota within a short time.

I will not presume to try to describe tribal projects in detail or to speculate about future tribal direction, but I do appreciate the opportunity to tell this committee about a successful service delivery model from the perspective of a county agency responsible for the direct delivery of social services on the Leech Lake Reservation.

In conclusion: there are two fundamental aspects of the situation addressed by this Act that should no longer be ignored:

(1) Indian social workers work more effectively with Indian families.

(2) Tribal government can effectively deliver social services within the context of the services standards of the State of Minnesota.

Thank you for the opportunity to talk to you today, and if there are any questions, I will try to answer them at your pleasure.

STATEMENT OF REP. DONALD M. FRASER BEFORE THE SUBCOMMITTEE ON INDIAN AFFAIRS AND PUBLIC LANDS ON "THE INDIAN CHILD WELFARE ACT"

March 9, 1978

MR. CHAIRMAN, through the "Indian Child Welfare Act" Congress is exhibiting its concern for the rights of Native American peoples throughout the United States. Congress is making it clear that it is the policy of this nation to protect the rights of individuals to retain strong fundamental ties to their cultural background.

Much has already been said concerning the "Indian Child Welfare Act" both in support and in opposition to the bill. I personally believe that it will be impossible to produce a perfect bill; but I am convinced that the problem which we are addressing is so serious that we must not be deterred by the complexity of the issue. We must rather look closely at the proposal and attempt to establish a framework around which a rational policy can be formed.

I'd like to comment specifically on two portions of the "Indian Child Welfare Act." These are Sections 101 (e) and 102 (c) and (d) which establish notifications requirements with respect to placement of children residing off-reservation; and Section 202 (a) providing for the establishment of off-reservation Indian family development programs.

The Fifth Congressional District of Minnesota, which I represent, includes most of the City of Minneapolis. The population of Minneapolis is approximately 375,000, and the Native American population of the city is estimated at approximately 15,000 or 4%.

The Hennepin County Welfare Agency provides supervision of child placement services for Minneapolis and its suburbs. The Native American population of Hennepin County is estimated at approximately 2%.

2-2-2

In 1977, the Hennepin County Welfare Department initiated a project funded under the Law Enforcement Assistance Administration to study child placement in Hennepin County. The initial survey shows that Native American children make up a disproportionately high percentage of children placed. These figures show that in a three month period in 1977[1] Indian youth comprised approximately 12% of those placed. This suggests that the placement rate amongst Indian youth was approximately six times that of non-Indians. For ages 0-4, the rate of use of placement services was approximately ten times that of non-Indians.

It would be fruitless at this time to question why the high rate of placement amongst Indian youth. But it is apparent from this initial data that the problems noted by the American Indian Policy Review Commission with respect to displaced Indian youth throughout the United States are also apparent in this urban area.

With this in mind, I would like to turn to the notification requirements which would be placed on county welfare agencies by Sections 101 (e) and 102 (c) and (d) of the bill.

These sections would require that prior to placement or transfer of an Indian youth the local agency must notify the parents or extended family of the youth as well as a tribe with which the youth has significant contact.

---

[1]As the Hennepin County "Placer Project" is a two year study which began in mid-1977, figures as of March 1978 include only the initial three month survey. It is expected that the succeeding quarterly surveys will be similar to these initial findings.

3-3-3

Although on its face this would appear to be an insignificant burden, persons familiar with placement procedures in urban areas assure me that due to the large numbers of persons involved in the placement process, it is highly unlikely that all individuals involved could reasonably be expected to have the knowledge or expertise needed to fulfill the requirements of these sections.

I would ask that this Subcommittee consider amending the Act to include provision for the designation by the Secretary of a suitable Indian organization in an urban area which has a large Indian population to serve as a quasi-representative of the tribe for notification purposes. This organization would then be responsible for notifying the proper tribal authorities.

I fear that without such a provision this legislation would create such a morass for county administrators that the Act would be largely ignored in urban areas.

Another provision upon which I would like to comment is Section 202 (a) which would allow the Secretary of the Interior to provide for the establishment of Indian family development programs off-reservation.

This provision could prove to be the basis for important improvements in the family structure of many urban Indians. Unfortunately, past experience with programs established by Congress and administered through the Bureau of Indian Affairs does not bode well for the establishment of programs in urban areas.

4-4-4

The Bureau has in the past exhibited a philosophy which denies the rights and privileges of Native Americans living in urban areas. I have served an urban district for too long, and I have put in too many hours fighting for the establishment of programs to meet the needs of urban Indians, to expect ready compliance by the Bureau of Indian Affairs.

I would urge this Subcommittee to mandate the establishment of urban Indian family development programs at a rate commensurate with the need in such areas. Only then could we be assured that the Bureau will not feel bound by its on or near reservation guidelines.

Mr. Chairman, I am aware that the Department of the Interior has asked that this Subcommittee not approve this legislation. I am aware that the "Indian Child Welfare Act" is not supported by the Department of Health, Education and Welfare, which prefers its own proposal. But I am also aware that before Congress began action, these two agencies which have an inherent duty to provide for the needs we now seek to address had done regrettably little in this area.

Though history may show that the legislation which this Subcommittee reports was not perfect, waiting for guaranteed perfection is not a luxury we can often afford. And of one thing I am sure -- without action no problem would ever be solved.

Urban Indian Child Resource Center

390 EUCLID AVENUE -:- OAKLAND, CALIFORNIA 94610

TELEPHONE: (415) 832-2386

March 9, 1978

TO: Committee on Insular and Interior Affairs

FROM: Urban Indian Child Resource Center, Oakland, California

WITNESSES: C. Jacquelyne Arrowsmith, R.N.
Board Member, Urban Indian Child Resource Center

Omie Brown, Director
Urban Indian Child Resource Center

SUMMARY:

The Urban Indian Child Resource Center and Indian Nurses of California, Inc., based on experience in the field of child welfare, strongly support S. 1214. However, in its present working form, it excludes thousands of deserving and eligible American Indians, specifically those Indians who are members of federally terminated tribes. By re-writing the definition of Indian in Section 4, paragraph (b), this possible oversight would be rectified.

BACKGROUND: The Urban Indian Child Resource Center was founded three years ago by Indian Nurses of California, Inc. The Center was the first urban Indian project funded through the National Institute of Child Abuse and Neglect in 1975. The Center's main objective is to help Indian children who become innocent victims of parental neglect and/or abuse.

Urban Indian Child Resource Center

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Before the establishment of the Resource Center, most of the Indian children identified as being neglected were immediately taken up by the county court or welfare system and placed in non-Indian foster homes. As a result, Indian children ended up in homes of a foreign culture with very little chance of ever returning to their rightful parents.

The Center is located in the San Francisco Bay area and serves a population of 45,000 Native American Indians. Eighty per cent (80%) of the urban Indians are mobile and often return to their homeland. With this fact in mind, the Center provides a linkage between urban and reservation living. Aid is given to the Indian families in a broad array of services ranging from the availability of emergency food and clothing to identifying Indian homes to be licensed as foster homes.

The Center has served 215 families which becomes approximately 1500 clients when each family member is counted individually. Ther are at least 500 persons peripherally involved with the Center and this number increases as the Resource Center becomes more established in the community.

Indian Nurses of California, Inc., is a non-profit organization established in 1972. The nurses represent thirty-five tribes and reside throughout the state of California. The Indian Nurses of

Urban Indian Child Resource Center

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California Executive Council acts as the Board of Directors for the Urban Indian Child Resource Center and meets quarterly to monitor the Center's activities.

RECOMMENDATIONS:

1) S.1214 needs to be strengthened but has to become law as it is essential to reduce external placement of indian children and increase the capacity of young Indian families to understand child development and utilize community resources.

2) We respectfully suggest that the definition of "Indian" be changed to read as follows:

"Indian" or "Indians", unless otherwise designated, means any individual who (1), irrespective of whether he or she lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendent, in the first or second degree, of any such member, or (2) is an Eskimo or Aleut or other Alaska Native, or (3) is determined to be an Indian under regulations promulgated by the Secretary.

3) We recommend that Indians rally to support this bill, S.1214.

RESOLUTION

WHEREAS Indian children have been removed from Indian communities by the action of governmental and private agencies, and

WHEREAS This practice has continued despite it's destructive impact on Indian children, Indian families and the Indian community, and

WHEREAS Public policy is needed to change these practices so as to strengthen the American Indian family

THEREFORE BE IT RESOLVED that when it becomes necessary to place an Indian child, the following priorities be observed by public and private agencies as a matter of social policy;

1. to place the child with his extended family, even if this involves transporting the child to relatives on his reservation in another state;
2. to place the child within his tribe;
3. to place the child with an Indian family of another tribe;
4. to place the child within a non-Indian home, with the foster parents agreeing that an Indian agency will be a part of the foster home supervision and that the child remains in touch with the Indian community through traditional culture and language education.

Furthermore, it is essential that this policy insure that the natural parents and/or family be allowed to maintain contact with the child. Foster placement should be viewed as temporary, not as permanent replacement for his natural family. Indian families must be provided the support services and every opportunity to remain an intact family.

Be it further resolved that the Indian Nurses of California urgently communicate these concerns to professional child welfare agencies and to local, state and federal policy makers.

August 27, 1977
Los Angeles, CA.

INDIAN CHILD WELFARE ACT OF 1977 (S. 1214)

Testimony

to

Subcommittee on Indians and Public Lands

of the

Committee on Interior and Insular Affairs
U.S. House of Representatives

March 9, 1978

Presented on behalf of
The Child Welfare League of America, Inc.

by

Mary Jane Fales, Director, ARENA Project
Dorothy Buzawa, Supervisor, ARENA Project
North American Center on Adoption

STATEMENT

We are Mary Jane Fales, Director, and Dorothy Buzawa, Supervisor of Operations, of the Adoption Resource Exchange of North America, a Project of the North American Center on Adoption. The Center is a division of the Child Welfare League of America, Inc., a national voluntary organization with approximately 380 voluntary and public child welfare affiliated agencies in the United States and Canada. We are speaking on behalf of the Board of Directors of the League.

The purpose of the League is to protect the welfare of children and their families, regardless of race, creed or economic circumstances. The Center specifically addresses the need for children to grow up in a permanent nurturing family of their own. The Center is a not-for-profit corporation that aids in the adoption of special needs youngsters by providing consultation and education to agencies, schools of social work, concerned citizen groups and the general public as well as exchange services.

The Adoption Resource Exchange of North America (ARENA) has assisted almost two thousand children over the last 10 years to find adoptive homes. Begun 20 years ago as the Indian Adoption Project, it has also helped over 800 Indian children find permanence. The Project has always been concerned with placing these children in homes of their own race, and in the last several years has increasingly facilitated such placements. In fiscal year 1975-76, for example, 33 Indian children were assisted and out of that number 29 were placed with a family that had at least one Indian parent. Also, ARENA has consulted widely with agencies in North America on the importance of placing Indian children for adoption within their own culture.

Our general experience points to the need for legislation, not only for Indian children, but on behalf of the total child welfare population. This population needs permanency whenever possible and our systems need to be improved and geared toward that end. The best means of achieving permanency is to provide the systems that will help children stay within their biological families whenever possible. If parents are unwilling to or incapable of raising their children and there is no other biological family member able to assume this role, then permanent placement with an adoptive family of the same cultural background is the most beneficial step. If, finally, it is determined that a child cannot stay within his own biological family and a home of the same cultural heritage is not available, permanent placement with a loving adoptive family is still desirable. Studies have shown that children can adapt to transracial placements and benefit from them.

We are pleased to have the opportunity to respond to Senate Bill 1214, known as the Indian Child Welfare Act. We support the protection of Indian children and maintenance of their cultural identity in foster care and adoption. We particularly encourage the financial incentives and legal supports that would develop the Indian family through specific programs on and off the reservation. We are also very pleased to see that adoption subsidies are part of this legislation. This component is very important in order to encourage more Indian adoptive families to take on the added expense and responsibilities of another child. Another important section of this bill includes education programs for Indian court judges and staff in skills related to the child welfare and family assistance programs. We see this education as essential to providing good care and appropriate planning for the children in their care. We also support the Indian adoptee's right to information at age 18 to protect his rights flowing from a tribal relationship and many of the fine provisions assuring that the biological parents are accorded a full and fair hearing when child placement is at issue.

However, our organization disagrees with S1214 as it is currently written. It imposes unrealistic standards and requirements in child placement matters, interfering with the lives of Indian children and families. The laws effecting the general population are different and less restrictive. First, by putting control of Indian child welfare matters into tribal hands, it does not respect the confidentiality and autonomy of the birth parents to determine the future of their child. Non-Indian birth parents thus have more rights and privacy than Indian parents. Second, it is too inclusive in its definition of Indian children. This means black/Indian children, or Mexican Indian children might be denied their other heritages, that they may be denied placement with their extended non-Indian biological parents. It could also mean that even a full Indian child, placed with a non-Indian foster family, could be reviewed and replaced, even though strong emotional ties existed with that family. Third, it creates many time delays in the placement process and in transfer of jurisdictions. This causes extra insecurities for a child, since time passes much more slowly for him than for adults. Fourth, the bill does not stipulate any accountability system to protect the child against a lifetime of temporary care.

We, therefore, strongly urge the following sections be revised:

101(c): This allows a parent or parents to withdraw consent for any reason prior to the final decree of adoption (with certain provisions). This could mean a long, needless period of risk, as most states now take from 1 to 1½ years until finalization is possible. Most states currently have either irrevocable consents, or only allow 30, 60, or 90-day periods in which parents may withdraw their consents. We therefore, suggest a period of 30 days from surrender, in which the parent or parents have the opportunity to withdraw their consent.

102(c): Where an Indian child is not a resident of the reservation, he is included as an Indian child if he has had some significant contact with his tribe. This seems to be a much too inclusive definition of an Indian child, not taking into account possible non-Indian heritage and contacts. It gives jurisdiction to the tribe, over the rights of parents. It can also cause disruptions of foster placements, where the foster parents are intending or about to adopt the child. This could disturb the child and require removal from his "psychological parents." It would also be time consuming to transfer jurisdiction from state to tribal courts.

102(e): This provision also seems too inclusive, as it would include the child being considered a resident of the reservation even though his parents had placed him while off the reservation.

102(f): Again, the child is obliged to be considered Indian and thus placement is mandated either within the extended family, a home on the reservation, etc. This may occur even in the absence of "significant contacts" with the tribe. This seems discriminatory against both the Indian biological parent and child because they are the only Americans to whom these laws would apply.

102(g): This provision also invades the privacy of the parents and child by serving written notice to the chief executive officer of the tribe or another person so designated by the tribe. Again, in situations with other U.S. citizens, this doesn't happen. If the child were from an Italian community in New Jersey, that community would not be informed about the whereabouts of one of it's former residents. If a child were from a Jewish family in Montana, the Jewish community would not be informed of the whereabouts of one of it's Jewish children.

103(a): We suggest adding--"to a non-Indian family"--as a fifth preference. This would ensure that the child be granted a permanent living situation and that it is valued above a temporary situation.

103(b): We suggest adding--"to a non-Indian family"--between preferences 5 and 6. This includes a further option for the child, prior to considering any custodial institution.

We strongly recommend the inclusion of an accountability system within this bill. A periodic review of each child welfare case would assure that a child is being cared for properly; that case plans are made for him to return home to his biological family or move out of the temporary situations into a permanent adoptive home.

SUMMARY

This statement on the Indian Child Welfare Act of 1977--S1214--is presented by Mary Jane Fales, Director, and Dorothy Buzawa, Supervisor of Operations, of the ARENA Project of the North American Center on Adoption, a division of the Child Welfare League of America, Inc.

We appreciate the opportunity to express the views of the Board of Directors of the Child Welfare League of America regarding the needs of Indian Children and their families. We commend the House Committee on Interior and Insular Affairs for bringing attention to this issue through the proposed legislation.

Our organization agrees with many of the concepts behind S1214, including the need for the protection of Indian children and the maintenance of their cultural identity in foster care and adoption. We also feel that the proposed Indian family development program is vital to improving the quality of Indian family life. We are particularly enthusiastic about those sections of the legislation that give financial and legal incentives for keeping Indian children within their biological families, educating Indian court judges and responsible child welfare staff, as well as offering subsidies to Indian adoptive families who might otherwise be unable to afford another child.

However, we disagree with major sections of S1214 because of the following concerns:

- There is no protection for children against a "lifetime" of temporary care. Any child-placing agency should have an accountability system that prevents children from getting "lost" and encourages case planning that includes a permanent family.
- The tribe's prerogative to review and intercede on all Indian child placements invades the rights and privacy of parents in determining the future of their children.

- The bill appears to encourage placement within the culture to the point of preference of temporary foster care or institutions rather than placement outside of the Indian culture, should the latter prove the only way to provide permanency. Although incentives to recruit and study Indian families should be offered, experience and research show that transracial adoptive placements can produce stable adults with a sense of ethnic identity.
- The definition of Indian children who would fall under provisions of this bill is too inclusive. It includes many who are also from equally unique cultures.
- The provision that a parent may withdraw adoption consent up to finalization creates too long a period of uncertainty for the child. This is extremely detrimental. For any child to delay placement or live with the insecurity of a potential move is to undermine his sense of emotional commitment and security with a family. This may also act as a barrier to Indian families who may not want to adopt because of the risk of losing a child they have grown to love.

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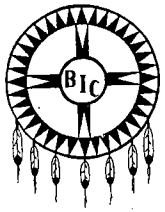

TESTIMONY ON THE

INDIAN CHILD WELFARE ACT OF 1977

SUBMITTED TO

HOUSE INDIAN AFFAIRS SUB-COMMITTEE

BY

SUZANNE LETENDRE, DIRECTOR

NORTHEAST INDIAN FAMILY STRUCTURE PROJECT

BOSTON INDIAN COUNCIL, INC.

FEBRUARY 9, 1978

I am here to speak about the needs of Native American families residing in the Northeast and the discriminatory nature of the Indian Child Welfare Act of 1977. We do not challenge but rather strongly support those sections of the Bill which insure tribal court and tribal council, a significant degree of authority in matters regarding the future of our children when foster care and adoption determinations are made. We do not object to the definition of tribe in this instance being limited to those tribes served by the Bureau of Indian Affairs. We also approve of those sections which provide for the involvement of Indian organizations in areas of family development and child protection. However, we most adamantly object to the definition of Indian and Indian organization (Sec. 4 (b) and (d)), which deal with Indians outside the tribal context and which if enacted would unfairly exclude the vast majority of Native Americans in the Northeast from benefits, protection and much needed assistance provided for in the Bill.

In the greater Boston area alone, where approximately 4,000 Native Americans reside, we estimate as many as 300 Indian children have been placed in foster or adoptive placement, the great majority of which were placed in non-Indian homes. In Maine where the constituency, family structure and child rearing practices closely resembles those of Native Americans in Boston and which is the only New England state with available statistics, Indian children are placed in foster homes at a per capita rate 19 times greater than that for non-Indians and two thirds of such Indian children are placed with non-Indian families. The American Indian Policy Review Commission found that Aroostook County, Maine had the highest placement rate of any county. This current rate of family disruption that is occuring amongst the Maine - Massachusetts Indian population has not gone unnoticed. Both the

Native American community and the U.S. Dept. of Health, Education and Welfare, have recognized the need for special intervention and prevention programs for Indians in the Northeast. They also have begun to take steps to develop a program to address the situation. The U.S. Dept. of H.E.W. has granted the Boston Indian Council, Inc. (B.I.C.) a small amount of funds on a short term basis to initiate a Northeast family support project to meet the special child welfare needs of Indian people in New England. However, it is highly impropable, considering the ceiling on State Title XX funds, that the state will be able to sustain this program beyond this year.

The project is a joint effort of B.I.C. and two Indian organizations in Maine, the Central Maine Indian Association in Orono and the Association of Aroostook Indians in Houlton, to ensure the integrity and stability of off-reservation Native American families. It is the hope of the project staff that this collaborative effort will protect the ethnic heritage and political birthright of Native Americans, enlighten social institutions to the unique needs and problems facing the Indian community, and change the current patterns of foster care as practiced for Indian people by non-Indian social service agencies.

Since the commencement of the project, our staff has had to deal with numerous blatant injustices on the part of social agencies with regards to Native American families in the Boston community. Two such instances dealt with single mothers who had their children taken from them on rather dubious grounds and who desperately sought our support to help them regain custody of their children. The first case deals with a mother who had her child placed in foster care because on one occasion she was not at home when her child returned from nursery school. When the mother requested our assistance in getting her child back, we immediately contacted the social worker involved and asked on what legal grounds was the child removed.

The social worker was speechless for there was no legitimate grounds on which she could justify her department's actions. Fortunately in this case we were instrumental in quickly reuniting the child with her mother and brother. The second case involves a young mother who is presently in a foster home and who has spent the most part of her life drifting from seven different foster homes. A few months ago she also had her own child taken from her. For several months the state retained physical custody of her child without filing any petition, thus without the appropriate legal sanctions for removing and retaining the child. When this matter finally came before the court, legal custody was then temporarily transferred to the state. The mother is now faced with a very difficult and demoralized process of trying to prove that she is in fact a fit and capable mother.

Since the social agencies involved disapprove of raising the child in the mother's foster home where five other Indian children are currently being cared for, they recommend that either the mother change foster homes, thus continuing the transient foster care syndrome or have the 17 year old mother move into her own apartment, thus face the economic and emotional adjustment to urban living alone.

When we examine the Indian Child Welfare Act s. 2 (a) we find the problem facing our Native American constituency in the Northeast precisely as described in the Bill. Yet by virtue of a most restrictive definition of Indian therein the benefits of the Bill become regionally discriminatory. Hence, the proposed legislation which purports to be a general act i.e. "Indian Child Welfare Act" dealing with a generic problem in fact fails to do so by failing to address the problem as it is felt by those Native Americans who are not included in the Bill's restrictive definition of "Indian".

This definition of Indian is contrary to the drift of Indian legislation in the past two decades: where Congress has dealt with Indians outside the tribal context, a broader definition has always been used. For instance:

I. CETA Title 3
II. ANA Urban and Rural grants
III. Indian set-aside for nutrition CSA
IV. Indian Education Act

One clear example of a less restrictive definition can also be found in the Indian Health Care Improvement Act which I believe was dealt with by this Committee and which is enclosed along with my testimony. Our question is on what rational basis should this Bill break from the long standing policy of Congress most recently included in the Indian Health Care Improvement Act? We strongly object to the use of the Indian Child Welfare Act to narrow the definition of Indian outside the tribal context. Such an action puts in jeopardy Indian children and families who based on this Bill's preamble should be included.

We realize that some of these services eligibility issues may be solved when the administration or Congress solves its recognition policy, but no one can be certain about when or how such a policy will be implemented. Even when a policy is in fact implemented, a significant portion of Native Americans who are in need of assistance will still be ignored such as: a) those members of state recognized tribes who may not seek or who are unable to seek federal recognition, b) full bloods with less than ¼ of any one particular tribe who are nevertheless denied membership to a tribe because of their blood quantum: c) members of descendants of members of tribes terminated since 1940, d) those terminated individuals of federally recognized tribes and e) individuals who lost tribal status as a result of relocation. Hence, those Native Americans who are faced with adjusting to off reservation living, who lack the support and assistance of their tribal courts and councils, who are alienated in urban

settings and lost in a world unaccustomed to the Indian way of life and the Indian family structure, and who in fact make up a significant portion of the alarming national statistics on Indian family disruption, are ignored by this Bill, left stranded, unassisted while they watch in bewilderment the termination of their parental rights and the placement of their children with people who are total strangers to them.

Clearly there is no morally justifiable basis for supporting the restrictive definition of Indian found in this Bill. We recommend that s. 2 (b) be ammended in line with the definition of Indian found in s. 4 (c) of the Indian Health Care and Improvement Act so that benefits under s. 202., 203 and 302 will be available to a broader category of Native Americans. Within the context of tribal jurisdiction and services the definition can be narrow, but in the broader context of off-reservation Indian organizations a more expansive definition must be used.

We urge that you reject an arbitrary policy that would unfairly determine which Native American children will be blessed with the comfort and security of growing up with their families and communities and which will be torn from their families, their mothers and fathers, brothers and sisters and robbed of their Indian identity and political rights.

TESTIMONY OF TRILBY BEAUPREY

MENOMINEE INDIAN
AND
DIRECTOR OF THE ALTERNATIVE LIVING ARRANGEMENTS PROGRAM
WITH
GREAT LAKES INTER-TRIBAL COUNCIL, INC.
ODANAH, WISCOSIN, 54806

BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

March, 1978

My name is Trilby Beauprey and I am a Menominee Indian from the State of Wisconsin. I am presently the Director of the Alternative Living Arrangements Program with Great Lakes Inter-Tribal Council, Incorporated in Odanah, Wisconsin.

Our program is responsible to the Great Lakes Inter-Tribal Council, Incorporated service area encompassing ten (10) Indian reservations in thirty-one (31) of the seventy-two (72) counties of Wisconsin. When I began working in May, 1977 I knew that it would be my job, along with two other staff members, to recruit foster parent(s) who were Native American. Their homes would serve as emergency temporary shelter care facilities for 12-17 year old Native American status offenders.

I would like to put you in touch with information, feelings, and national statistics which will help you envision the plight of my people today.

Dr. David W. Kaplan in his address to the Seventh Annual North American Indian Women's Assn. Conference, June 14, 1977 says,

> "The Native American Family system has been and is subjected to enormous economic, social and cultural pressures. Although the traditional extended family exists in many places and kinship ties remain strong it is clear that the old ways are not so powerful and wide spread as they once were.[1] (End Quote)

S.1214 can help build and support the Indian family who has been or is weakened because of disruptions to it's structure. S.1214 is important and deserves your full support.

Dr. Kaplan continues,

> "Certainly poverty, high unemployment, poor health, substandard housing and low educational attainment impact tremendously on the strength of the family but equally important is cultural disorientation and loss of self esteem."[2]

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[1] David W. Kaplan, M.D., "It's 1977-How Healthy Are Your Children?" Seventh Annual North American Indian Women's Assn. Conference, June 14, Chilocco, Oklahoma

[2] Ibid.

AGE SPECIFIC ACCIDENT DEATH RATES
INDIANS AND ALASKA NATIVES, AND U.S ALL RACES

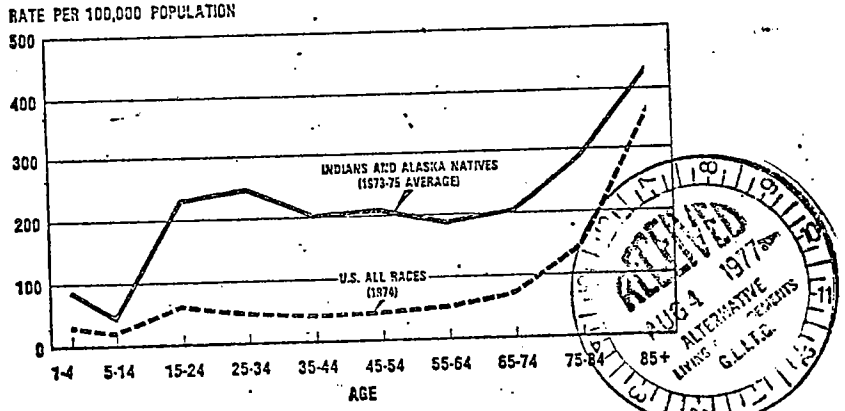
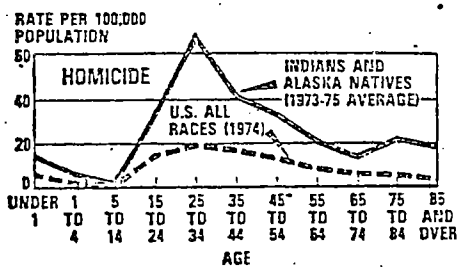


Fig. 1

AGE SPECIFIC HOMICIDE, SUICIDE, DEATH RATE
INDIANS AND ALASKA NATIVES, AND U.S. ALL RACES



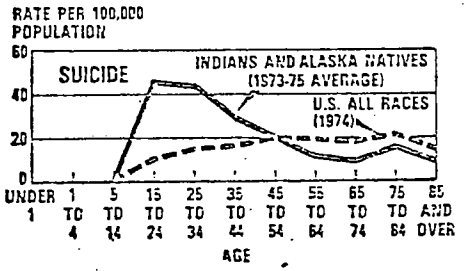


Fig. 2

ALCOHOLISM DEATH RATES
INDIANS AND ALASKA NATIVES COMPARED TO U.S. ALL RACES

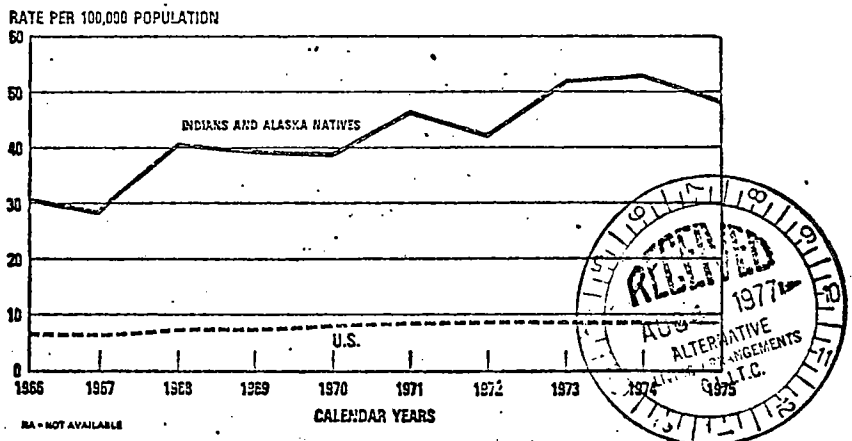


Fig. 3

"The American Indian still ranks lowest in per capita income of any national racial group with a per capita income of 46% of white American income. 48% of all rural Indian families are below the poverty level.

Accidental death rates experienced by the Indian population remain higher than the U.S. total rate (Figure 1). The accidental death rate for Indian children ages 1-4 is three times the national level.

Some of the symptoms of cultural, community and family distress are the high suicide and homocide rates, the number of accidents and, of course, alcoholism and drug abuse. Serious manifestations of these trends are reflected in the precipitous climb in the rate of juvenile crime.

For young adults ages 15-24 years, the suicide rate is four times the nation as a whole and the homocide rate is about three times the U.S. total (Figure 2). And the major epidemic of alcoholism continues to spread (Figure 3)."[3]
(End Quote)

By recognizing these horrible facts we can understand what it means when we read in S.1214 Findings, Section 2-(c), "The seperation of Indian children from their natural parent(s), including especially their placement in institutions or homes which do not meet their special needs, is socially and culturally undesireable. For the child such seperation can cause a loss of identity and self esteem, and contributes directly to the unreasonably high rates among Indian children for dropouts, alcoholism and drug abuse, suicides and crime. For parents, such seperation can cause a similar loss of self esteem, aggravates the conditions which initially gave rise to the family breakup, and leads to continuing cycle of poverty and despair."

S.1214 in Findings, Section 2-(a) finds that: "an alarmingly high percentage of Indian children, living within both urban communities and Indian reservations, are seperated from their natural parent(s) through the actions

[3]Ibid.

of non-tribal government agencies or private individuals or private agencies and are placed in institutions (including boarding schools), or in foster or adoptive homes, usually with non-Indian families." I would like to share with you, further, information concerning Wisconsin Indian adoption and foster care statistics which were part of an Indian Child Welfare statistical survey, July, 1976 by the Assn. on American Indian Affairs, Incorporated.

The basic facts are:

(1) There are 1,824,713 under twenty-one year olds in the State of Wisconsin.[4]

(2) There are 10,176 under twenty-one year old American Indians in the State of Wisconsin.[5]

(3) There are 1,814,537 non-Indians under twenty-one in Wisconsin.

I. ADOPTION

In the State of Wisconsin, according to the Wisconsin Department of Health and Social Services, there were an average of 48 Indian children per year placed in non-related adoptive homes by public agencies from 1966-1977.[6] Using the State's own figures,[7] 69 percent (or 33 children) are under one year of age when placed. Another 11 percent (or five children) are one or two years old; 9 percent (or four children) are three, four, or five years

[4]U.S. Bureau of the Census, Census of Population: 1970 Volume I. Characteristics of the Population, Part 51, "Wisconsin" (U.S. Government Printing Office: Washington, D.C.: 1973), p. 51-60

[5]U.S. Bureau of the Census, Census of Population: 1970; Subject Reports. Final Report PC(2)-1F. "American Indians" (Washington, D.C.: U.S Government Printing Office: 1973). Table 2, "Age of the Indian Population by Sex and Urban and Rural Residence: 1970, " p. 16.

[6]Letter and statistics from Mr. Frank Newgent, Administrators Division of Family Services, Wisconsin Department of Health and Social Services, April 25,1973.

[7]Ibid.

old; and 11 percent (or six children) are over the age of five. Using the formula then that; 33 Indian children per year are placed in adoption for at least 17 years: five Indian children are placed in adoption for a minimum average of 16 years; four Indian children are placed in adoption for an average of 14 years; and six Indian children are placed in adoption for six years; there are an estimated 733 Indian children under twenty-one year olds in nonrelated adoptive homes at any one time in the State of Wisconsin. This represents one out of every 13.9 Indian children in the State.

Using the same formula for non-Indians (an average of 473 non-Indian children per year were placed in non-related adoptive homes by "public agencies from 1966-1970,[8] there are an estimated 7,288 non-Indians under twenty-one year olds in non-related adoptive homes in Wisconsin. This represents one out of every 249 non-Indian children in the State.

CONCLUSION:

There are therefore by proportion 17.9 times (1,790 percent) as many Indian children as non-Indian children in non-related adoptive homes in Wisconsin.

II. FOSTER CARE

In the State of Wisconsin, according to the Wisconsin Department of Health and Social Services, there were 545 Indian children in foster care in March, 1973.[9] This represents one out of every 18.7 Indian children. By comparison, there were 7,266 non-Indian children in

8 Ibid.

9 Ibid

foster care in March, 1973[10] representing one out of every 250 non-Indian children.

CONCLUSION:

There are therefore by preportion 13.4 times (1,340 percent) as many Indian children as non-Indian children in foster care in the State of Wisconsin.

III. COMBINED FOSTER CARE AND ADOPTIVE CARE

Using the above figures, a total of 1,278 under twenty-one year old American Indian children are either in foster care or adoptive homes in the State of Wisconsin. This represents one out of every 9 Indian children. A total of 14,554 non-Indian children are in foster care or adoptive homes, representing one out of every 124.7 non-Indian children.

CONCLUSION:

By per capita rate Indian children are removed from their homes and placed in adoptive homes or foster care 15.6 times (1,560 percent) more often then non-Indian children in the State of Wisconsin.

The Wisconsin statistics do not include adoption placements made by private agencies and therefore are minimum figures.

A list of changes that I see as desireable in S.1214 are as follows:

Under Title 1 - Child Placement Standards

Through Great Lakes Inter-Tribal Council, Incorporated opportunities exist for tribal members on various reservations to identify Native American families interested in providing a home for the placement of an Indian child(ren).

Foster home are available for emergency situations described as an "immediate physical or emotional threat" to the child in S.1214. Therefore I would omit:

10 Nat. Center for Social Statistics, U.S. Department of Health, Education and Welfare. "Children Served by Public Welfare Agencies and Voluntary Child Welfare Agencies and Institutions, March 1973," DHEW Pub. No.(SRS) 76-

Section 101 (a) line 22-24, temporary...threatened inclusive
Section 101 (b) line 7-9, temporary...threatened inclusive
Section 101 (c) line 19-22, temporary...threatened inclusive
Section 102 (a) line 5-7, temporary...threatened inclusive
Section 102 (d) line 3-5, temporary...threatened inclusive

And substitute the following for each of the omissions above:

Under circumstances when the physical or emotional well-being of the child is immediately threatened, emergency temporary placement is to be within the reservation or county of a cooperating blood relative, private Indian individual, Indian family, Indian Tribe or Indian organization which offer such placement facilities/home(s) (if these facilities have not been exhausted through contacts as resources no child placement shall be valid or given any legal force and effect).

I support this type of change because I sincerely believe, as it has been my experience, that there are viable Indian people resources within the reservation and the county to meet these needs. I would uge that only after these resources have been exhausted that any other placement be allowed.

I see S.1214 giving Indian tribes jurisdiction over the welfare of a precious resource-their youth. That is why I do not object to the written notices however without any specifications as to 'when' the 30 days commences is ambiguous.

I propose for:

Section 101 (b) line 11
Section 101 (c) line 24 omit "of"
Section 101 (d) line 6
Section 101 (e) line 22

the following be added:

"being made via registered mail and the thirty days commencing with the tribal governing bodys' receipt of such notice."

I would like to see it made possible for the tribes as well as the

families to know all parties;

"prominent ethnic background"

within Section 101 (d) line 13

and

"their phone number or the phone number of a consenting neighbor"

within Section 101 (d) line 13.

Knowing the prominent ethnic background of the parties involved will help to establish whether or not this child will be placed with people compatible with that child's background.

If it becomes necessary to contact any of the parties it would be advisable to obtain the involved parties telephone numbers.

Also, although I hold deep respect for the decision of a judge I would not want to see a determination passed down on whether a child is Indian or not based solely on the Judges or a hearing officers discretion rather under:

Section 101 (e) line 2 after "notified" include: "To further ensure that the best interested of the child are adhered to in making such a decision an advocate for the child in question must be present and heard."

When withdrawing from an adoptive child placement I believe the family should be given the right to withdraw the child at any age. Therefore:

Under Section 102 (c) line 12 "and the child is over the age of two" should be omitted.

I want the Tribal governing body to be aware of what is happening to it's youth that is why

Under Section 102 (c) line 18 after adoption, I would add: "and the Tribal governing body has been notified via registered mail of this action."

Under Title II - Indian Family Development

We have been recruiting foster homes on the reservations and the counties in which the reservations are located, therefore, I do not want to see

Indian organizations limited to off-reservation Indian family development programs. I hereby request that an Indian organization be given the sole right to determine whether it wants to carry off-reservation ~~or on reservation~~ Indian family development programs.

I would then change:

Section 201 (c) line 8 after reservation to include "or on reservation"

This would give Indian tribes within an Indian organization the option to carry on an Indian family developement program as a Statewide project for people on or off the reservation. The following revision permits such a decision:

Section 202 (a) line 22 after tribe to include "or Indian organization"

Section 202 (a) line 23 after operate to include "on the reservation or off the reservation."

I see great possibilities under this Act for non-tribal government agencies to contract for the Indian organizations' foster homes resource, Therefore under:

Section 202 (b) line 23 after tribe include "or Indian organization"

An Indian organization can determine for itself whether it wants to operate an Indian family development program off or on the reservation under the Act. Therefore, under:

Section 203 line 9 after reservation include "or on reservation"

Our office has been approached to investigate the well-being and best interest of a youth already in placement by a member of the extended family and/or a private Indian individual I would like to see:

Section 204 (a) line 19 after requests, to include "or where the natural parent, Indian adoptive parent, blood relative or guardian does not exist or lacks the ability to care for the child. Then together or seperately, an interested private Indian individual(s) and the adolescent in question may request placement in an Indian foster home that desires the child,

and,

Section 204 (a) line 1 to include after restoring "or permitting" and,

Section 204 (a) line 4 include after left "Or in the case of an interested private Indian individual to allow a child placement to be made."

Dr. Kaplan concludes:

"The Indian culture with its customs and traditions, especially that of the Indian extended family, is a very valuable heritage and must not be lost. There is much we have to tell and teach the culture threatening our demise." (End Quote)

S.1214 can only be effective if you assure available approporiate funds for the attainment of its purpose and it's life. In developing this I would encourage the Secretary to involve more Indian people in its further development.

Thank you.

Arizona

WESLEY BOLIN
GOVERNOR

OFFICE OF THE GOVERNOR
STATE HOUSE
PHOENIX, ARIZONA 85007

IN REPLY REFER TO:

January 12, 1978

The Honorable Morris Udall
House Subcommittee on Indian
Affairs and Public Lands
U. S. House of Representatives
Washington, D.C.

Dear Congressman Udall:

Attached are comments on Senate Bill 1214, the Indian Child Welfare Act, as passed by the United States Senate and sent to this office by Senator James Abourezk.

We appreciate the opportunity to review this important legislation.

Sincerely,

Wesley Bolin
Governor

WB/pbh

cc: Senator Abourezk

S. 1214 Indian Child Welfare Bill

We continue to support this bill as compatible with, and contributing to sound principles of service to children and their families. There remain some areas of concern that we hope will be addressed by the House Committee now considering this Bill:

Sec. 101C pg. 29 lines 8-15	"If the consent is to an adoptive child placement, the parent or parents may withdraw the consent for any reason at any time before the final decree of adoption." This provision will add a high risk factor to the placement of Indian children, and may significantly reduce their opportunities for adoptive placement. Given thorough counselling prior to the relinquishment, and compliance with all other federal and local statutes, the right to withdraw consent up to the time of the final decree of adoption seems unnecessary for the parent and potentially damaging to the child.
Sec. 101 (e) pg. 31 lines 3-5	"Such notice shall include the exact location of the child's present placement..."
Sec. 102 (a) pg. 31 lines 22-24	"Such notice shall include the child's exact whereabouts..."
Sec. 102 (e) pg. 33 lines 12-14	"Such notice shall include the child's exact whereabouts..." This requirement may be appropriate in most instances. However there will be cases in which providing this information to the parent(s) or custodian may endanger the child and/or the family providing care. A qualification to protect the child by witholding this information from an abusive or otherwise violent parent seems appropriate.
Sec. 104 page 39 lines 13-22	"In order to protect the unique rights associated with an individual's membership in an Indian tribe, after an Indian child who has been previously placed attains the age of eighteen, upon his or her application to the Court which entered the final placement decree, and in the absence of good cause shown to the contrary, the child shall have the right to learn the tribal affiliation of his parent or parents and such other information as may be necessary to protect the child's rights flowing from the tribal relationship."

The original wording of this section allowing the adult adoptee to learn the names of parents and siblings, and reasons for severing the family relationship was preferable.

Two significant areas of concern are not addressed in this Bill, which promise confusion if not clarified:

1. Applicability of state laws regarding termination of parental rights by Court action.

2. When a child has one Indian and one non-Indian parent, safeguards for the rights and interests of the non-Indian parent, and the child's relationship to the non-Indian community.

Summary

In general, there is a leaning toward recognizing parents' rights at the expense of children's rights, which is not uncommon in social welfare legislation. Ideally, this imbalance should be corrected. In spite of this, the bill is generally satisfactory, and the aim of recognizing and safeguarding cultural differences of children and parents for the purpose of strengthening families is compatible with sound social work practice that should be available to every family, regardless of cultural background.

STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK

BILL CLINTON
ATTORNEY GENERAL

February 23, 1978

Senator James Abourezk
Senate Indian Affairs Committee
5325 Dirkson Office Building
Washington, D.C. 20510

Dear Senator Abourezk:

Your letter concerning S. 1214, the Indian Child Welfare Bill, has been referred to my desk for handling.

Part of my responsibilities include the representation of the Juvenile Services Division of this State. In that capacity I have become acutely aware of the part played by the family in healthy child development. A child's development cannot be underplayed in addressing the problems of juveniles.

S. 1214 is to be commended as representing an enlightened and healthy approach to promoting the family instituion, not only among Indians but in the United States overall.

Thank you for affording this office an opportunity for comment. Please do not hesitate to call if further help is necessary.

Sincerely,

BILL CLINTON

By: Vashti O. Varnado
VASHTI O. VARNADO
Assistant Attorney General

VOV:cd

cc: Congressmen Morris Udall & Teno Roncalio
House Subcommittee on Indian Affairs
and Public Lands
U.S. House of Representatives
Washington, D.C.

California

MERVYN M. DYMALLY
LIEUTENANT GOVERNOR

State of California
OFFICE OF THE LIEUTENANT GOVERNOR
STATE CAPITOL
SACRAMENTO, CALIFORNIA 95814

(916) 445-9533

RECEIVED
JAN 17 1978

January 11, 1978

The Honorable James Abourezk, Chairman
Select Committee on Indian Affairs
5325 Dirksen S.O.B.
Washington, D.C. 20510

Dear Senator Abourezk:

I am sending this letter in support of S. 1214.

I am aware that non tribal government agencies separate many Indian children from their natural parents and place them in institutions or non-Indian foster homes. I realize that it is culturally and socially undesirable to place Indian children in homes or institutions which do not meet their special needs; indeed, this most likely does more harm than good.

In view of these and many other inadequacies, I feel there is a great need to establish standards for placing Indian children in foster homes and to assist Indian tribes in instituting family development programs to secure and stabilize the Indian families and culture. My support of S. 1214 is without qualification.

Sincerely,

MERVYN M. DYMALLY

MMD:jmk

Colorado

MAR 31 1978

J.D. MacFarlane
Attorney General
David W. Robbins
Deputy Attorney General
Edward G. Donovan
Solicitor General

The State of Colorado
DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

STATE SERVICES BUILDING
1525 Sherman Street, 3rd. Fl.
Denver, Colorado 80203
Phone 839-3611 & 839-3621

March 27, 1978

Senator James Abourezk
Senate Indian Affairs Committee
5325 Dirksen S.O.B.
Washington, D.C. 20510

RE: S.1214 - Indian Child Welfare Bill

Dear Senator Abourezk:

I have reviewed your letter dated December 1, 1977, and S.1214. My comments follow below.

§201(b) of the Indian Child Welfare Bill states that Indian foster or adoptive homes may be licensed by an Indian tribe. This section also states that "for the purposes of qualifying for assistance under any federally assisted program, licensing by a tribe shall be deemed equivalent to licensing by a State." This section raises a very serious question of adequacy of care. The licensing of foster care homes requires a high level of experience and knowledge in the area of child care. Although §201(a) of the Bill, among other things, provides that the Secretary of the Interior can prescribe rules establishing "(1) a system for licensing or otherwise regulating foster and adoptive homes." §201(b) does not require Indian tribes to license foster homes pursuant to these regulations. The Indian Child Welfare Bill, therefore, does not guarantee that a tribe which licenses a foster care home will do so in accordance with any sort of standards.

The Bureau of Indian Affairs provides virtually all of the child welfare services furnished on Colorado Indian Reservations. The State of Colorado presently does not license foster homes on Indian reservations, nor does it pay for any foster care services because jurisdiction over such on-reservation activities has not been granted by act of Congress. §201(b) would allow Indian tribes to license foster care homes on Indian reservations. Once a home is licensed by a tribe, Colorado would be forced to treat it as though licensed by the State. Thus, Colorado could end up paying for foster care in homes that it did not license.

Senator James Abourezk
March 27, 1978
Page 2

Depending upon the extent to which Indian tribes located in Colorado take advantage of this section, the State could end up paying for a great deal of the foster care services on Indian reservations when presently it is paying for none. The State, therefore, has a considerable interest in seeing that licensing is done in accordance with adequate standards.

The power to license foster homes should be delegated only to an entity which has the expertise to properly exercise this power. The Indian Child Welfare Bill gives this power to Indian tribes which may or may not exercise it properly and in the best interests of all Indian children. The Bill could be improved by amending the last sentence of §201(b) to read:

> "For purposes of qualifying for assistance under any federally assisted program, licensing by a tribe pursuant to the regulations described in §201(a) of this Act shall be deemed equivalent to licensing by a State, if such standards are at least as stringent as those imposed by the State."

If I can be of any further assistance in this matter, please feel free to contact me.

Very truly yours,

J. D. MacFARLANE
Attorney General
State of Colorado

JDM:RMH:nh

The Department of Law
State of Georgia
Atlanta
30334

ARTHUR K. BOLTON
ATTORNEY GENERAL

132 STATE JUDICIAL BUILDING
TELEPHONE 656-3300

January 4, 1978

Honorable Teno Roncalio
U. S. Representative, Wyoming
Chairman, House Subcommittee on Indian
Affairs and Public Lands
U. S. House of Representatives
Washington, D. C. 20515

RE: S. 1214, Indian Child Welfare Bill

Dear Representative Roncalio:

Recently Senator James Abourezk, South Dakota, forwarded me a copy of the captioned bill with a request for such comments as I would like to make with respect to the bill. In that the bill directly concerns matters which are the responsibilities, under State law, of two of my State agency clients, rather than comment myself on matters within their responsibilities, I have requested each to provide their comments directly to you. These agencies are the Department of Human Resources and the Georgia State Commission of Indian Affairs.

Nevertheless, if I may be of assistance to you, please do not hesitate to contact me.

Sincerely yours,

ARTHUR K. BOLTON
Attorney General

AKB/ad

cc: Honorable James Abourezk
United States Senator, South Dakota

Georgia

W. Douglas Skelton, M.D./Commissioner

GEORGIA DEPARTMENT OF HUMAN RESOURCES

47 TRINITY AVENUE, S.W., ATLANTA, GEORGIA 30334

January 17, 1978

RECEIVED
JAN 26 1978

Honorable Teno Roncalio, Chairman
House Committee on Indian Affairs and Public Lands
United States House of Representatives
Washington, D. C. 20515

Dear Mr. Roncalio:

On December 1, 1977, Senator James Abourezk referred to the Georgia Attorney General's Office a copy of S. 1214, the Indian Child Welfare Bill. This is the proposed legislation which will have substantial impact on Indian tribes and organizations as well as agencies providing child welfare services. The Attorney General's Office has referred this proposed legislation to me as Commissioner of the Department of Human Resources and to the Georgia Commission on Indian Affairs, the two major agencies providing services to persons in Georgia with Indian heritage.

On review of this proposed bill, I believe that the purposes and ~~standards~~ provided in this Act are consistent with the philosophy of this agency, which is that one's heritage is very important to the individual and that services must be provided in such a manner as to preserve that heritage for the individual. It is the intention of this agency to manage all services to persons of Indian heritage in such a manner as to meet the standards; however, it should be of particular value to have an established recognizable network of Indian tribes or organizations with whom we can collaborate in the best interest of children needing placement.

Sincerely,

W. Douglas Skelton, M.D.
Commissioner

WDS:hdl

cc: Mrs. Patricia Johnson, Director
Division of Family and Children Services

Miss Joyce Stringer, Director
Specialized Services Section

Mr. Nathan Andereck, Chief
Services to Families and Children

Miss Hester Dixon
Social Services Consultant

Senator James Abourezk

Mr. Arthur Bolton
Attorney General

176 S.a Ch. 4 & 11s

The Commonwealth of Massachusetts
Commission on Indian Affairs
State House — Rm. 176-176A
Boston, Mass. 02133
Telephone 617-727-6394

MICHAEL S. DUKAKIS
Governor
WILLIAM G. FLYNN
Secretary

COMMISSIONERS:
Beatrice Gentry, Chairman
Edith Andrews, Secretary
Amelia Bingham
Zara CiscoeBrough
Philip Francis
Frank James
Clarence Moran

July 7, 1977

The Honorable James Abourezk
Chairman
Senate Sub-Committee on Indian Affairs
Room 1105
Dirkson Senate Office Building
Washington, D.C. 20510

Dear Senator Abourezk:

The Massachusetts Commission on Indian Affairs has reviewed your Indian Child Welfare Act of 1977 (S.1214), and we feel that this bill is worthy of serious attention and consideration of the United States Congress.

As you seem to understand, for too many years, too many of our Indian Children have been removed from their families, relatives and Indian communities by non-Indian social workers who are not capable of properly assesing the Indian family unit/life-style. Most of these children have been adopted by or put in foster homes of non-Indian people. These children are being robbed of their culture, for only an Indian family as the same Nation as the child can raise the child in his/her proper cultural ways. These children sustain tremendous psychological suffering from this situation which continues to have substancial impact on them in their adulthood. A good number of these children never live long enough to reach adulthood.

We feel that S.1214 is making an honest attempt to help remedy this situation. However, parts of Section 4 (Definitions) pose major problems in terms of application of the bill's provisions to all Indian People living in the United States. Section 4 (a) says, "'Secretary,' unless otherwise designated, means the Secretary of the Interior." It is therefore obvious that it is intended

that this bill be implemented through the Bureau of Indian Affairs. The BIA has its own criteria as to who the Indian People are. For the most part, Indian People East of the Mississippi will be excluded (as has been the case historically) from the provisions of the bill, as well as all other Indian People who do not have direct affiliation with Tribes occupying federal trust reservation lands. Yet, the children of the "non-recognized" Tribes are equally subject to this immoral mistreatment as the children of the "recognized" Tribes. Section 4 (b), (c) and (d) supports the BIA criteria by definition, again leaving out non-reservation Indian People.

There is yet another group of Indian People who are left out of this bill. Many Indians from Tribes whose homelands are in Canada are living in the United States, especially in the border states. These children and their parents also need the protection of this bill. While they are living in the United States, they face the threat of United States authorities taking their children; therefore, while they are living here they should also be extended the protection from that threat.

We are proposing that the bill be amended as follows:

1. Section 4 (a) - "Secretary, unless otherwise designated, means the Secretary of the Department of Health, Education and Welfare." - With this change, the bill would not go through the BIA; therefore, BIA criteria would not be used to exclude particular Tribes.

2. Section 4 (b) - The definition of "Indian" should read as follows: "American Indian or Indian" means any individual who is a member or a descendent of a member of a tribe, band or other organized group of native people who are either indigenous to the United States or who otherwise have a special relationship with the United States through treaty, agreement or some other form of recognition.

3. Section 4 (c) - The definition of "Indian Tribe" should read as follows: "Indian Tribe" means a distinct political community of Indians which exercises powers of self-government.

4. Section 4 (d) - The definition of "Indian Organization" should read as follows:
"Indian Organization" means a public or private nonprofit agency whose principle purpose is promoting the economic or social self-sufficiency of Indians in urban or rural non-reservation areas, the majority of whose governing board and membership is Indian.

With the exception of these proposed amendments, we feel that this is a very crutial bill deserving of passage and implementation. The Massachusetts Commission on Indian Affairs is in basic agreement with and in support of the bill, particularly in its suggested amended form. We strongly urge that you seriously consider these proposed amendments and support their implementation, in the best interests of our Indian Children.

Sincerely,
Beatrice Gentry

Beatrice Gentry
Chairman

/c-js

New Mexico

JERRY APODACA
GOVERNOR

STATE OF NEW MEXICO
OFFICE OF THE GOVERNOR
SANTA FE
87503

January 16, 1978

The Honorable James Abourezk
1105 Dirksen Bldg.
Washington, D. C. 20520

Dear Senator Abourezk:

Because I firmly believe that the future of our country and its strength lay in our children, I am writing to express my full support of S.1214, The Indian Child Welfare Act of 1977.

This bill goes along way toward recognizing the parental rights of the Indian children as well as the well-meaning involvement of non-Indians in educating and training these children to reach their highest potential.

New Mexico has done much to improve the welfare of its youth, and it is indeed gratifying to see that the federal government is taking steps on a national level to protect their rights as well.

I urge full support and strongly recommend passage of Bill S.1214.

Sincerely,

JERRY APODACA
Governor

JA:lw

North Dakota

Arthur A. Link
Governor

January 31, 1978

The Honorable Quentin N. Burdick
United States Senator
Room 451, Russell Office Building
Washington, D.C. 20510

Dear Quentin:

Recently you have been contacted regarding S. 1214, "The Indian Child Welfare Act of 1977," which is supported by the North Dakota Indian Affairs Commission, on grounds that such legislation is long overdue because it establishes standards for the placement of Indian children in foster or adoptive homes in order to prevent the breakup of Indian families.

It has also been brought to your attention that the North Dakota Indian Affairs Commission opposes H.R. 9054, "The Native Americans Equal Opportunity Act;" H.R. 9950, "The Omnibus Indian Jurisdiction Act of 1977;" and H.R. 9951, "The Quantification of Federally Reserved Water Rights for Indian Reservations Act."

I have just received a copy of United Tribes Educational Technical Center Resolution No. 78-02-UT expressing their opposition to H.R. 9054, H.R. 9950, and H.R. 9951.

I agree with the positions taken by the North Dakota Indian Affairs Commission and by the United Tribes Educational Technical Center on these matters.

Please feel free to use this letter in any way you see fit in order to promote these objectives.

With best regards,

Sincerely yours,

ARTHUR A. LINK
Governor

AAL:ah

Oklahoma

STATE OF OKLAHOMA
OFFICE OF THE GOVERNOR
OKLAHOMA CITY

DAVID L. BOREN
GOVERNOR

October 21, 1977

Mr. Michael Cox
Minority Counsel
Select Committee on Indian Affairs
United States Senate
Room 5331, Dirksen Senate Office Bldg.
Washington, D. C. 20510

Dear Mr. Cox:

At the request of Senator Dewey F. Bartlett, I have received a copy of S. 1214, the "Indian Child Welfare Act of 1977." I have reviewed the original and redrafted bill thoroughly. I believe this bill merits full endorsement. The guarantees provided in S. 1214 for Indian children will contribute to maintaining the stability of Indian families. In addition, the bill recognizes the special "non reservation" condition which exists in Oklahoma.

I commend the Select Committee on Indian Affairs for its work. If my office can assist you further, please contact Mrs. Gail Scott. I am pleased to lend my support to the passage of this important legislation.

Sincerely yours,

DAVID L. BOREN

OREGON

JAMES A. REDDEN
Attorney General

DEPARTMENT OF JUSTICE
State Office Building
Salem, Oregon 97310
Telephone (503) 378-4402

February 28, 1978

Peter S. Taylor
Special Counsel
United States Senate
Select Committee on Indian
Affairs
Washington, D.C. 20510

Dear Mr. Taylor:

My understanding of S. 1214 is that there would be "a chilling effect" on placements of Indian children in non-Indian settings, although it would not be "impossible" for Indian children to move through the juvenile corrections system or the state adoption system. My comments were directed to the legislation with that understanding in mind.

I will be interested in the revisions, if any, made of the legislation but as stated in earlier correspondence, we have no objection to the thrust of the legislation.

The courts in Oregon have often said that all legislation dealing with children is to be construed to benefit the child. That is the point of this legislation and all of us hope that the objective is attained.

Very truly yours,

James A. Redden
Attorney General

JAR:cm
cc: Douglas Nash

Washington

June 7, 1977

Senator James Abourezk
Select Committee on Indian Affairs
U.S. Senate
Washington, D.C.

Dear Senator:

We appreciate the opportunity to provide comments on S.1214.

At this time we would like to register general support for the bill because it faithfully reflects definite solutions to the many complicated social and jurisdictional problems and issues identified during the 1974 Indian Child Welfare Hearings. This is a tribute to S.1214 because so much federal legislation today fails to clearly address the causes, or at least some of the basic roots of problems identified through the legislative hearing process. S.1214 does progress toward a meaningful system to erase the negative aspects of Indian child welfare programs in a manner which coincides with the federal policy of Indian Self Determination. In addition S.1214 establishes an enlightened and practical approach to legal jurisdiction and social services delivery to Indian People.

We are not including any recommendations for specific modifications at this time, but we will be working with and in support of such recommendations which will soon be forthcoming from individual Indian tribes and organizations in Washington state and the National Congress of American Indians.

While S.1214 does not amend P.L. 83-280, it will provide some important financial and social service relief and protections to Indian tribes, organizations, and individual families and children in partial P.L. 83-280 states such as Washington. Of course, the recent landmark U.S. 9th Circuit Court of Appeals decision regarding the reversal of State P.L. 83-280 jurisdiction on the Yakima Reservation emphasises the need for the passage of S.1214.

Thank you again for the opportunity to register support for S.1214.

Sincerely,

Don Milligan
Don Milligan
State Office Indian Desk
Department of Social and Health Services
Washington State

S. 1214
Wisconsin

The State of Wisconsin
Department of Justice
Madison
53702

Bronson C. La Follette
Attorney General

David J. Hanson
Deputy Attorney General

March 13, 1978

The Honorable James Abourezk
Senate Indian Affairs Committee
5325 Dirksen State Office Building
Washington, D.C. 20510

Dear Senator Abourezk:

Re: The Indian Child Welfare Bill S-1214.

Thank you for providing me with a copy of S-1214, the Indian Child Welfare Bill. You indicate that the legislation has been referred to the House Committee on Interior and Insular Affairs Subcommittee on Indian Affairs and Public Lands, and that you and the house subcommittee and committee chairmen would like my comments on the bill as passed by the Senate.

I agree that special legislation to resolve Indian child welfare problems is needed. A primary concern is whether the tribes or the states have jurisdictional responsibility for Indian child welfare matters. The current jurisdictional uncertainty in Public Law 280 states such as Wisconsin will be eliminated by the proposed legislation. By making clear that tribal government with federal financial support rather than state government has the responsibility for such matters there will be greater assurance nationwide that Indian children will be able to find placement in Indian homes and in Indian-operated facilities.

It is my belief that issues involving jurisdiction are the most pressing in Indian law today. In Wisconsin, such questions involve virtually all subject matter areas including child welfare. I am advised that both the State Department of Health and Social Services and various county social service agencies have established and are currently implementing a policy of placing Indian children in Indian homes whenever such homes are available. Such placements, of course, occur both within and without reservation boundaries with perhaps the largest numbers of such placements being found in urban areas with large Indian populations. Two concerns involving the exercise of jurisdiction are worth special consideration.

The Honorable James Abourezk
Page 2

First, the legislation seems to extend tribal jurisdiction anywhere within the state and arguably anywhere within the United States. In other words, if my reading of the legislation is accurate, the state court involved is required to make a determination of whether the child has significant contacts with an Indian tribe regardless of location (sec. 102(c) and (f)), and if so, then jurisdiction is transferred to that tribe if it has a tribal court. It would appear that most Indian people residing outside reservation boundaries would satisfy the criteria used for determining significant contact since maintaining tribal relations is a common practice.

There are obvious potential problems associated with the transfer of jurisdiction to tribal courts. For example, the parent or parents and child may be located in an urban center a long distance away from the reservation making personal contact between them and the tribe difficult or perhaps impossible. Solving such practical problems must occur at some point. Where, however, transfer to a tribal court is not appropriate because of lack of significant contacts, the state courts must nevertheless, in the absence of good cause shown to the contrary, comply with the preferences set forth in sec. 103. It is unclear what would constitute good cause, but experience has shown that the principal criticism has been that state standards for determining acceptable adoptive or foster care homes tend to eliminate many Indian families. This is the second point worth special consideration.

It is true that Wisconsin has established high standards for placing children in adoptive and foster care homes. Although as indicated the policy has been to attempt to place Indian children with Indian families from the same tribe or from other tribes when necessary, the fact remains that on occasion suitable Indian families under state standards have not been found necessitating placement with non-Indian families. The objective, however, of ensuring that Indian children will be able to maintain their tribal heritage may outweigh any competing interest the state may have in applying state standards for determining quality of homes for placement purposes. Effective tribal government, of course, can reduce or eliminate such concerns. Therefore, perhaps the most critical areas of the legislation involve effecting basic relationships between the state and Indian tribes.

Although each tribe is somewhat unique, it is, nevertheless, important that basic governmental structures and institutions either be created or strengthened by all tribes. Attention and focus on the concept of tribal self-government has only recently begun to improve and strengthen the governments of

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The Honorable James Abourezk
Page 3

Wisconsin tribes. Appropriations, of course, are needed to realize effective self-government. Lack of sufficient federal funds could severely curtail the ability of tribes to be self-governing in child welfare matters.

Once tribes develop viable institutions to exercise governmental powers, existing inter-governmental models could be adopted or modified to take into consideration the unique status of Indian communities. Obviously, new procedures can be developed where necessary to enable coordination and cooperation between the state (and local units of government) and individual tribes (or there may be inter-tribal governmental organizations established.)

As with any major piece of legislation, a number of questions will no doubt arise as tribal government assumes primary responsibility for Indian child welfare matters. Such questions as which court will determine paternity, the effect of voluntary placement by a parent or parents, the availability and payment for state facilities, and similar questions, will no doubt arise. In resolving such problems, cooperation among the federal, state and tribal governments is extremely important. By promoting cooperation the legislation may help avoid litigation on such matters.

Sincerely yours,

Bronson C. La Follette
Attorney General

BCL:aag

cc: Congressman Morris Udall
Congressman Teno Roncalio

FEDERAL REGIONAL COUNCIL OF NEW ENGLAND

Room E-431
John F. Kennedy Fed. Bldg.
Boston, Mass. 02203
(617) 223-5421

August 30, 1977

Honorable James Abourezk
Select Committee on Indian Affairs
United States Senate
Washington, D. C.

Dear Senator Abourezk:

For the last two years the Indian Task Force of the Federal Regional Council of New England has chosen as a priority concern questions relating to Indian Child Welfare. For this reason the Task Force has closely watched the legislation you have put forth on this subject. At our last meeting S.1214 was again discussed. I have been asked to summarize points raised by Indian ITF members at that time in a letter to you for inclusion in the August 4, 1977 Hearing Record, which I understand remains open for written submissions.

New England Indian leaders strongly support the program described in S.1214. As with its earlier draft (S.3777), New England Native Americans are deeply concerned by the Bill's reliance on "Federal recognition" language which, as it stands now, would exclude nearly all of them from the benefits of the Bill. This point was raised in correspondence from my office to you in March and May of 1976 (attachments 1 and 2). There is a similar concern about the placement of this program in the Department of Interior.

Several New England Indian groups have proposed that the functions outlined in S.1214 be assigned to the Administration for Native Americans (ANA) in the Department of Health, Education and Welfare (DHEW). This change would circumvent all definitional barriers, based either in law or practice, which are not relevant to the needs of Indian children and families. Given the continued poor relations between BOI and all segments of this Region's Indian community, this alternative should be adopted in S.1214.

I have heard it suggested that the recognition question is a "separate issue" and should be handled under separate legislation. If it is a separate issue, then certainly it ought not to be used so boldly within S.1214 to unnecessarily exclude a significant portion of the service population described in the Bill. New England tribes oppose any legislative strategy which would require them to await the passage and implementation of additional "recognition legislation" before they might become eligible for the crucial assistance to be provided under this Bill.

The inclusion of S.1214 within DHEW/ANA would also insure that attention be given to the child welfare problems of Indian people from Canada who live in the United States and whose rights and status in this country are protected by the Jay Treaty of 1794, the Explanatory Articles of 1796, the Treaty of Ghent of 1814 and other treaties and agreements which they signed. The ONAP definition of Indian was redrafted specifically to deal with such people. Indian people, from tribes usually associated with Canada, are a major source of Indian to White foster and adoptive placements across the northern sections of the United States. In Aroostook County, Maine, for instance, nearly all 1,000 Indians residing there are Micmacs and Maliseets. Aroostook is part of Maliseet aboriginal territory. In 1972 there were 73 Indian children in foster care in Aroostook, about one of every seven Indian children in the county; (using incorrect 1970 census data AIPRC Task Force IV estimated one of every 3.3 Indian children, p. 505). These statistics support the contention that the Indian foster and adoptive problem in Maine is substantially a Micmac and Maliseet problem, for although this county has only one-fourth of the Indian population in the State, it has consistently had more than one-half of the Indian foster placements. In August of 1977, at the Penobscot Nation in Maine, a convention attended by 260 Native people from New England and eastern Canada, drawn primarily from the Wabanaki confederacy tribes (Penobscot, Passamaquoddy, Maliseet, Micmac and Abenaki) unanimously adopted a resolution citing the Indian Child Welfare problem (attachment 3). The resolution in part states that:

> "The existing non-Indian child welfare systems in both countries have seriously undermined the Indian family structure and have contributed to the loss of Indian identity, and families and children who have crossed the (U.S.-Canadian) border are particularly vulnerable to these systems..."

I understand that DHEW has requested that the Select Committee defer action on S.1214 in lieu of S.1928, the "Child Welfare Amendments of 1977." To the extent that those "Amendments" can be changed to accommodate the programs proposed in S.1214, I have heard no major objection to this suggestion, especially if this strategy will give added strength to your Bill's likelihood of passage. However, there would be great concern, if by its merger with S.1928, your proposal would in some way be diluted. Native groups in New England would particularly object to the dropping of direct Federal funding of Indian tribes and community organizations. The history of State/Indian relations, both within this Region and without, casts considerable doubt on the possibility of any funding arrangement which would channel such Federal support through States.

The Boston Indian Council, the Central Maine Indian Association, and possibly other New England groups have submitted detailed comments on S.1214 for the hearing record. I will defer to them in making further specific comments except to draw your attention to the points listed in my letter of May 25, 1976, which I believe are still relevant (attachment 2). I also understand that a copy of "Northeast Indian Family Structure and Welfare Delivery Systems in Maine and Massachusetts", a research and demonstration proposal developed by a consortium of Maine and Massachusetts Indian communities, has been submitted for review by your staff and for inclusion in the hearing record.

Sincerely,

Gregory P. Buesing
Indian Task Force Coordinator

Attachments

cc: Terry Polchies, FRC/ITF Indian Co-Chairman
Edward Bernard, FRC/ITF Federal Co-Chairman
Michael Ranco, CMIA
David Rudolph, CMIA
Clifford Saunders, BIC

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EASTERN AREA
Jonathan Ed Taylor
Cherokee

October 3, 1978

HAND-DELIVERED FOR
YOUR IMMEDIATE ATTENTION

Dear Congressman:

The National Congress of American Indians, the oldest, largest, and most representative Indian Organization in the country, representing the views of over 140 tribes, is today writing to urge your support for a bill which we consider to be one of the most important pieces of legislation to be reported during the entirety of the 95th Congress.

The Indian Child Welfare Act, H.R. 12533, was introduced in the House of Representatives by Congressman Udall on May 3, 1978, and was reported out of the Interior and Insular Affairs Committee to the full House on July 24, 1978. This key bill has a total of 16 co-sponsors. The companion bill in the Senate, S.1214, passed that body on November 4, 1977.

H.R. 12533, as described in the subtitle of the bill, is designed to establish standards for the placement of Indian children in foster or adoptive homes and to prevent the breakup of Indian families. The reasons that legislation of this nature is necessary is truely a grim story. In the continually vacillating policies of this country toward Indian people, our children have suffered the hardest.

The forced assimilation policies of the earlier parts of this century are still evident, even though these attitudes are supposedly history. Consider the following data. In California, the adoption rate for Indian children is 8 times the rate for non-Indians, on a per capita basis. And, in fact, 93% of these Indian children are adopted by non-Indian families. And, to cite another example, consider the fact that in South Dakota, the per capita foster care rate for Indians is 22 times the rate for non-Indians.

The Association on American Indian Affairs, in data compiled during a 19-state survey, concluded that 25-35% of all Indian children are now separated from their families. And Dr. Joseph Westermeyer, Department of Psychiatry, University

of Minnesota, has reported statistics from a Minnesota study conducted between 1969 and 1971 which found that, "The rate of foster placement and state guardianship for Indian children ran 20 to 80 times that for majority children in all counties studied."

Data of this nature is to be found in every state which has a significant Indian population. It is essential that legislation be enacted to change these policies and return control over Indian children's lives to where it belongs: the child's parents and tribal courts.

The Indian Child Welfare Act sets forth provisions to create on-reservation Indian Family Development programs with full professional and legal counseling services. It delineates under which circumstances Indian children can be adopted, and mandates that the child's parents receive notice of court proceedings - which has not been done in the past. Provisions also require the Secretary of the Interior to maintain records of Indian children placed in non-Indian homes.

Indian people have been fighting for legislation of this nature for over two Congresses now. There cannot be another delay. We cannot urge strongly enough the need for your fullest support for H.R. 12533.

Please note that this legislation not only has the support of national Indian organizations and tribes across the country, but many non-Indian organizations as well, including:

American Academy of Child Psychiatry
Office of Government Relations, American Baptist Churches, USA
Emerging Social Issues, National Board of Church and Society of the United Methodist Church
Mennonite Central Committee, Peace Section, Washington Office
Save the Children Federation
Bureau of Catholic Indian Missions
Office for Church in Society - United Church of Christ
National Jesuit Office of Social Ministries
Union of American Hebrew Congregations
Church of the Brethren, Washington Office
Friends Committee on National Legislation
National Committee on Indian Work of the Protestant Episcopal Church, USA
United Presbyterian Church USA, Washington Office
Concerned United Birthparents, Inc.
American Civil Liberties Union

Once again, please help us to protect our most vital resource, our children, and support H.R. 12533.

Sincerely,

Albert W. Trimble
Executive Director
NCAI

S 1214

Catholic Children's Services

Adoption
Child Day Care
Counseling
Family Life Program
Foster Family Care
Group Home Care
Single Parent Services

January 20, 1978

The Honorable Morris K. Udall
Subcommittee on Indian Affairs & Public Lands
House of Representatives
1329 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Udall:

Senate Bill 1214, Indian Child Welfare Act of 1977, would have a deep and far-reaching impact on the lives of Indian youngsters. Our agency has studied the bill as it was passed in the Senate in November, 1977.

While we see some very positive aspects, especially in Title II, Indian Family Development, which relates to developing Indian social services for tribes and families, we have grave concerns about other sections which are outlined in the attached statement.

We appreciate your review of these sections which would profoundly affect the lives of so many dependent children.

Very truly yours,

Mary E. Farris

Mary Ellen Farris
Chairman, Board of Directors

MEF:njt
Encl.

A United Way Agency

1715 EAST CHERRY STREET • SEATTLE, WASHINGTON 98122 • (206) 323-6336

SEATTLE
CATHOLIC CHILDREN'S SERVICES

POSITION ON SB 1214
PROPOSED INDIAN CHILD WELFARE ACT OF 1977

Catholic Children's Services has a long history of providing social services to Indian children and families. Currently there are 30 children in foster care placements, and it is anticipated that the agency will continue to receive requests to serve other Indian children. The agency feels a deep commitment to the welfare of these children, and it is from this posture of experience and concern that we must express serious reservations about certain aspects of SB 1214, The Indian Child Welfare Act of 1977.

We support and advocate the intent of this legislation in terms of its response to the value of the Indian heritage and the importance of this heritage to Indian children. Also, the provisions which would assist Indian people develop much-needed social service resources is an essential element of the overall move toward Indian self-determination and assumption of responsibility for the various needs of the Indian peoples.

Nonetheless, we feel the proposed legislation reaches beyond the reasonable parameters of an effort to protect Indian heritage and appears to compromise the rights of parents and their children in deference to establishing rights of the tribe. Beyond this, the proposed legislation may, because of procedural complexity, introduce prolonged delays and/or protracted litigation which in effect would impede any reasonable effort to provide the child with a secure and predictable environment.

In particular, our concerns are as follows:

1. The proposed statute declares that all Indian children shall be subject to its provisions regardless of whether the parents do now or ever have recognized their Indian heritage or wish to have their child subject to the provisions of the Act. Simply put, once a determination is reached that the child is Indian (and by definition this means any person who is a member of or who is eligible for membership in a federally recognized Indian tribe), the Act moves quickly to establish both a mandated and structured order of preference for placement as well as a determination of jurisdiction for tribal courts. The clear interest of the individual, whether child or parent, becomes obscured at this point by complicated procedural requirements.

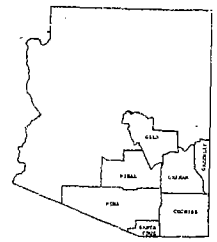
This matter becomes of particular significance when the child is of mixed racial origin and where while perhaps qualifying technically as an Indian, the dominant characteristics are clearly non-Indian. For certain of these children (where no discernible ties exist with the Indian community), the strict application of the Act may lead to complicated and prolonged inquiries following the requirements of Section 103 which will prove fruitless. The attendant delay, which we estimate could be up to several months as compared to only a few weeks for non-Indian children, will cause undue hardship on the child and its family.

Therefore, we recommend that the proposed Act be modified to permit a court of competent jurisdiction to grant a waiver of the Act where: the parent or parents of an Indian child, who do not now have or have never maintained an Indian identity make an informed request/consent for waiver of the Act. This waiver should not, however, impair the right of the child at some future time to learn of his Indian heritage and to assert this heritage for any purpose.

2. Section 101(C) provides that "the parent or parents may withdraw the consent for any reason at any time before the final decree of adoption." The scope of this provision would effectively undermine any placement plan for an Indian child and likely create an atmosphere of uncertainty and stress. Furthermore, few parents would be willing to undertake an adoptive placement under these circumstances. We would recommend that the proposed legislation be amended to require cause for withdrawing consent or structured to preclude a voluntary relinquishment of custody.

3. Section 101(a)(b) in establishing the order of preference does not include any provision for the placement of an Indian child in a non-Indian setting. Therefore, it would appear that such a placement would be precluded regardless of any circumstances which might warrant such placement. We would recommend that these sections be modified to include a non-Indian placement where it can be substantially established that this is in the best interest of the child.

4. Section 101(C) states that "a final decree of adoption may be set aside upon a showing that --- the adoption did not comply with the requirements of this Act or was otherwise unlawful, or that the consent to the adoption was not voluntary." Again, this appears to work against the intent of providing the child with a stable situation that is protected from unwarranted stress. We would recommend that the legislation be modified to require the court of competent jurisdiction prior to issuing an order of final decree to carefully reach a formal determination that the consent was voluntary and that the requirements of the Act were met to the satisfaction of the court and that no more than this should be required for validity of the decree.



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Moriac Lodge

• • • • •

MEMBER AGENCY OF UNITED WAY AND BISHOP'S CHARITY AND DEVELOPMENT FUND

Catholic Social Service of Tucson
155 WEST HELEN STREET
TUCSON, ARIZONA 85705
(602) 623-0344

JOHN E. COTTER, DIRECTOR

January 19, 1978

JAN 24 REC'D

Representative Morris K. Udall
Cannon House Office Building - Room 235
Washington D. C. 20515

Dear Representative Udall:

We comprise the adoption staff of Catholic Social Service of Tucson. We are writing to ask that you not give your support to Senate Bill 1214 which was passed by voice vote in the Senate and is to be considered by your House subcommittee on Indian Affairs and Public Lands. In our opinion, the Bill is so poor, it cannot even be amended satisfactorily.

The Bill's intent is "To establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes." We applaud the intent of the Bill, but we deplore what it will effect if enacted:

1. The child's rights are ignored. He must be placed with an Indian tribe regardless of his special needs (Section 103a, 103b, 103c).

2. The natural parents' right to confidentiality are violated. An Indian parent is denied the right to choose to keep the adoption confidential which is in violation of the parents' privacy (103a, 103b, 103c).

3. An Indian parent must give preference to the tribe in placement. This restricts the parents' right to free choice in planning for the child (Section 103a, 103b, 103c).

4. The availability of identifying information regarding the child's natural family to the foster or adoptive parents is a gross violation of the natural family's rights (Section 301)

5. By definition of "Indian", any child who is more than one-fourth Indian would be covered by this act. This ignores the child's other cultural ties which might well be more prominant (Section 4, Section 102f, Section 103a).

MEMBER AGENCY OF
Catholic Community Services of Southern Arizona, Inc.
THE MOST REVEREND BISHOP OF TUCSON
FRANCIS J. GREEN, D.D.
THE REVEREND CHARLES A. GAST, M.P.A.
DIOCESAN EXECUTIVE DIRECTOR

6. *The child and the adoptive parents are exposed to hurt as a result of the provision that the natural parents' consent may be withdrawn at any time prior to the final decree of adoption. This might well discourage prospective Indian adoptive parents from pursuing adoption (Section 101c).*

7. *The child is exposed to renewed rejection. If an adoption fails, the natural parents and extended family must be recontacted (implying that they can again say "no" to the child - Section 101c).*

8. *The value of home and family is sacrificed on the altar of Indianness. A custodial Indian institution is preferred to a non-Indian foster home (Section 103b).*

This Bill deserves your close examination. Our Indians deserve better legislation.

Sincerely,

Jane Daniel
Adoption Coordinator

Lexann Downey
Adoption Worker

Frank McDonough
Associate Administrator

JD:LD:FM - acy

NATIONAL CONFERENCE
OF CATHOLIC CHARITIES
OFFICE OF THE EXECUTIVE DIRECTOR
1346 Connecticut Avenue, N.W., Suite 307 o Washington, D.C. 20036 o (202) 785-2757

June 12, 1978

Honorable Morris K. Udall
U. S. House of Representatives
Washington, D. C. 20515

Dear Mr. Udall:

While we support the objectives of the Indian Child and Welfare Act to establish safeguards in the placement of Indian children and to strengthen the ability of tribes to provide child and family services, in a previous letter to you (May 25, 1978) we noted some specific difficulties in the subcommittee bill which are not, in our view, resolved by the latest redraft we have seen.

In addition we have been in touch with other organizations (American Public Welfare Association, Child Welfare League and the North American Center on Adoptions) which have raised additional problems which need more careful study.

We are aware that several members of the Interior Committee also have concerns about the bill and the substitute which is being proposed.

With the above concerns in mind we strongly urge that the bill be given wider circulation for additional study and input before it is reported by your Committee and before it is debated on the floor of the House of Representatives.

Sincerely,

Rev. Msgr. Lawrence J. Corcoran
Executive Director