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## INDIAN CHILD WELFARE PROGRAM

MONDAY, APRIL 8, 1974

U.S. SENATE,  
SUBCOMMITTEE ON INDIAN AFFAIRS,  
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,  
*Washington, D.C.*

The subcommittee met at 9 a.m., pursuant to notice, in room 3110 Dirksen Office Building, Hon. James Abourezk presiding.

Present: Senators Abourezk and Bartlett.

Also present: Jerry T. Verkler, staff director, and Forrest Gerard, professional staff member.

**OPENING STATEMENT OF HON. JAMES ABOUREZK, A U.S. SENATOR  
FROM THE STATE OF SOUTH DAKOTA**

Senator ABOUREZK. The Indian Affairs Subcommittee hearings on Indian child welfare is now in session.

We have called these hearings today to begin to define the specific problems that American Indian families face in raising their children and how these problems are affected by Federal action or inaction. Many Americans and the Congress are becoming more aware of the difficulties Indian communities face in a broad range of areas: Health, education, land and water rights, economic development, among others. But there are few who are knowledgeable about the difficulties American Indians face in a matter of vital concern to them; namely the welfare of their children and their families.

It appears that for decades Indian parents and their children have been at the mercy of arbitrary or abusive action of local, State, Federal, and private agency officials. Unwarranted removal of children from their homes is common in Indian communities. Recent statistics show, for example, that a minimum of 25 percent of all Indian children are either in foster homes, adoptive homes, and/or boarding schools, against the best interest of families, tribes, and Indian communities. Whereas most non-Indian communities can expect to have children out of their natural homes in foster or adoptive homes at a rate of 1 per every 51 children, Indian communities know that their children will be removed at rates varying from 5 to 25 times higher than that.

Because of poverty and discrimination Indian families face many difficulties, but there is no reason or justification for believing that these problems make Indian parents unfit to raise their children; nor is there any reason to believe that the Indian community itself cannot, within its own confines, deal with problems of child neglect when they do arise. Up to now, however, public and private welfare agencies seem to have operated on the premise that most Indian children would

really be better off growing up non-Indian. The result of such policies has been unchecked, abusive child-removal practices, the lack of viable, practical rehabilitation and prevention programs for Indian families facing severe problems, and a practice of ignoring the all-important demands of Indian tribes to have a say in how their children and families are dealt with. Officials would seemingly rather place Indian children in non-Indian settings where their Indian culture, their Indian traditions and, in general, their entire Indian way of life is smothered. The Federal Government for its part has been conspicuous by its lack of action. It has chosen to allow these agencies to strike at the heart of Indian communities by literally stealing Indian children, a course which can only weaken rather than strengthen the Indian child, the family and the community. This, at a time when the Federal Government purports to be working to help strengthen Indian communities. It has been called cultural genocide.

Over the next 2 days we will hear from Indian parents, Indian children, national Indian leaders, as well as Indian and non-Indian professionals from around the country. From what we learn from them this committee hopes to be able to propose Federal action that will provide Indian communities and parents with the tools and the legal means to protect and develop their families. A number of urgent questions need to be answered; among them, what are the facts concerning child welfare practices by governmental and non-governmental agencies in Indian communities? What are Indian people seeking to do to change the situation? How can the Congress support this effort?

Underlying the answers to these questions are further questions about Federal responsibility and past Federal action in this regard. First, why has the Federal Government, under the auspices of the Bureau of Indian Affairs and the Department of Health, Education, and Welfare not been active, or not been active enough, in supporting and protecting Indian families? Why do State welfare departments, which receive substantial amounts of Federal moneys for the welfare of Indian children, continue to take actions which appear to be against the best interests of those children and families that the funds are intended to support? Why do the Bureau of Indian Affairs and the Department of Health, Education, and Welfare have no adequate family rehabilitation and protection programs in Indian communities? Why is it that BIA and HEW, by their silent complicity, continue to fund State welfare programs which act unlawfully toward Indian families and children?

We do not mean to suggest in these hearings that Indian families and Indian communities, like all communities throughout the country are not going to continue to have problems. What we do want to suggest is that the pattern of discrimination against American Indians is evident in the area of child welfare, and that it is the responsibility of the Congress to take whatever action is within its power to see to it that American Indian communities and their families are not destroyed; to see to it that Indian people receive equal justice and the support of the Federal Government. We are committed to a course in Indian child welfare which will eliminate present abuses and injustices and which will begin the long, overdue process of helping, rather than handicapping Indian children and their families.

The first witness this morning will be Mr. William Byler, executive director of the Association on American Indian Affairs, and the staff attorney for that association, Bert Hirsch. I'd like them to come forward.

We'd like to welcome both of you to the hearings this morning and I want, first of all, to thank you for the work of your association and that you, individually, have done in the area of protection of Indian rights and the interest you've shown in the planning efforts you've made in this area of Indian welfare rights with respect to Indian families and Indian children, and we will be pleased to hear your testimony.

**STATEMENT OF WILLIAM BYLER, EXECUTIVE DIRECTOR, ASSOCIATION ON AMERICAN INDIAN AFFAIRS; ACCOMPANIED BY BERT HIRSCH, STAFF ATTORNEY**

Mr. BYLER. Thank you, Senator Abourezk.

My name is William Byler, executive director of the Association on American Indian Affairs, a nonprofit citizens' organization whose policy is set by a board of directors, a majority of whom are Indian.

We have been hoping to have such a hearing as this for 6 or 7 years and we thank you for your initiative in bringing this about.

I have a rather extended statement which I'd like to have included in the record.

Senator ABOUREZK. That will be accepted for the record.

Mr. BYLER. Thank you.

The wholesale removal of Indian children from their homes, we believe, is perhaps the most tragic aspect of Indian life today. We would like to examine the extent of that tragedy, look at some of its causes and the impact that it has on Indian family and community life and make some recommendations for remedial action.

Surveys of States with large Indian populations, as you point out, show that about 25 percent of all American Indian children are taken away from their families. In some States this is getting worse. For example, in Minnesota, presently, approximately 1 out of every 8 Indian children is in an adoptive home, but as recently as 1971 and 1972, 1 out of every 4 Indian children born that year was placed into adoption.

The disparity in rates for Indian adoption and non-Indian adoption is truly shocking. I'd like to read some of the statistics. In Minnesota, Indian children are placed in foster or in adoptive homes at the rate of five times, or 500 percent greater than non-Indian children.

In South Dakota, 40 percent of all adoptions made by the State's department of public welfare since 1968 are of Indian children, yet Indian children make up only 7 percent of the total population.

The number of South Dakota Indian children living in foster homes is per capita nearly 1,600 percent greater than the rate of non-Indians.

In the State of Washington, the Indian adoption rate is 19 times, or 1,900 percent greater and the foster care rate is 1,000 percent greater than it is for non-Indian children.

In Wisconsin, the risk of Indian children being separated from their parents is nearly 1,600 percent greater than it is for non-Indian children.

Just as Indian children are exposed to these great hazards, their parents are too.

The Federal boarding school program also accounts for enormous numbers of Indian children who are not living in their natural homes. The Bureau of Indian Affairs census, the school census, for children enrolled in the schools in 1971 indicated that there were approximately 35,000 Indian children living in boarding schools in grades kindergarten through 12.

This represents more than 17 percent of the Indian school-age population of federally-recognized reservations and 60 percent of the children enrolled in BIA schools. In some tribes this hits particularly hard, for example the Navajo where between 80 and 90 percent of all Navajo children from grades kindergarten through 12 attend boarding schools. That amounts to, in the case of the Navajo, about 20,000 children.

It has been argued that the Navajo youngsters, 5, 6 and 7 years old go to boarding schools because there are no roads available. If so, let's build roads. But the same children that are not able to get to kindergarten or first grade because there are no roads, travel roads to get to Head Start classes. Ninety percent of them are in Head Start classes.

It is argued, in the case of boarding schools, that Navajo children don't have adequate food and clothing. Let's bring the food and the clothing to the children and not the children to the food and clothing.

It is clear then that the Indian child welfare crisis is of massive proportions and affecting the people at a more severe rate than non-Indian people.

How do we account for these appalling statistics? I think one of the factors is the standards that are used in judging whether or not a family is fit.

A survey of a North Dakota tribe indicated that, of all the children that were removed from that tribe, only 1 percent were removed for physical abuse. About 99 percent were taken on the basis of such vague standards as deprivation, neglect, taken because their homes were thought to be too poverty stricken to support the children.

The people who apply the standards very often lack the training, professional training, to judge accurately whether or not the children are, in fact, suffering emotional damage at home. They are not equipped sufficiently in the knowledge of Indian cultural values or social values, or norms, to know whether or not the behavior an Indian child or an Indian parent is exhibiting is, in fact, abnormal behavior in his own society.

For example, they may consider the children to be running wild. They assume neglect. In many cases, it may simply be another perspective on child-rearing, placing a great deal of responsibility on the child for his own behavior and, in fact, an effective way of raising children.

The use of alcohol is also advanced in the case of removing Indian children from their families. In some of the communities, as much as 50 to 60 percent of the people have drinking problems. This is acknowledged by the tribes themselves, studied by the tribes themselves and is of great concern to them. But that standard has not been applied as casually against non-Indian parents.

Once again, cultural factors come in here. The interpretation of the abuse of alcohol by non-Indian social workers, those that are not familiar with the dynamics of Indian society, is often based on the assumption that the pattern of drinking of an Indian person reveals the same kind of personality disorders that it does in a non-Indian

person. There's been a good deal of evidence to show that the drinking patterns, and what that says about the behavioral patterns and the abilities of Indian parents to raise their children are quite different than they are for non-Indians.

The discriminatory standards applied against Indian parents and against their children in removing them from their homes are also applied against Indian families in their attempts to obtain Indian foster or adoptive children. Nationally, about 85 percent of Indian children are placed in either a white foster home or white adoptive homes.

In Minnesota, 90 percent of the adopted Indian children are in non-Indian homes.

I think one of the primary reasons for this extraordinary high rate of placing Indian children with non-Indian families rather than in Indian homes is that the standards are based upon middle-class values; the amount of floor space available in the home, plumbing, income levels. Most of the Indian families cannot meet these standards and the only people that can meet them are non-Indians.

We believe that there are other factors—such as the ability to grow up in the community where you have a number of relatives, where you're within your own culture—which are more important than indoor plumbing.

In addition to the failure of standards, we have a breakdown in due process. Few Indian parents, few Indian children are represented by counsel in custody cases. Removal of these children is so often the most casual kind of operation, with the Indian parents often not having any idea of what kind of legal recourse or administrative recourse is available to them.

The employment of voluntary waivers by many social workers means that many child welfare cases do not go through any kind of a judicatory process at all. The Indian person has to come to a welfare agency for help; that welfare agency is in the position to coerce that family into surrendering the children through a voluntary waiver.

The Indian family is also placed in jeopardy by the fact of going to a welfare department for help, just to get enough money to live on and money that they're entitled to under law. This exposes that family to the investigations of the welfare worker to see how that family conducts itself; and, welfare departments originate most of the complaints against Indian families and exercise a kind of police power. We think this is an inappropriate way of administering the laws.

There are certain economic incentives for removing Indian children. Agencies that are established to place Indian children have a vested interest in finding Indian children to place. It's interesting to note that in many cases, the rate of non-Indian people applying for Indian children for foster care, or especially adoptive care, raises dramatically when there is an Indian claims settlement.

It has been alleged by some tribal leaders that, especially in rural communities where non-Indian farm families may have a difficult time in making ends meet, some foster parents have an economic incentive, make a net gain by bringing Indian children into the family and using the foster care payments for general family support, and also have extra hands to help around the farm.

Finally, in the boarding school cases, there is a powerful economic interest. Not too long ago, in the Great Plains, a concerned Bureau of Indian Affairs welfare worker at rather a high level, thought it would be best to close down one of the boarding schools there, and, indeed, succeeded in reducing the enrollment of that school by 50 percent. That had the support of the congressional delegation.

During this process, however, the merchants began to complain and congressional intervention helped to halt the phasing out of the school and its full enrollment was restored. This, I believe, was in the 1950's. Its full enrollment was restored, and, indeed, it's operating today.

Again, in the case of the attempted closing of the Intermountain School, there were severe protests by merchants in the community, despite the fact that the Navajo Tribe asked to have the school closed down. It is a place where a large number of Navajo children are boarded.

I'd like to turn now to the impact that this has on Indian families. In a recent study, "A Long Way from Home" by Judith Kleinfeld she also observes that the boarding home program and regional high school program for Alaska Natives are "helping to destroy a generation of village children."

I'd like to read from some of her findings. She reports that the high school experience of these Alaska Native children led to school-related social and emotional problems in 76 percent of the students in the rural boarding home program, 74 percent of the students in the boarding school and 58 percent of the students in the urban boarding home program.

She found that:

The majority of the students studied either dropped out of school and received no further education or else transferred from school in a nomadic pattern that created other severe identity problems.

She adds that the high school program created other costs:

Identity confusion which contributed to the problems many students had in meeting the demands of adult life. Development of self-defeating styles of behavior and attitudes. Grief of village parents, not only at their children's leaving home, but also at their children's personal disintegration away from home.

The average program-operating costs of running this program was \$5,000 per student. Surely, we must be able to find better ways to spend the money than this.

The National Institute of Mental Health publication, "Suicide, Homocide, and Alcoholism Among American Indians," reports:

The American Indian population has a suicide rate about twice the national average. Some Indian reservations have suicide rates at least five or six times that of the Nation, especially among younger age groups. While the national rate has changed but little over the last three decades, there has been a notable increase in suicide among Indians, especially in the younger age groups.

The report then singles out nine social characteristics of Indians most inclined to completed suicide. I think two of these are pertinent here: He has lived with a number of ineffective or inappropriate parental substitutes because of family disruption, and he has spent time in boarding schools and has been moved from one to another.

In our efforts to make Indian children white, I think it's clear that we're destroying them. In attempting to remove Indian children from communities of poverty, I think we help to create the very conditions

of poverty. When we remove children from the home or disrupt family life—with families as the basic economic, health care, and educational unit in human life—when you break that up, you impede the ability of the child to grow, to learn, for himself, or herself, to become a good and responsible parent later.

We have certain recommendations, in a general sense, that we would like to lay before you.

Mr. Hirsch will present some more specific recommendations that we believe could be acted upon by Congress this year without any kind of significant question of committee jurisdictions, and we believe are uncontroversial.

We offer the following summary recommendations. Congress should enact such laws, appropriate such moneys, and declare such policies as would:

(1) Revise the standards governing Indian child welfare issues, to provide for a more rational and humane approach to questions of custody; and to encourage more adequate training of welfare officials;

(2) Strengthen due process by extending to Indian children and their parents the right to counsel in custody cases and the services of expert witnesses, subjecting voluntary waivers to judicial review, and encouraging officers of the court who consider Indian child-welfare cases to acquaint themselves with Indian cultural values and social norms;

(3) Eliminate the economic incentives to perpetuating the crisis;

(4) End coercive detribalization and assimilation of Indian families and communities and restore to Public Law 280 tribes their civil and criminal jurisdiction;

(5) Provide Indian communities with the means to regulate child-welfare matters themselves;

(6) Provide Indian communities with adequate means to overcome their economic, educational, and health handicaps;

(7) Provide Indian families and foster or adoptive parents with adequate means to meet the needs of Indian children in their care;

(8) Provide for oversight hearings with respect to child-welfare issues on a regular basis and for investigation of the extent of the problem by the General Accounting Office;

(9) End the child-welfare crisis, both rural and urban, and the unwarranted intrusion of Government into Indian family life.

The ultimate of responsibility, of course, must properly rest with the American Indian tribes and urban communities, the Indian people themselves. And where they learn the extent of the problem, where they get the information, and where they have even the most modest means to do something about it, they do something about it.

For example, in the last 3 or 4 years, child placement off the reservation has virtually ceased at the Warm Spring Reservation, Lake Traverse Reservation, and the Blackfeet Reservation. Given the opportunity to try to develop their own, more effective programs for working with families and children, I cite, for example, the programs at Devils Lake Sioux, the Eastern Band of Cherokee, the Winnebago of Nebraska, and the Wisconsin American Indian Child Welfare Service Agency.

The training of Indian lawyers, teachers, judges, boarding school professionals, social workers, pediatricians, medical health professionals, and professional foster parents is also important.

Congress has already enacted new and important measures to assist Indian communities, including the Indian Education Act, the Indian Financing Act, the Indian Self-Determination and Education Reform Act, and the Indian Health Care Improvement Act, and these have been acted upon or are under consideration by the Senate.

We believe that it's time now for the Senate and the Congress as a whole to address itself to these issues. Measured in numbers, measured in terms of human suffering, and as a measure of the condition of our society and our Government, the child welfare crisis is appalling.

We believe that the American people will support whatever actions are needed. For example, in one community in New York, 20,000 citizens signed petitions asking for child welfare oversight hearings for American Indian people, and volunteers there raised the money and made it possible for a number of the witnesses that are appearing here today to come at all.

This problem does not affect Indians alone. Indians, blacks, Chicanos, and the poor are exposed to extraordinary risks; and if an Indian child, or one child at all is threatened with removal unjustly, then it threatens all children.

I'd like to think of the words of John Wooden Legs who said, there's only one child and her name is children.

Thank you, sir.

Senator ABOUREZK. Thank you very much, Mr. Byler, for some excellent testimony. I just have a couple of questions before Mr. Hirsch makes his comments.

Can you describe how removal of Indian children in adoption situation is accomplished?

Mr. BYLER. I can cite certain kinds of experiences that we have had. One case, not too long ago in North Dakota, Indian children were living with their grandparents. Their grandmother was off doing the shopping. The grandfather was 3 miles away with a bucket getting water. While they were away, the social worker happened by at that time and found the children scuffling. When grandfather returned, the children were gone, and I don't know whether, in that case, he was ever successful in finding where the children were. I think they were placed for adoption somewhere.

When that happens, Indian parents or grandparents are told this is confidential information. We cannot disclose to you where your children are. This makes it seem impossible for them to even try to do anything about it.

Senator ABOUREZK. You mean the children were taken from the home and the grandparents never were allowed to see them again or to try to fight the actions?

Mr. BYLER. That is correct, and as far as they knew, they never received any notice that there were proceedings against them or against the parents.

This is very often the case, there is no notice given, or if notice is given, it is in such a form that the people who get the notice don't understand it. It does not constitute a real notice.

You'll hear testimony today, and tomorrow, from some of the Indian victims who will be able to describe much more pointedly the experiences that they have gone through.

Very often, children are taken simply by the welfare worker intervening when seeing a situation that she, personally, disapproves of out of her own value system, out of her own interpretation of behavior.

For example, we defended one Indian teenager, a Sioux, who was living at a boarding school at Pine Ridge and decided she wanted to go to the Rosebud boarding school. She didn't like that and went back and tried to get back into the Pine Ridge boarding school. The social welfare worker intervened and tried to send her to a State training institution.

Senator ABOUREZK. Just because she wanted to change schools?

Mr. BYLER. That's right.

Senator ABOUREZK. Are there any States in which the State welfare workers are given training in Indian values or Indian culture?

Mr. BYLER. I don't know that they are given training in Indian values, Indian culture. I don't know of any that are. We can't believe that it is generally effective if it is given, because of the figures we see. There are Indian communities, or tribes or individual BIA social workers who do a fantastic job. There's one community, an Apache community, in New Mexico that had a large number of Indian children out of the reservation. A BIA welfare worker was appointed and those children were brought back in, those that had not been placed for adoption, and few children there are placed off the reservation today. But then, there was a strong tribal input, a compassionate and concerned BIA welfare worker, and when you have that kind of combination, it works.

Senator ABOUREZK. Would you recommend that as one alternative, that the BIA, or some other agency, supervise a program that would, at least, make social workers aware that perhaps Indian people do have different standards and different values of their own?

Mr. BYLER. Yes. I would say, to train the welfare worker, to train the judges and to provide education for attorneys working in the community.

More importantly, if, for example, under title I of S. 1017, Indian tribes contract for and operate the whole child welfare apparatus themselves, if they have tribal welfare committees that function to determine whether or not a child should even be recommended for removal and a tribal court passes on this or some tribal agency passes on this question, that's the answer.

A part of the answer is not to orient non-Indian social workers, although that can be helpful and necessary, but to have far more Indian social workers.

Senator ABOUREZK. Did I understand you to say during your testimony that as far as reasons for removal of Indian children from the families are concerned, that alcohol problems in a family was given in only 1 percent of the removal?

Mr. BYLER. Physical abuse, the beating of a child, child battering, was cited in 1 percent of the cases. All the others were based upon somebody judging Indian behavior or the environment in the home.

For example, there is often the case that a welfare worker will see a father, let's say, or a mother every weekend going to the local bar, and maybe spending the night in jail for public intoxication. That is assumed to be grounds for removal, but there is never any need for

proof, professionally demonstrated, that that mother or father's behavior is actually damaging the child. In fact, it could be argued in some cases that because the parent has enough problems in life and has found no better outlet for them, or for resolving the problems, getting drunk Friday night may be the best thing that can happen to him or his kids.

Another kind of thing that can be advanced for taking children away from their families is immoral conduct, and yet there's never any evidence to demonstrate in this case or that case that the behavior of the parent is damaging that child. Immoral conduct is often judged by the wildest stretches of the imagination.

For example, on one reservation more than 50 percent of the people live in common-law situations. These unions have lasted 5, 10, 15 years. The people don't have enough money to afford divorces and they want a family life, so they live with a person for 5, 10, 15 years. Police will sometimes, then, make a sweep of a whole reservation and arrest the people that are living in illicit cohabitation. People living in illicit cohabitation are subject to having their kids taken away from them.

Senator ABOUREZK. I wonder if this may not be a question better reserved for some of the professional psychologists that we have coming up, but I will ask you. You don't have to answer it if you cannot.

If you know, what is the effect on the Indian family of this kind of removal?

Mr. BYLER. I think they will, in fact, give documentation on that, but what we have observed is that by taking the child away from the parents, you remove the main incentive for those parents to fight to try to overcome the difficult circumstances they have.

Taking children away does not cure alcoholism. It may aggravate alcoholism. Taking children away does not encourage somebody to take a job, but discourages him. He may see no point in having a job.

Senator ABOUREZK. Thank you very much, Mr. Byler.

Senator Bartlett.

Senator BARTLETT. What role does the school play in this problem that you're citing?

Mr. BYLER. The boarding school plays a great role because there are so many children taken there. Many children are sent to boarding schools, not for educational reasons. They are sent because their behavior or their family circumstance is judged in a nonadjudicatory process to warrant their placement in a BIA institution.

Now, they may in fact have emotional problems and behavioral problems, but when they get to that institution, they don't have any treatment or any kind of care that will help them. The student-staff ratio, people who give direct care to Indian children in boarding schools is 100 to 1 or greater. If a child has emotional or behavioral problems, I think those kinds of statistics suggest he may be running a greater risk at a boarding school than at home. For those children who are very young, 10 and younger, there's absolutely no educational justification for boarding children.

Senator BARTLETT. Is it your conviction that many of the Indian children do have particular, and special educational needs because of a different social system and that these needs are not being progressed in the schools to a significant degree?

Mr. BYLER. Yes. I think that's very important. I think Congress is addressing itself to those questions.

Senator BARTLETT. If the school plays such a role as part of the system to help in taking children from their families, why would it be that the Indian parents would be so strongly in favor of the Indian boarding schools, or, at least, it appears to me that they are?

Mr. BYLER. I think this is a changing thing.

Originally, they were not in favor of boarding schools, and when the Government agents 70 years ago came to haul the children off, they were resisted, sometimes by force of arms. I think, over the years, there's been so many children placed in boarding schools, it has become in many communities, a normal way of life, the way of growing up.

I think that the very fact, say as with the Navajo, that many Indian parents accept boarding schools is one of the most tragic aspects of the whole system. The tribal council today is opposed to the boarding schools, and I believe were the Indian parents informed of the emotional damage, the actual physical retardation that many of their children suffer in going to boarding schools, they would likewise be against it.

Even if 100 out of those 20,000 children that are boarded on Navajo wish to, they should have a right to go to a day school.

Senator BARTLETT. I think that gets into my next question. What do you think is the proper role of Indian boarding schools in the educational system for Indians?

Mr. BYLER. When the children are under the age of 9 or 10, I don't think they have a role. They should not exist.

In the cases of acute emotional problems, the schools should be a kind of hospital or therapeutic situation; we believe that this would be a very rare instance, as it is with population as a whole.

For children that are older, say in the high school years, the Kleinfeld studies here have demonstrated that boarding schools fail to achieve their educational objective because the children drop out. In Alaska, for example, 50 to 75 percent of the children in these boarding situations dropped out of school. It helps disorganize their personality and is extremely costly.

I think the screening process of sending the children to boarding schools should begin, at whatever age they are, to determine whether the child is being sent there for behavior or emotional disorders on some kind of bona fide basis and whether he will receive help; and second, if he's being sent there for educational purposes, to make sure he's getting an educational opportunity that justifies placement.

Senator BARTLETT. Could you answer the same question and break it down into two parts, one, fill in the educational needs and the other, filling in the emotional needs?

In other words, what role do you see the boarding school play in order to help with the emotional needs of Indian children, and what role does it play in order to help the educational needs?

Mr. BYLER. I think that the educational needs, when we're talking about children in the high school age, might be considered in the same way it is for the general population. There are boarding schools in the United States, a few, for a very small part of the population where children may be exceptionally bright or have exceptionally poor educational opportunities at home or they come from such a remote community that it's difficult to have a fully equipped high



school. I don't think that the high schools in most Indian communities are used as effective educational resources but I do not believe that the Indian children who have graduated from boarding schools show any better educational achievements than those who graduate from most Indian day schools. In some communities there might not be enough students to justify building a chemistry or biology laboratory; if that is a good enough educational reason, then that would be the kind of condition, I think, that would justify the availability, not the forced placement, but making boarding school available as an option.

In terms of filling the emotional needs of Indian high school students, those at boarding schools, I don't think it can work. It doesn't fill those needs, and in order to do it, as has been done in a model project on the Navajo Reservation, it's enormously expensive, and Congress has not seen fit to fund even this model from year to year.

So, while, as Dr. Bergman will testify later in the hearing, dramatic results can be achieved, it is expensive.

But, this, in itself is a remedial action, a substitute action to make up for the family and the community. So, there's no net gain in the emotional life of Indian children by putting them in boarding schools.

Senator BARTLETT. Do you feel that the boarding school removes some of the parental responsibility in such a way that it creates a gap between the children and the parents, in which it makes the job of the parents more difficult and harder to achieve?

Mr. BYLER. Yes; I think this is very much the case. In addition, I would say also we can really take the whole educational experience. Dr. Edward P. Dozier criticized Headstart programs for some Indian communities on the ground that an Indian child has such a short time in his life to learn how to behave in his own environment, to pick up the cultural and behavioral patterns of his parents. It was bad enough to start school at five or six because that bobtailed the opportunity the kids had to learn this. Now with Headstart in some communities, that age is down to 3 years, so these preschool experiences denied the children the opportunity to learn how to function properly in their own society.

And it demoralizes the whole functioning of families when those children who grow up in a boarding school become parents themselves and have not had the opportunity to observe normal child rearing.

In some of the early poverty programs funded under OEO, Indian tribes asked for funds to train their teenagers to be parents because they didn't know what it was like because they had been away in boarding school.

Senator BARTLETT. What should be the structure for facing up to the emotional needs of Indian children and also in meeting the educational needs?

Mr. BYLER. I believe that in terms of the educational needs, that would be contracting the Indian schools with tribes that wish to contract for those schools. Where the tribes have taken over those schools, and there are not many yet, the educational result has been dramatic.

For example, in Florida the Miccosukees had never had a school at all, none of their children attended school until 1961, or 1962. They took over their school about 4 years ago and, 1 year after the tribe

itself had taken over the school, the comparative educational achievements of the children improved by 50 percent.

Dropout rates have dramatically been reduced in the Busby school on Northern Cheyenne, and the Rocky Boy school, both of those in Montana, since Indian tribes have taken them over.

So, I do think that educational needs can be met more adequately by the Indian community controlling the schools themselves.

In terms of the emotional needs, I think perhaps one of the most central things to the emotional life of the Indian family and the Indian child, is to remove from that family the threat that their children will be taken away from them. I think this is the most dangerous aspect. It has a far greater impact on Indian emotional life than any other single factor.

I think that in societies throughout the United States, and Indian societies, not all impoverished children or families suffer this kind of family breakdown. Among the Miccosukees, children are not taken from their parents, nor among the Coushattas of Louisiana; it's unknown, the kind of breakdown that one sees in some Indian communities. It's not because of Indian poverty. There are many societies in the world that are much more poverty stricken than the average American Indian community, but exhibit little or none of the family breakdown.

I think it's a copout when people say it's poverty that's causing family breakdown. I think perhaps the chief thing is the detribalization and the deculturalization, Federal and State and local efforts to make Indians white. It hasn't worked and it will never work and one of the most vicious forms of trying to do this is to take their children. Those are the great emotional risks to Indian families.

Senator BARTLETT. Thank you very much, that's fine testimony.

Senator ABOUREZK. One more question, Mr. Byler. Since Health, Education, and Welfare supports foster home placements, have you received any encouragement at all from that agency with regard to revised criteria for grants that they make to States, which might eliminate some of the abuses that you cited in your testimony?

Mr. BYLER. We have not. They may well be contemplating that, and I hope they would revise their standards.

We would hope, under S. 1017, it would be possible for Indian tribes to gain those foster care moneys directly so they would not have to go through the State.

Senator ABOUREZK. Most of the money that goes to the State and county welfare agency comes from HEW at this point. Do you think if they did revise their criteria for adoption in foster home placement and so on, with a lever that the money would be withheld if the regulations are not carried out, do you think that would be a beneficial thing?

Mr. BYLER. Yes; a dramatic impact.

Senator ABOUREZK. Mr. Byler, thank you again.

[The prepared statement of Mr. Byler follows.]

STATEMENT OF WILLIAM BYLER, EXECUTIVE DIRECTOR,  
ASSOCIATION ON AMERICAN INDIAN AFFAIRS, INC.  
BEFORE THE SUBCOMMITTEE ON INDIAN AFFAIRS OF THE  
UNITED STATES SENATE

APRIL 8, 1974

Mr. Chairman and Members of the Subcommittee:

My name is William Byler. I am Executive Director of the Association on American Indian Affairs. The Association is a national non-profit organization, founded in 1923 to assist American Indian and Alaska Native communities in their efforts to achieve full civic, social and economic equality. It is governed by a Board of Directors, a majority of whom are Native Americans. *It has recently begun publishing a newsletter, Indian Family Defense, to report on the Indian child-welfare crisis.*

First of all, I would like to thank the Subcommittee for calling these oversight hearings and for permitting me to appear before you.

The wholesale separation of Indian children from their families is perhaps the most tragic and destructive aspect of American Indian life today. In my testimony I will attempt to estimate the extent of the Indian child-welfare crisis, identify some of the factors contributing to it, and describe some of its destructive consequences; and I will offer suggestions for remedial action.

Surveys of states with large Indian populations conducted by the Association on American Indian Affairs in 1969 and again in 1974 indicate that approximately 25-35 per cent of all Indian children are separated from their families and placed in foster homes, adoptive homes, or institutions. In some states the problem is getting worse: in Minnesota, one in every eight Indian children under 18 years of age is living in an adoptive home; and, in 1971-72, nearly one in every four Indian children under 1 year of age was adopted.



The disparity in placement rates for Indians and non-Indians is shocking. In Minnesota, Indian children are placed in foster care or in adoptive homes at a per-capita rate five times greater (500%) than non-Indian children. In Montana, the ratio of Indian foster-care placement is at least 13 times (1300%) greater. In South Dakota, 40 per cent of all adoptions made by the State's Department of Public Welfare since 1967-68 are of Indian children, yet Indians make up only 7 per cent of the juvenile population. The number of South Dakota Indian children living in foster homes is, per capita, nearly 16 times (1600%) greater than the non-Indian rate. In the State of Washington, the Indian adoption rate is 19 times (1900%) greater and the foster-care rate 10 times (1000%) greater. In Wisconsin, the risk run by Indian children of being separated from their parents is nearly 1600 per cent greater than it is for non-Indian children. Just as Indian children are exposed to these great hazards, their parents are too.

The Federal boarding-school and dormitory programs also contribute to the destruction of Indian family and community life. The Bureau of Indian Affairs, in its school census for 1971, indicates that 34,538 children live in its institutional facilities rather than at home. This represents more than 17 per cent of the Indian school-age population of federally-recognized reservations and 60 per cent of the children enrolled in BIA schools. On the Navajo Reservation, about 20,000 children or 90 per cent of the BIA school population in grades K-12, live at boarding schools. A number of Indian children are also institutionalized in mission schools, training schools, etc.

In addition to the trauma of separation from their families, most Indian children in placement or in institutions have to cope with the problems of adjusting to a social and cultural environment much different than their own. In 16 states surveyed in 1969, approximately 85 per cent of all Indian children in foster care were living in non-Indian homes. In Minnesota today, according to State figures, more than 90 per cent of non-related adoptions of Indian children are made by non-Indian couples. Few states keep as careful or complete child-welfare statistics as Minnesota does, but informed estimates by welfare officials elsewhere suggest that this rate is the norm. In most Federal and mission boarding schools, a majority of the personnel is non-Indian.

It is clear then that the Indian child-welfare crisis is of massive proportions and that Indian families face vastly greater risks of involuntary separation than are typical of our society as a whole.

#### Some Causative Factors

How are we to account for this disasterous situation? The reasons appear very complex, and we realize we are far from perceiving them clearly or in their entirety. Here we can only offer a rough sketch of some of the factors. These include a lack of rational Federal and state standards governing child-welfare matters, a breakdown in due process, economic incentives, and the harsh social conditions in so many Indian communities. Our observations are based on a number of years experience working with Indian communities and in the courts in defense of Indian family life.

Standards. The Indian child-welfare crisis will continue until the standards for defining mistreatment are revised. Very few Indian children are removed from their families on the grounds of physical abuse. One study of a North Dakota reservation showed that these grounds were advanced in only 1 per cent of the cases. Another study of a tribe in the Northwest showed the same incidence. The remaining 99 per cent of the cases were argued on such vague grounds as "neglect" or "social deprivation" and on allegations of the emotional damage the children were subjected to by living with their parents. Indian communities are often shocked to learn that parents they regard as excellent care-givers have been judged unfit by non-Indian social workers.

In judging the fitness of a particular family, many social workers, ignorant of Indian cultural values and social norms, make decisions that are wholly inappropriate in the context of Indian family life and so they frequently discover neglect or abandonment where none exist.

For example, the dynamics of Indian extended families are largely misunderstood. An Indian child may have <sup>scores of,</sup> ~~some~~ perhaps more than a hundred, relatives who are counted as close, responsible members of the family. Many social workers, untutored in the ways of Indian family life or assuming them to be socially irresponsible, consider leaving the child with persons outside the nuclear family as neglect and thus as grounds for terminating parental rights.

In the DeCoteau case, the South Dakota Department of Public Welfare petitioned a State court to terminate the rights of a Sisseton-Wahpeton Sioux mother to one of her two children on the grounds that he was sometimes

left with his sixty-nine-year-old great-grandmother. In response to questioning by the attorney who represented the mother, the social worker admitted that Mrs. DeCoteau's four-year-old son, John, was well cared for, but added that the great-grandmother "is worried at times."

Because in some communities the social workers have, in a sense, become a part of the extended family, parents will sometimes turn to the welfare department for temporary care of their children failing to realize that their action is perceived quite differently by non-Indians.

Indian child-rearing practices are also misinterpreted in evaluating a child's behavior and parental concern. It may appear that the child is running wild and that the parents do not care. What is labelled "permissiveness" may often, in fact, simply be a different but effective way of disciplining children. BIA boarding schools are full of children with such spurious "behavioral problems."

Poverty, poor housing, lack of modern plumbing, and overcrowding are often cited by social workers as proof of parental neglect and are used as grounds for beginning custody proceedings. In a recent California case, the State tried to apply poverty as a standard against a Rosebud Sioux mother and child. At the mother's bidding, the child's aunt took three-year-old Blossom Lavone from the Rosebud Reservation in South Dakota to California. The mother was to follow. By the time she arrived one week later, the child had been placed in a pre-adoptive home by California social workers. The social workers asserted that, although they had no evidence that the mother was unfit, it was their belief that an Indian reservation is an unsuitable

environment for a child and that the pre-adoptive parents were financially able to provide a home and a way of life superior to the one furnished by the natural mother. Counsel was successful in returning the child to her mother.

Ironically, tribes that were forced onto reservations at gunpoint and prohibited from leaving without a permit, are now being told that they live in a place unfit for raising their children.

One of the grounds most frequently advanced for taking Indian children from their parents is the abuse of alcohol. However, this standard is applied unequally. In areas where rates of problem drinking among Indians and non-Indians are the same, it is rarely applied against non-Indian parents. Once again cultural biases frequently effect decision-making. The late Dr. Edward P. Dozier of Santa Clara Pueblo and other observers have argued that there are important cultural differences in the use of alcohol. Yet, by-and-large, non-Indian social workers draw conclusions about the meaning of acts or conduct in ignorance of these distinctions.

The courts tend to rely on the testimony of social workers who often lack the training and insights necessary to measure the emotional risk the child is running at home. In a number of cases, the AATA has obtained evidence from competent psychiatrists who, after examining the defendants, have been able to contradict the allegations offered by the social workers. Rejecting the notion that poverty and cultural differences constitute social deprivation and psychological abuse, the Association argues that the State must prove that there is actual physical or emotional harm resulting from the acts of the parents.

The abusive actions of social workers would largely be nullified if more judges were themselves knowledgeable about Indian life and required a sharper definition of the standards of child abuse and neglect.

Discriminatory standards have made it virtually impossible for most Indian couples to qualify as foster or adoptive parents, since they are based on middle-class values. Recognizing that in some instances it is necessary to remove children from their homes, community leaders argue there are Indian families within the tribe that could provide excellent care, although they are of modest means. While some progress is being made here and there, the figures cited above indicate that non-Indian parents continue to furnish almost all the foster and adoptive care for Indian children.

Due Process. The decision to take Indian children from their natural homes is, in most cases, carried out without due process of law. For example, it is rare for either Indian children or their parents to be represented by counsel or to have the supporting testimony of expert witnesses.

Many cases do not go through an adjudicatory process at all, since the voluntary waiver of parental rights is a device widely employed by social workers to gain custody of children. Because of the availability of the waivers and because a great number of Indian parents depend on welfare payments for survival, they are exposed to the sometimes coercive arguments of welfare departments. In a current South Dakota entrapment case, an Indian parent in a time of trouble was persuaded to sign a waiver granting temporary custody to the State, only to find that this is now being advanced as evidence of neglect and grounds for the permanent termination of parental

rights. It is an unfortunate fact of life for many Indian parents that the primary service agency to which they must turn for financial help also exercises police powers over their family life and is, most frequently, the agency that initiates custody proceedings.

The conflict between Indian and non-Indian social systems operates to defeat due process. The extended family provides an example. By sharing the responsibility of child-rearing, the extended family tends to strengthen the community's commitment to the child. At the same time, however, it diminishes the possibility that the nuclear family will be able to mobilize itself quickly enough when an outside agency acts to assume custody. Because it is not unusual for Indian children to spend considerable time away with other relatives, there is no immediate realization of what is happening--possibly not until the opportunity for due process has slipped away.

There are the simple abductions. Benita Rowland was taken by two Wisconsin women with the collusion of a local missionary after her Oglala Sioux mother was tricked into signing a form purportedly granting them permission to take the child on a short visit but, in fact, agreeing to her adoption. It was months before Mrs. Rowland could obtain counsel and regain her daughter.

It appears that custody proceedings against Indian people are also sometimes begun, not to rescue the children from dangerous circumstances, but to punish parents and children unjustly for conduct that is disapproved of. In a recent Nevada case, a Paiute mother had to go to court to recover

her children following her arrest for a motor-vehicle violation, ~~her first arrest~~. Parents of Nevada's Duckwater Band of Paiutes were threatened with the loss of their children when they sought to open their own school under an approved Federal grant and refused to send their children to a county-run school.

A few years ago, South Dakota tried to send an Oglala Sioux child to a State training school simply because she changed boarding schools twice in two months. In a report sent to us by a Minnesota social worker, she unashamedly recounts threatening her Indian client with the loss of her children if she is "indiscreet."

And it can be so casual--sometimes just a telephone call from an attorney or even the mere rumor that there is an attorney in the offing is enough to persuade a welfare department to drop the case. Sometimes it can be desperate. Ivan Brown was saved because the sheriff, the social worker and the prospective foster parents fled when the tribal chairman ran to get a camera to photograph their efforts to wrest him from his <sup>Indian guardian's</sup> ~~grandmother's~~ arms.

Economic Incentives. In some instances, financial considerations contribute to the crisis. For example, agencies established to place children have an incentive to find children to place. In towns with large Federal boarding facilities, merchants may fight to prevent their closing. Not long ago, in response to political intervention, one boarding school in the Great Plains was being phased out as unnecessary because the children could do better at home. The merchants complained and, again as a result of political pressure,

the full school enrollment was restored. Very recently merchants protested the proposed closing of Intermountain School with its large Navajo enrollment, despite the fact the closing was advocated by the Navajo Tribe.

The Bureau of Indian Affairs and the Department of Health, Education and Welfare bear a part of the responsibility for the current child-welfare crisis. The BIA and HEW both provide substantial funding to State agencies for foster care and thus, in effect, subsidize the taking of Indian children.

Neither the BIA nor HEW effectively monitor the use of these Federal funds. Indian community leaders charge that federally-subsidized foster-care programs encourage some non-Indian families to start "baby farms" in order to supplement their meager farm income with foster-care payments and to obtain extra hands for farm work. The disparity between the ratio of Indian children in foster care versus the number of Indian children that are adopted seems to bear this out. For example, in Wyoming in 1969, Indians accounted for 70 per cent of foster-care placements but only 8 per cent of adoptive placements. Foster-care payments usually cease when a child is adopted.

In addition, there are economic disincentives. It will cost the Federal and state governments a great deal of money to provide Indian communities with the means to remedy their situation. But over the long run, it will cost a great deal more money not to. At the very least, as a first step, we should find new and more effective ways to spend present funds.

Social Conditions. Low income, joblessness, poor health, substandard housing, and low educational attainment--these are the reasons most often cited for the disintegration of Indian family life. It is not that clear-cut. Not all impoverished societies, whether Indian or non-Indian, suffer from catastrophically high rates of family breakdown.

Cultural disorientation, a person's sense of powerlessness, his loss of self-esteem--these may be the most potent forces at work. They arise, in large measure, from our national attitudes as reflected in long-established Federal policy and from arbitrary acts of government.

The main thrust of Federal policy, since the close of the Indian wars, has been to break up the extended family, the clan structure, to detribalize and assimilate Indian populations. The practice of Indian religions was banned; children were, and sometimes still are, punished for speaking their mother tongue; even making beadwork was prohibited by Federal officials. The Dawes Act, The Indian Reorganization Act, P.L. 280; and H. Con. Res. 108 became the instruments of that policy. They represent some of our experiments to reform Indian family and community life.

One of the <sup>e</sup>ffects of our national paternalism has been to so alienate some Indian parents from their society that they abandon their children at hospitals or to welfare departments rather than entrust them to the care of relatives in the extended family. Another expression of it is the involuntary, arbitrary, and unwarranted separation of families.

One of the most disturbing aspects of the whole child-welfare tragedy is how little Indian resistance there is in so many cases--and how much fear.

CBS once taped an interview with an Indian woman who wept that she did not dare protest the taking of her children for fear of going to jail. In the Great Plains, one Indian judge, an employee of the BIA, dumbfounded when learned she had had the power to reject the hundred custody petitions presented to her by the county welfare department, grieved that she "would not have placed one of those children off the reservation" and left her job.

But then the crisis is largely invisible--the children are gone. Over the years there has been, uniformly, a great concern among tribal officials about land and water rights, economic development, and the quality of education. In most communities, neither the BIA nor the county welfare department have deemed it necessary to report to the tribes on the extent of the crisis. In those cases where information is available, tribal governments act swiftly. Too often they lack the financial and legal means to undertake comprehensive programs.

It has already been noted that the harsh living conditions in many Indian communities may prompt a welfare department to make unwarranted placements and that they make it difficult for Indian people to qualify as foster or adoptive parents. Additionally, because these conditions are often viewed as the primary cause of family breakdown and because generally there is no end to Indian poverty in sight, agencies of government often fail to recognize immediate, practical means to reduce the incidence of neglect or separation.

As surely as poverty imposes severe strains on the ability of families

to function--sometimes the extra burden that is too much to bear--so too family breakdown contributes to the cycle of poverty.

Some Destructive Consequences. Because the family is the most fundamental economic, educational, and health-care unit in society and the center of an individual's emotional life, assaults on Indian families help cause the conditions that characterize those cultures of poverty where large numbers of people feel hopeless, powerless, and unworthy.

Parents who fear they may lose their children may have their self-confidence so undermined their ability to function successfully as parents is impaired, with the result that they lose their children. When the welfare department removes the children, it also removes much of the parents' incentive to struggle against the conditions under which they live.

Children separated from their parents may suffer such severe distress that it interferes with their physical, mental, and social growth and development.

In her recent study, A Long Way from Home, Judith Kleinfeld observes that the boarding home programs and regional high schools for Alaska Natives are "helping to destroy a generation of village children."

She reports that their high school experience led to school-related social and emotional problems in 76 per cent of the students in the rural boarding home program, 74 per cent of the students in the boarding school, and 58 per cent of the students in the urban boarding home program.



She found that "the majority of the students studied either dropped out of school and received no further education or else transferred from school to school in a nomadic pattern that can create identity problems."

Kleinfeld adds that the high school programs created other severe costs such as:

"Identity confusion, which contributed to the problems many students had in meeting the demands of adult life."

"Development of self-defeating styles of behavior and attitudes."

"Grief of village parents, not only at their children's leaving home, but also at their children's personal disintegration away from home."

The average program operating costs totaled over \$5,000 per student.

An NIMH publication, Suicide, Homicide, and Alcoholism among American Indians, reports: "The American Indian population has a suicide rate about twice the national average. Some Indian reservations have suicide rates at least five or six times that of the Nation, especially among younger age groups. . . While the national rate has changed but little over the last three decades, there has been a notable increase in suicide among Indians, especially in the younger age groups."

Among the nine social characteristics of the Indian most inclined toward a completed suicide, it lists:

"He has lived with a number of ineffective or inappropriate parental substitutes because of family disruption."

"He has spent time in boarding schools and has been moved from one to another."

In our efforts to make Indian children "white" we can destroy them.

#### RECOMMENDATIONS

It is fitting that the Congress consider these matters. It has plenary power over Indian affairs. Abuses described involve Constitutional issues. They frequently occur in the administration of Federal programs and often have the active participation or tacit approval of Federal officials. Congress has the power to help correct these abuses and to help Indian families and communities overcome the social and economic hardships they face.

Therefore, we offer the following summary recommendations. Congress should enact such laws, appropriate such monies, and declare such policies as would:

- 1) Revise the standards governing Indian child welfare issues, to provide for a more rational and humane approach to questions of custody; and to encourage more adequate training of welfare officials;
- 2) Strengthen due process by extending to Indian children and their parents the right to counsel in custody cases and the services of expert witnesses, subjecting voluntary waivers to judicial review, and encouraging officers of the court who consider Indian child-welfare cases to acquaint themselves with Indian cultural values and social norms;
- 3) Eliminate the economic incentives to perpetuating the crisis;

- 4) End coercive detribalization and assimilation of Indian families and communities and restore to P.L. 280 tribes their civil and criminal jurisdiction;
- 5) Provide Indian communities with the means to regulate child-welfare matters themselves;
- 6) Provide Indian communities with adequate means to overcome their economic, educational, and health handicaps;
- 7) Provide Indian families and foster or adoptive parents with adequate means to meet the needs of Indian children in their care;
- 8) Provide for oversight hearings with respect to child-welfare issues on a regular basis and for investigation of the extent of the problem by the General Accounting Office;
- 9) End the child-welfare crisis, both rural and urban, and the unwarranted intrusion of government into Indian family life.

We recognize that these issues demand careful consideration over a considerable period of time and involve questions of committee jurisdiction.

We, therefore, also recommend a few specific, small steps forward that we believe could be undertaken by the Congress now without controversy. They are appended to this statement.

The ultimate responsibility for correcting the child-welfare crisis must rest properly with the Indian communities themselves. A number are

demonstrating today that, informed of the scope of the problem and having available even some of the means, dramatic progress can be made. Adoptive and foster-care placements out of the Indian community have virtually ceased on the Warm Springs, Lake Traverse, Blackfeet, and a number of other reservations. Given the opportunity, Indian people will initiate their own, more effective programs for families and children, such as those developed by the Devils Lake Sioux, the Eastern Band of Cherokee Indians, the Winnebago of Nebraska, and the Wisconsin American Indian Child Welfare Service Agency.

The training and employment of Indian lawyers, teachers, boarding-school personnel, social workers, pediatricians, mental health professionals, and professional foster parents is vitally important. Tribal judges and police need more adequate training.

Congress has recently enacted a number of important measures to assist Indian communities, including the Indian Education Act. It has under consideration several others, including the Indian Self-Determination and Educational Reform Act, the Indian Financing Act, and the Indian Health Care Improvement Act.

#### CONCLUSION

Measured in numbers, measured in terms of human suffering, and as a measure of the condition of our society and our government, the Indian child-welfare crisis is appalling.

The American public will support the remedial measures that are necessary. In one New York community alone, twenty thousand citizens signed petitions

calling for oversight hearings and volunteers raised funds to enable some of the witnesses to appear here today.

Indians, Blacks, Chicanos, the poor, and parents that do not meet our social norms--all are exposed to extraordinary risks of losing their children. If even one child is taken unjustly, all children are threatened. In the words of John Woodenlegs, a Northern Cheyenne, "There is only one child, and her name is Children."

## Legislative Recommendations

The child-welfare crisis reaches from the root of Indian life in the family to the bureaucracies of Federal and State governments. For the Indian family, crucial, sometimes irreversible, decisions often have to be made at a time of doubt and confusion, when unsuspecting parents can easily be unduly influenced by outsiders. The tribe needs clear recognition of its sovereignty in matters relating to child placement. State and Federal governments, which unwittingly have helped finance discriminatory practices, now need to develop programs that will sharply reduce the number of Indian children removed from their families and communities.

The following recommendations are based on discussions with Indian communities over a considerable period of time. They are offered here for review, criticisms, and suggestions. These draft recommendations will by no means end the Indian child-welfare crisis; but we believe they are practical, first steps toward that goal. We have singled out what we believe can be accomplished by Congress and the Federal government in a year or two, recognizing that much additional work will be required over the years to come in order to assure that American Indian families are treated with the same respect, enjoy the same opportunities, and are afforded the same protections as other American families.

It is recommended that Congress:

- I. *Enact a law that withholds recognition of the legality of any placement of an Indian child for adoption, foster care, or other institutional or custodial care, unless made pursuant to an order of the Tribal Court, where a Tribal Court exists which exercises jurisdiction in child-welfare matters and domestic relations.*

Many Indian children are taken from their families without Tribal Court action. Parents or guardians in times of doubt, confusion, or despair, sometimes voluntarily waive their rights and consent to the adoption of a child or his placement in a foster home or in other institutional or custodial care, only later to regret it. In some cases they are victims of harassment or subterfuge by child-care agencies both public and private and by individuals seeking Indian children. Once a waiver has been signed it is difficult, if not impossible, for parents or guardians to regain custody of the child. In the case of voluntary waiver and consent, the decision as to where the child is placed is determined not by a tribal agency, but by public or private agencies or by individuals. The result is that many Indian children are placed in non-Indian homes, often far from the Indian community, and other relatives or members of the tribe willing to provide care are denied this opportunity.

This recommendation is intended to afford the protection of the Tribal Court to Indian children and their parents or guardians in all cases relating to child placement. The Tribal Court itself would then be able in all cases to make its own decision as to what is in the best interests of the child and of the parents or guardians. The Court may recommend counselling for the family where such service is available or it may agree to the termination of parental rights. The Court would then also determine where the child should be placed. The Court may choose to place the child in a home on the reservation or transfer custody of the child to a tribal, state or private agency.

In cases where a child has been placed without a Tribal Court order, placement would be without color of law and the tribe or the parents or guardians could obtain a Federal court order for the return of the child.

- II. *Enact a law that: (1) authorizes Indian tribes to license foster homes and to accept state placements of Indian children and state funds in support of Indian children; and (2) requires that, where a state uses Federal funds, the Federal funds shall be made available to the state in support of the foster care of Indian children on condition that priority be given to tribally-licensed foster homes.*

In most states with substantial Indian populations a majority of Indian foster children placed by public or private agencies are placed in non-Indian homes or in homes that have not been approved by a tribal agency; and relatively few Indian homes are licensed by the states to accept foster-care placements. The Federal government makes available to the states funds to provide child-care payments to these foster parents. Thus Federal funds are used to subsidize discriminatory state practices and licensing standards.

The purpose of this recommendation is to help reinforce the sovereignty of Indian tribes in matters relating to child-care placements and to help end discriminatory child-placement practices. A state that fails to comply with the condition contained in this recommendation would be subject to a cut-off of Federal child-care funds. The standards for licensing foster homes in order to qualify for foster-care payments would be the standards of the tribe. If the tribe determines to license a non-Indian home it would, of course, be free to do so and that non-Indian, tribally-licensed home would also enjoy priority over homes not licensed by the tribe.

- III. *Appropriate \$ — million for construction in connection with a special Home Improvement Program under the Bureau of Indian Affairs to upgrade: (1) the housing conditions of Indian foster and adoptive parents; (2) the housing conditions of American Indians who seek Indian foster children or adoptive children, when such improvement would enable them to qualify under tribal law or licensing standards; and (3) the housing conditions of families facing disintegration, where such improvements would contribute significantly to family stability.*

Federal and state subsidies for child care are largely based on the assumption that children will be placed with foster-parents who enjoy average or above-average means. Many Indian people who can and do provide excellent, loving care have income well below the average and do not have or cannot afford to obtain housing that meets tribal licensing standards, if the tribe includes the condition of housing in its standards.

The purpose of this recommendation is to supplement child-care payments with a home improvement subsidy as part of the Bureau's HHP program, in order to make it possible for more Indian homes to qualify as foster homes under tribal licensing standards; it will also help out in cases where poor housing contributes to family instability.

- IV. *Request that the Department of the Interior and the Department of Health, Education and Welfare submit for fiscal year 1975 a program and budget for comprehensive child-welfare and family-protection services that*

*are designed to reduce sharply the number of Indian children removed from their homes and their communities.*

The need has long been recognized for greatly expanded services to Indian children and their families to help prevent family breakdown and to help parents who have lost their children rehabilitate themselves and regain custody of their children. Additionally, there are families who have lost their children or may in the future lose their children without sufficient cause or without due process of law.

The Federal government—the Bureau of Indian Affairs and HEW in particular—has, for the most part, failed in its responsibilities to design comprehensive child-welfare and family-protection programs and thus it has not recommended adequate programs to Congress for funding.

This recommendation would put the Department of the Interior and the Department of Health, Education and Welfare on notice that Congress has a vital interest in the child-welfare crisis and this, it is hoped, would set in motion the necessary planning and budgeting within the Administration.

The design of any expanded child-welfare and family-protection services should be undertaken in full cooperation with American Indian communities and should provide for tribal participation in the administration of the services.

*V. Request that the Department of Interior and the Department of Health, Education and Welfare regularly submit statistics on the placement of Indian children and an evaluation of the application of existing Federal laws and regulations in reducing unwarranted and unnecessary placements of Indian children.*

This recommendation is intended to provide Congress with the information necessary for it to monitor the success of Federal efforts to end the child-welfare crisis and to determine whether additional Congressional action is required.

It is further recommended that the Secretary of the Interior, if he considers it within his powers, or Congress:

*VI. Authorize the Bureau of Indian Affairs to make payment of child-welfare subsidies to adoptive parents on the same basis as it makes payments to foster parents.*

In most states, foster-care payments cease when a child is adopted. A number of foster parents who wish to afford their foster children the protection of adoption do not have sufficient income to support them if they were to lose child-care subsidies.

This recommendation is intended to enable the BIA to extend child-care payments in order that foster parents of modest means may adopt their foster-children. Such adoptions are, of course, subject to the same approval as any other adoptions.

*VII. Authorize and make funds available for the position of Chief of the Division of Child Welfare and Family-Protection Services within the Bureau of Indian Affairs.*

The BIA has more than 15,000 employees. Although the Bureau retains a consultant for child-welfare matters, it has no full-time administrator to revise BIA policy, to develop a comprehensive program of services, and to oversee and coordinate the services that do exist. This recommendation is intended to remedy this defect.

Senator ABOUREZK. Mr. Hirsch you may proceed.

### STATEMENT OF BERTRAM HIRSCH, STAFF ATTORNEY, ASSOCIATION ON AMERICAN INDIAN AFFAIRS

Mr. HIRSCH. Thank you Senator Abourezk. I would like to present to the committee seven specific recommendations that the association has developed after discussions with a number of Indian communities around the country. We found that these recommendations have the support of the Indian people that we have discussed them with.

The recommendations are made from the standpoint, as Mr. Byler has stated, of promoting maximum Indian self-determination in solving these problems, and from the standpoint that these problems go to the very heart of the tribal relation and the very survival of Indian tribes.

The first recommendation that we would make to the Congress is that it enact a law that withholds recognition of the legality of any placement of an Indian child for adoption, foster care, or other institutional or custodial care, unless made pursuant to an order of the tribal court, where a tribal court exists which exercises jurisdiction in child welfare matters and domestic relations.

We have found, in our experience, that in Indian communities which should actually have under Federal law, the jurisdiction to decide their own domestic relations problems, that in fact, the State courts, in some places have usurped this right. The State court hears petitions for dependency and neglect. They hear petitions for termination of parental rights, when in fact, they are operating in Indian country in situations that Federal law would prescribe tribal jurisdiction.

So we feel, that because tribal governments are sometimes unable to fight the State in terms of political power, and the State courts and the State judicial processes often overwhelm the tribe, that it's important that the Federal Government, through congressional action, support the tribal right to handle their own domestic relation affairs. As I say, it goes to the very heart of the existence of the tribes. And, congressional action to bolster this tribal right is, I think, imperative at this time.

The second recommendation that we have is that the Congress enact a law that authorizes Indian tribes to license foster homes and to accept State placements of Indian children and State funds in support of Indian children, and also require that, where a State uses Federal funds, the Federal funds shall be made available to the State in support of the foster care of Indian children on condition that priority be given to tribally licensed foster homes. Again, this goes to the heart of tribal sovereignty.

I would argue that tribes right now possesses the sovereign right to license their own foster homes. There are other tribes in Public Law 280 states, that do not.

We feel very strongly that in light of the fact that most placements of Indian children in foster homes are in non-Indian foster homes, that it is important that we give some support to the tribes to change that situation and to enact a law that would give tribes the right to license their own foster homes.

The second part of that recommendation goes to the point that you asked Mr. Byler with regard to the use of Federal funds. We feel that HEW, which administers the bulk of foster care money to the States, can, through regulations, require the States to change the situation, to give priority to Indian foster homes, or to the development of Indian foster homes in the placement of children.

And, if the priority is not given, the Federal funds should be withheld.

There's another aspect to this, and that is that HEW does not have the authority to give money directly to the tribes. They have to give the money to the tribes through the State agency, and eventually, we feel it would be a good program if the Federal Government were enabled, through HEW, to give direct grants and foster care moneys to the tribes without having to go through the States.

The State agencies, in our experience, have frequently violated HEW regulations designed to protect Indian families, and HEW has not had the enforcement capabilities to enforce their regulation against the States, nor have they withheld funds when such violations have occurred.

The third recommendation is that the Congress enact a law that would appropriate a certain amount of money for construction in connection with a special home improvement program under the Bureau of Indian Affairs to upgrade: (1) the housing conditions of Indian foster and adoptive parents; (2) the housing conditions of American Indians who seek foster children, when such improvement would enable them to qualify under tribal law or licensing standards; and (3) the housing conditions of families facing disintegration, where such improvements would contribute significantly to the family stability.

Once again, this goes to the point that was mentioned earlier and in Mr. Byler's testimony, that in Indian families, so often, they are unable to become either foster or adoptive parents because they do not meet standards of the States for licensing foster homes, nor do they meet the standards that the State might prescribe for adoptive placement.

I have found, in my own experience, that these standards often include, for example, hot and cold running water, indoor running water, no outhouses, situations where families must provide separate beds for each child. They cannot have more than one child sleeping in a bed. These types of conditions are common in certain Indian communities and therefore, Indians are automatically excluded from receiving children in foster placement or adoptive placement.

These standards, also, do not, in any way, reflect upon the ability of Indian parents to provide a good home and loving care for their children. Nevertheless, the States place great emphasis on materialistic standards like that.

Our fourth recommendation is that Congress enact a law that requests that the Department of the Interior and the Department of Health, Education, and Welfare submit for fiscal year 1975, a program and budget for comprehensive child welfare and family protection services that are designed to reduce sharply the number of Indian children removed from their homes and their communities.

And, the recommendation includes both urban and rural Indian families.

The fifth recommendation is that Congress enact a law requesting that the Department of the Interior and the Department of Health, Education, and Welfare regularly submit statistics on the placement of Indian children and an evaluation of the application of existing Federal laws and regulations in reducing unwarranted and unnecessary placements of Indian children.

As Mr. Byler has indicated, we had quite a time collecting statistics on Indian children. The States have multiple methods of collecting statistics, often, very inconsistent with one another.

The Bureau of Indian Affairs does not regularly compile statistics on Indian placements and it's been an extraordinarily difficult feat to be able to arrive at accurate statistics on the placement of Indian children.

Our sixth recommendation is that the Congress enact a law authorizing the Bureau of Indian Affairs to make payment of child welfare subsidies to adoptive parents on the same basis as it makes payment to foster parents. It's a request for subsidized adoptions.

And, our final and seventh recommendation is that the Congress enact a law authorizing the availability of funds for the position of Chief of the Division of Child Welfare and Family Protection Services within the Bureau of Indian Affairs. We feel that the issue is so important and that solutions to the problems are going to take a lot of imagination and time to work out that the Bureau of Indian Affairs should have a separate office set aside just to work on this immediate problem.

Senator ABOUREZK. Thank you very much, Mr. Hirsch, for the recommendations.

Senator Bartlett.

Senator BARTLETT. Thank you, Mr. Chairman.

Mr. Hirsch, I believe in your second recommendation of having the Federal Government make its appropriations directly to the tribes rather than to the State on the basis that the State policy or agencies and officers, have not operated according to law.

If that is the case, why has not your organization, or you, encouraged others to seek grievances through the courts, or have you? And, if so, what has been your experience?

Mr. HIRSCH. The recommendation, Senator Bartlett, is not so much that we would like money to go directly to the tribes because the States have not complied with Federal regulations, but we feel that these problems can best be solved within the Indian community through their own action.

We are supportive of Indian self-determination in this particular area because parent-child relations go to the very essence of the survival of the tribe. That's the main thrust of the recommendation.

As for court action, we have been in court quite a few times, and will be many more times, unfortunately.

We have also worked with several State welfare agencies in an effort to work out an agreement that will provide Indian communities with nondiscriminatory treatment in the distribution of welfare services.

In one case, in particular, I had a meeting together with several tribal leaders from every tribe in South Dakota. And the State welfare department agreed to review its foster care standards and agreed to review some of their other policies that all the Indian communities

in South Dakota objected to. We got an agreement in writing, that the State would take another look at their standards, and at their administrative regulations, that the State would consider Indian input in revising the standards and would make an effort to revise those standards to make them more realistic in light of present conditions and the State never followed through on any of that.

Senator BARTLETT. Yes, Mr. Byler?

Mr. BYLER. I'd like to comment on that.

Not all States administer these funds discriminatorily. Let me give you one example that we worked on where that was the case. It was on the Devils Lake Sioux Reservation a number of years ago in the late 1960's, where they were removing children at a great rate on the reservation.

The tribal council acted to halt that. This angered Benson County welfare and they terminated all child welfare payments, Federal moneys, until the tribe stopped its resistance to the placement of Indian children. We provided legal assistance to some of the parents.

There was no food in that community. A number of the Indian parents who were at risk of having their children taken away went to the Bureau of Indian Affairs in Washington, talked to people who at that time were in charge of the branch of social services, and said it's your money, why don't you have the BIA make these payments directly so the families can eat. The answer we got, "That would embarrass Benson County welfare. We cannot do it."

It was only when we appealed to the man who, that day, was acting as Commissioner of Indian Affairs, that the order was sent down to let the children eat.

Senator BARTLETT. Have you found any difference in the amount of placements in nonreservation States as compared to reservation States, placements for adoption?

Mr. HIRSCH. That's a complicated question.

I think in reservation States, a strong tribal government that is aware of the problem, and many tribal governments are not because the problems are isolated. They effect a family in one part of the reservation and another family in another part of the reservation, and they may not recognize there is a pattern that exists.

In States where the tribes are strong and do recognize that this is a pattern, they have taken a very strong and affirmative action to put a stop to these types of abuses. So, in those States on those reservations, I would say that the rate of placement is dropping, although it is still inordinately high.

In States where there are no reservation communities, we have to distinguish between rural and urban. I think in urban areas, Indian people in those States face the same problems that other minority group people face in this area with family court, and that is that there is a very high rate of placement in urban communities.

Minneapolis is an urban population center for Indian people and there are quite a few placements in Minneapolis.

Senator BARTLETT. Do you have any figures on Oklahoma as a nonreservation State? It happens to be the State that the census indicates there are more Indians than any other State?

Mr. HIRSCH. Oklahoma is a State where we have some raw data that is uncompiled and we are hoping that we will be able to compile it in a short period of time, and we will be glad to submit it to you and to the committee at that time.

I might add one thing about Oklahoma, and that is that we have had an exceptionally difficult time getting accurate statistics from Oklahoma.

First, the State and social services department insisted that they did not keep figures broken down on a racial basis. They could not distinguish for us how many Indian people were placed as opposed to non-Indians. Finally, they did submit some statistics to us, and the accuracy of those statistics will have to await further analysis, but we will submit them to you.

Senator BARTLETT. I would like, personally, to have them. I'm sure the committee would, too.

Would you repeat again, your recommendation on statistics on placements and what precise recommendation on legislation you have?

Mr. HIRSCH. That the Congress enact a law requesting that the Department of the Interior and the Department of Health, Education, and Welfare regularly submit statistics on the placement of Indian children and the evaluation of the application of existing Federal laws and regulations in reducing unwarranted and unnecessary placements of Indian children.

Senator BARTLETT. I suppose that if this statistical information on Indian children had validity, or had a basis for comparison with other children, you'd want the same information on other minorities so there would be some common denominators, because the comparison is relative.

Mr. BYLER. These figures are available as national figures or State figures, but they aren't in the case of so many instances effectively broken down as to Indian or black or Chicano placement.

Senator BARTLETT. It would be a hiatus whether or not the welfare figures on blacks, because there was a while, I know, when it was illegal to keep track of such figures.

Mr. BYLER. Right.

Minnesota could be a model for keeping statistics. They do break down according to race and it shows, by the way, that while the Indian rate is extraordinarily high, the rates for blacks and Spanish speaking people in Minnesota are extraordinarily high, as well.

Senator BARTLETT. Is the rate higher for full-bloods than for part-bloods?

Mr. BYLER. The figures do not show this, but we would assume that they are, because most placements are made in reservation communities, rather than urban communities and there are many full-blooded people living in these rural areas. By and large, I would say that as a tendency, yes.

Senator BARTLETT. Thank you Mr. Hirsch, and Mr. Byler.

Senator ABOUREZK. Thank you both for your excellent presentation. [The information referred to follows:]



## OKLAHOMA INDIAN ADOPTION AND FOSTER CARE

## BASIC FACTS

1. There are 1,013,028 under-21-year-olds in the State of Oklahoma.<sup>1</sup>
2. There are 45,511 under-21-year-old American Indians in the State of Oklahoma.<sup>2</sup>

3. There are 967,517 non-Indians under 21 in the State of Oklahoma.

I. *Adoption.*—In the State of Oklahoma there were 69 Indian children in adoptive homes.<sup>3</sup> Using federal age at adoption figures 69 per cent (or 48) of these are under one year of age when placed. Another 11 per cent (or 8) are one or two years old; an additional 9 per cent (or 6) are three, four or five years of age; and 11 per cent are over the age of five. Using the formula then that 48 Indian children per year are placed in adoption for at least 17 years and an additional 21 Indian children are placed in adoption for a minimal average of 14 years, there are 1,090 Indians under-21-years-old in adoption in Oklahoma. This represents one out of every 42 Indian children in the State.

There were 317 non-Indian under-21-year-olds placed in adoptive homes in 1972.<sup>4</sup> Using the formula as stated before, there are 4,884 non-Indians in adoptive homes in the State of Oklahoma; or one out of every 198 non-Indian children.

Fact: There are therefore by proportion, 4.7 times as many Indian children in adoptive homes as non-Indians.

II. *Foster care.*—According to statistics from the State of Oklahoma Public Welfare Commission there were 337 Indians in foster homes in 1972.<sup>5</sup> This represents one out of every 135 Indian children in the State. By comparison there are 1,757 non-Indian children in foster homes, representing one out of every 494 non-Indian children in the State.

Fact: By rate therefore Indian children are placed in foster homes 3.7 times more often than non-Indians in the State of Oklahoma.

III. *Combined foster care and adoptive care.*—Using the above figures, a total of 1,427 under-21-year-old Indian children are either in foster homes or adoptive homes in the State of Oklahoma. This represents one in every 31 Indian children. Similarly, for non-Indians in the State 6,641 under-21-year-olds are either in foster care or adoptive care, representing one in every 145 non-Indian children.

Fact: By rate Indian children are removed from their homes and placed in adoptive care or foster care 4.6 times more often than non-Indian children in the State of Oklahoma.

The above figures are based only on the statistics of the Oklahoma Public Welfare Commission and does not include private agency placements. They are therefore minimal figures.

Senator ABOUREZK. The next witnesses will be Mrs. Margaret Townsend and her children from Fallon, Nev.

Mrs. Townsend, would you please step forward, and give us the name of your children and their ages?

## STATEMENT OF MARGARET TOWNSEND, FALLON, NEV.

Mrs. TOWNSEND. Kim Townsend, she's 14, and Anna Townsend, she's 9 and the little boy that's over there is Ira Walker and he's 7.

Senator ABOUREZK. Do you have something that you would like to say to the committee this morning? I understand you didn't bring a prepared statement.

Mrs. TOWNSEND. No.

Senator ABOUREZK. Is this the first time you've ever been to Washington?

<sup>1</sup> "Age and Race Population, by State, 1970," p. 1-306.

<sup>2</sup> "American Indians, 1970 Census of Population," p. 13.

<sup>3</sup> Letter from L. E. Rader, Director of Institutions, Social and Rehabilitative Services, Feb. 22, 1973. Also confirmed by phone conversation with Mrs. Hedwig O'Loughlin, Apr. 18, 1974. Oklahoma Public Welfare Commission, Division of Social Services.

<sup>4</sup> Phone conversation with Mrs. Hedwig O'Loughlin, Division of Social Services, State of Oklahoma Public Welfare Commission, Apr. 18, 1974.

<sup>5</sup> Letter from L. E. Rader, *Op. Cit.*

Mrs. TOWNSEND. Yes.

Senator ABOUREZK. Were you nervous when you first came in?

Mrs. TOWNSEND. No, but I am now.

Senator ABOUREZK. Why, because the television lights are here and so on, in front of all the people? I just want to try to make you at ease as much as possible because I think you probably have a lot of good information to give to the committee. I want to thank you on behalf of the Indian Affairs Subcommittee for making this trip in from Nevada. We appreciate it very much. And, I just want to say that you are performing a great service by coming here to testify because, hopefully, it will help Indian families and Indian children to stay together by providing information which, of course, is made public and will be part of our consideration when we try to make legislation and try to pass laws on this subject.

Feel free, you and your children, to say what you came here to say and don't be nervous. Go right ahead, Mrs. Townsend, and say what you wish.

Mrs. TOWNSEND. My children were taken out of my home because of the harassment of the police department in Fallon, Nev. The chief of police told me that he was going to make it hard for me to get my children and that I was going to lose my driver's license and that it was going to be hard for me to keep out of jail.

So, he turned my children over to the juvenile probation officer and they went into my home and took my children and placed them in a foster home. And, I think they were abused in the foster home.

I was beat up.

Senator ABOUREZK. Beat up by whom, Mrs. Townsend?

Mrs. TOWNSEND. By the police.

Senator ABOUREZK. While you were in jail?

Mrs. TOWNSEND. When they picked me up, they took me to the office and they argued with me and then they said I resisted arrest.

Senator ABOUREZK. If I may just interrupt you for a moment. What were you arrested for?

Mrs. TOWNSEND. I was arrested for drunken driving and resisting arrest.

Senator ABOUREZK. How much was the bail they set on you?

Mrs. TOWNSEND. It was \$500.

Senator ABOUREZK. Were you able to raise the bail money to get out of jail?

Mrs. TOWNSEND. I pleaded not guilty and I called an attorney and he got me out with a bail bond.

Senator ABOUREZK. How long did you stay in?

Mrs. TOWNSEND. Well, after my children were gone, the next day, I knew they were gone, I just stayed in there for a week.

Senator ABOUREZK. You stayed in jail for a week?

Mrs. TOWNSEND. Yes.

Senator ABOUREZK. When was this arrest, I don't think I asked you that?

Mrs. TOWNSEND. January 4.

Senator ABOUREZK. Of this year?

Mrs. TOWNSEND. Yes.

Senator ABOUREZK. While you were in the jail, who came and got the children?

Mrs. TOWNSEND. I think the police department picked them up the next day.

Senator ABOUREZK. Where did they take them?

Mrs. TOWNSEND. They placed them in a temporary foster home.

Senator ABOUREZK. Do you know who the foster parents were?

Mrs. TOWNSEND. They wouldn't tell me, but later on I found out who they were.

Senator ABOUREZK. The father of the children is not living in the house with you at all?

Mrs. TOWNSEND. No. I'm alone.

Senator ABOUREZK. How long did the children stay in the foster home and how long were they kept away from you?

Mrs. TOWNSEND. About 3 weeks.

Senator ABOUREZK. How did you eventually get them back?

Mrs. TOWNSEND. I had to call the Intertribal Council lawyer. They wouldn't let me make a phone call or anything. I had to sneak and ask one of the trustees to take a note to somebody that I knew who would call the Alcoholics Anonymous and he, in turn, called the Intertribal Council lawyer.

Senator ABOUREZK. And, the lawyer got them back for you?

Mrs. TOWNSEND. Yes, and they communicated with Mr. Hirsch, here, in New York.

The welfare tried to send me to an alcoholic rehabilitation center in Tucson, Ariz., for 6 months, and I don't drink at bars a lot, see, and everytime I'm downtown, about 6 to 8 times in the last 2 years, I seem to be harassed by the policemen, everytime I've been down there, about three times, and they'd say some terrible things to me.

And, they said they would assault my daughter, my oldest daughter, and how fat this little girl was and she's just like me; and they just made fun of my children.

They just said terrible things to me and intimidated me. So, I wouldn't go back to the police department. I had to get me an attorney.

Senator ABOUREZK. Did the welfare try to take your children away from you permanently while you were in jail?

Mrs. TOWNSEND. Yes. They said I couldn't get them back for at least 6 months unless I went to the alcoholic center.

Senator ABOUREZK. In other words, they tried to force you to go to the alcoholic center by saying that?

Mrs. TOWNSEND. Yes, and they tried to make me pay for their foster home care.

Senator ABOUREZK. That was Nevada State Welfare Department?

Mrs. TOWNSEND. Yes.

And, it's very hard for the Indian women to communicate with these people because they do look down on Indians, I think.

My daughter had a bad time with the social worker that we had, and I tried to stay on the good side of her so that I could get my children back, but I don't think they had any excuse to take them. They said they would just take them temporarily, that's all.

Senator ABOUREZK. Is the social worker who handled your case an Indian?

Mrs. TOWNSEND. No.

Senator ABOUREZK. Is it a male or female?

Mrs. TOWNSEND. She's a female.

Senator ABOUREZK. Let me ask you this. Do your children have anything that they want to say this morning about the care that they received in the foster home?

Mrs. TOWNSEND. This little girl.

Senator ABOUREZK. Which one?

Mrs. TOWNSEND. The 9-year-old.

Senator ABOUREZK. You mean Anna?

Mrs. TOWNSEND. Yes, that my 20-month-old baby was mistreated. She said the man in the foster home slapped my little baby and forced him to eat a whole plate of food and kept the baby penned up all the day. And, she said that the diaper was never changed until the girls got home.

Senator ABOUREZK. Would Anna want to testify about that?

Mrs. TOWNSEND. I think so, she was real hurt.

Senator ABOUREZK. Anna, do you want to say anything?

Anna TOWNSEND. Yes, I would like to.

My brother, he was mistreated by Mr. Kelly. He slapped him and he smoked right in his face and puffed right in his face.

Senator ABOUREZK. Just a minute, Anna.

If that's too hard for you to talk about, you don't have to.

Perhaps it is better if she didn't, Mrs. Townsend.

Mrs. Townsend, have you ever been arrested before at all, before that incident?

Mrs. TOWNSEND. Yes.

Senator ABOUREZK. For the same charge?

Mrs. TOWNSEND. I had a previous experience with the police where, I don't know why stories used to follow me around, but I used to live in Elton, Nev., and the police used to follow me around and aggravate me and say dirty things to me. I got in an argument with them and my baby, when he was a month old, he was in a cradle board, he was hit, and three policemen just laughed because they had a great time.

I pleaded guilty because I worried about my baby. These stories followed me around and they had threatened me about my daughter, and I was worried about her all the time. I was trying to be over-protective, and they just think it's great fun just because I'm Indian, they can beat me up with handcuffs and chip my elbows where I couldn't pick my baby up.

I had to let my brother and his wife take him for awhile; and it's just been hard on my kids. Them doing that to me just because they have a grudge on the Indian boys. It is just hard to communicate with them, that's all.

Senator ABOUREZK. I guess it would be a fair statement that the foster home experience was pretty rough on the kids, then?

Mrs. TOWNSEND. Yes; and my daughter, I think they took her out of that home and they placed her with an Indian family, with some of her friends, and she said she liked it over there better.

Senator ABOUREZK. With the Indian family?

Mrs. TOWNSEND. Yes.

Senator ABOUREZK. I would suppose that it would be fair to say that the kids would rather be with you?

Mrs. TOWNSEND. Yes, they do.

Senator ABOUREZK. Is there anything else that you would like to say to the committee?

Mrs. TOWNSEND. I think that most of the Indian women are usually overwhelmed by people who think their children should be taken away from them and they really don't stand up to anybody and they don't have anybody to tell.

Senator ABOUREZK. Does this happen to a lot of other Indian people in your community?

Mrs. TOWNSEND. Oh, yes; it does.

They just think that it is the right thing for the welfare to be doing and they just never say or have anything to say. They just let them do whatever they want to, let them adopt them out or whatever.

Senator ABOUREZK. In other words, it is a general practice for the welfare people who are handling families in your community to take children out of the home, in a lot of cases that is, and not advise parents of their rights with regard to getting them back? Does that happen quite a bit?

Mrs. TOWNSEND. Oh, yes; it does.

Senator ABOUREZK. Senator BARTLETT.

Senator BARTLETT. Thank you, Mr. Chairman.

What do you think the reasons were that the police wanted to take your children?

Mrs. TOWNSEND. Because he wanted to get even with some of the Indian boys that I know and they are just being hateful because I'm Indian. There's no other reason, because I don't resent white people. They don't bother me at all, except the people in authority. Sometimes they get a little too overwhelming.

Senator BARTLETT. Were there any particular people who wanted to adopt your children, that you know of?

Mrs. TOWNSEND. No. I wasn't going to let them keep them that long.

Senator BARTLETT. The lawyer that you used was a lawyer that you obtained. Did he help you?

Mrs. TOWNSEND. He is part of the intertribal agency. He is the attorney for the intertribal agency in Nevada.

Senator BARTLETT. Do you happen to know whether he is going to testify before this hearing?

Mrs. TOWNSEND. No. He's not here. His name is Mr. Pope.

Senator BARTLETT. How do you spell that?

Mrs. TOWNSEND. Pope, P-o-p-e.

Senator BARTLETT. Do you have employment?

Mrs. TOWNSEND. No.

Senator BARTLETT. Thank you very much. We appreciate your testimony very much.

Senator ABOUREZK. Thank you very much, Mrs. Townsend. The committee wants to thank you very much.

Our next witness will be Dr. Joseph Westermeyer of the University of Minnesota.

Dr. Westermeyer, we'd like to welcome you to the committee. Do you have a prepared statement?

Dr. WESTERMEYER. No; I do not.

Senator ABOUREZK. All right. You may proceed as you wish.

## STATEMENT OF DR. JOSEPH WESTERMEYER, DEPARTMENT OF PSYCHIATRY, UNIVERSITY OF MINNESOTA

Dr. WESTERMEYER. My experience is a limited one, in the sense that I've mainly worked in Minnesota and mainly with Chippewa people.

Senator ABOUREZK. I wonder if I might interrupt you just a minute and ask you where you do work and your position there?

Dr. WESTERMEYER. Yes.

I work at the University of Minnesota in the Department of Psychiatry. My principal interest is in social psychiatry.

I see patients, the majority of whom are not Indian, and I teach in the medical school where I teach psychiatric residents. I also teach psychiatric workers and psychologists.

My statements grow out of formal experiences over the last 5 years when I've seen Indian patients over the last dozen years. It has only been the last 5 years that I've collected my experiences in a formal and a thoughtful way.

Over this time period I have seen 120 Indian patients and 16 Indian families, most of whom were either trying to get their children back, some of their children back, or were in the process of losing their children.

During this time period, also, as I became increasingly aware that transactions, and interactions between Indian families and social agencies tend to be extremely important in the problems. Oftentimes they maintain their problems.

I took off 3 months and spent them visiting hospitals, welfare agencies, police departments, sheriff's offices, and community mental health clinics and five counties in Minnesota where Indian people are most populous.

So, my statements grow out of this experience.

The Indian patients whom I have treated, one-half of them have been placed out of their homes of origin, the majority of these in foster homes, a series of foster homes and a minority of them, only a few, in adoptive homes.

Some of the older people have spent time in a boarding school setting as well as other foster, or institutional settings.

The foster home placement was never, in all of these instances, restricted to one home. All of these people were placed in more than one home. Also, after the foster placement, none of these individuals ever again returned permanently to their home of origin, although many of them made infrequent visits to one or another relative.

In general, they have some of the general characteristics that one can attribute to children passing through a series of foster homes. Difficulties such as chronic insecurity, free floating anxieties, panic reactions, difficulty adapting to family life and adulthood, were characteristics present among them, as they are among non-Indian people raised in this manner.

Oftentimes, these people did reasonably well in childhood and one could see where the social worker working with these people during childhood was impressed that things seemed to be going well. In

other words, in grade school, and most of them were placed even through grade school the children make a pretty good adjustment and they don't have psychological or social problems in the majority of cases.

However, once they get into adolescence, runaway problems, suicide attempts, drug usage, and truancy are extremely common among them, even though they are raised away from the reservation and away from Indian society.

My findings among this group of people, mostly men but about one-fourth of them women, were that the Indian person was so raised that they assumed the majority of white identity when raised in a foster home.

The patients that I encountered were raised in foster homes. Indeed, when I made my survey there were only two Indian foster homes in Minnesota then, at that time. However, there are more now.

During the adolescence of these people, they were raised with a white cultural and social identity. They are raised in a white home. They attended, predominantly white schools, and in almost all cases, attended a church that was predominantly white, and really came to understand very little about Indian culture, Indian behavior, and had virtually no viable Indian identity. They can recall such things as seeing cowboys and Indians on TV and feeling that Indians were a historical figure but were not a viable contemporary social group.

Then during adolescence, they found that society was not to grant them the white identity that they had. They began to find this out in a number of ways. For example, a universal experience was that when they began to date white children, the parents of the white youngsters were against this, and there were pressures among white children from the parents not to date these Indian children. By the way, all of them were three-eighths Indian or greater. The majority of them were three-fourths or fullblooded Indians.

The other experience was derogatory name calling in relation to their racial identity—buck, squaw, Sitting Bull—what have you.

In many instances, if not all instances, they have difficulty obtaining the kinds of criteria with their peers; they had difficulty getting jobs in the local drugstore, purchasing a motorcycle, taking out a bank loan to buy a car.

At the same time, they were finding that society was putting on them an identity which they didn't possess and taking from them an identity that they did possess. They had no peer group or no identity with any group that they might share this identity.

This is very much different from those raised in a boarding school setting where some of the same stresses were present, but where they had a peer group with whom they might identify or Indian children raised in predominantly a white neighborhood but where they have the family group or an extended family where they might gain support during this time of stress.

What may be of interest to you is the finding of that fact that among the patients that I encountered that had a high identity with Chippewa culture, those that were raised in their own home, you get such criteria as recent visits back to the reservation within the last year or two, the ability to speak in the language, and they also had good coping skills within the majority of society. These people were statistically more apt to be employed; if they had been in the serv-

ices, they had honorable discharges; they were mostly married and caring for their children. Also, they had a low incidence of history of social problems such as imprisonment, commitment to a State mental health institute, and such as this.

The reverse also is true of those with a low cultural identity. They tend to have poor coping and also significant social problems.

I thought that this only undermines the common thought that people only had so much cultural, or so much inside culture within their personality that if you fill up those with Indian culture, there may not be any left over for coping with the majority of society.

Returning to the problems of the institutions, and I think these problems are only a part Indian problems, from my own perspective, there are problems, too, of our social institutions and how they operate.

Indeed, you can look at statistics which indicate that Indian families are in difficulty in Minnesota. The infant mortality rate is high, oftentimes, from infectious disorders, from nutritional deficiencies, child battering, while extremely infrequent, is a statistic becoming more commonly known among Indian people.

So, there are difficulties. Also, social workers in Minnesota, and I believe, indeed, our whole welfare system in Minnesota is a superb one compared to other States and even compared to other nations around the world. Social workers within our State do a very excellent job when they are called upon to work with the aging or physically handicapped, with learning disabilities, family problems of one or another kind, so long as these occur within the 98 percent majority of the population.

It's been my own experience that the vast majority of social workers called to assist Indian families, when there is a crisis or distress, do a very poor job. They do not work to keep the family intact. They will not use the extended family resources. They won't use homemaker or mental health facilities or collaborate with Indian community resources.

There seems to be an early recourse to foster placement; foster placement is often used as sort of a peace power against the family. There's the stress to sort of whip the family into shape when they experience difficulties in living, rather than to foster family strength and help the family through a crisis.

I don't have any blueprints for solving these difficulties. I think they're extremely complex ones.

I think that perhaps Indian leadership in solving these problems, at least from my own experience in the Twin Cities, has been the most useful step toward amelioration that I have seen, where Indian organizations take steps to reverse these trends and to assume responsibility for the welfare within their own communities.

Senator ABOUREZK. Dr. Westermeyer, if I might just break in a minute. I think, from what you said and from what we've heard earlier today, and from my own experience, it is pretty obvious that when a non-Indian social worker, or a non-Indian authority tries to impose their own standards on the Indian people and the Indian families, it is almost certainly doomed to failure, no matter what they try.

I assume you agree with that statement?

Dr. WESTERMEYER. Yes, like white physicians, white psychologists. All the white workers have, I think, cultural blinders on that do impede their work.

Senator ABOUREZK. Even psychologists and psychiatrists?

Dr. WESTERMEYER. No doubt; definitely.

Senator ABOUREZK. Senators and Congressmen, too, I assume.

Dr. WESTERMEYER. I guess none of us has a very good track record.

Senator ABOUREZK. I would probably agree with that. Please proceed.

Dr. WESTERMEYER. That really is the end of my statement. Just as a final comment. I would like to mention that within the community many people have had increasing success in working with health problems in Minneapolis, where there are a significant number of Indian people within the family clinic itself, and where the white professional stereotype is repeatedly undermined and produced. That seems to be helpful.

We have another health clinic in which the money comes through Indian hands. They decide what is done with it. In many ways these two instances replicate the success that's been achieved by other ethnic groups in our area for accomplishing their own welfare.

The Brotherhood, or the Jewish Family Services and Catholic Welfare, tend to have a fairly high success rate. Very infrequently do they need to resort to police power in order to protect life, for example.

That's the end of what I have to say.

Senator ABOUREZK. It is also obvious that there is a dearth of Indian professionals that are available to work in these areas. What would you recommend, by way of training, or cultural awareness sessions for non-Indian psychologists and psychiatrists?

Dr. WESTERMEYER. I don't.

Senator ABOUREZK. Until such time as Indians might be trained?

Dr. WESTERMEYER. I don't have very much faith in that institutional means of correction, because it puts the responsibility of change on the professional who is at the top of the hierarchy. In other words, he has to want to change himself or he won't change. And, if he would have been open to change, he would have already accomplished that without any outside interference.

I'm not thinking about that as an institutional means of correction. However, when Indian people seem to have control over the purse strings, in my limited experience in Minnesota, that seems to be a good deal more efficient. The one instance where Indian health workers have been drawn into it, really the leadership there has been taken by a white physician, and that's fine as long as they stay in that position. But, I'm afraid that once she leaves, her leadership will leave with her and there's a lot of inertia for them to go back the way they were.

I'm not talking about that as a way of strategy.

Senator ABOUREZK. Thank you very much for your testimony.

Senator BARTLETT. Dr. Westermeyer, do you feel that it is advantageous that the Indian child be adopted by an Indian family?

Dr. WESTERMEYER. Yes, sir.

Senator BARTLETT. Is your experience, and you didn't mention the support and the school situation of the peer group, in your practice did you treat any children, Indian children, or come in contact with Indian children who were in school situations?

Dr. WESTERMEYER. In school situations in the Twin Cities, not in boarding school situations.

Senator BARTLETT. I see.

Dr. WESTERMEYER. There are some psychiatrists in the country that have worked in such settings further west, but I haven't.

Senator BARTLETT. What would you say is the main problem that you run into of the environment? Is it the fact that the Indian children are in a white foster home, or is it the fact that the Indian children are not associating with other Indian children, or is it some other reason, a matter of poverty, which Mr. Byler said it was not?

Dr. WESTERMEYER. You're speaking of the Indian?

Senator BARTLETT. I'm speaking about the psychiatric problems that you have found. What would be the prime cause, that's what I'm trying to get at.

Dr. WESTERMEYER. With the Indian child in grade school living in a white foster home?

Senator BARTLETT. What I'm trying to find out is, what is the prime cause for the psychiatric difficulties found in children?

Dr. WESTERMEYER. There are few psychiatric difficulties among Indian children during their grade school years, while they are in white foster homes. The vast majority makes pretty good adjustments and we tend to see them infrequently.

The difficulty arises, primarily, during adolescence as they try to assume a cultural identity and, because of their racial characteristics, the majority of society refuses to let them express that majority cultural identity and they're forced into an identity which they really don't know how to behave in. They really don't know how to act as Indians should. Many of them have lost contact with the extended family back on the reservation.

The difficulties occur at this time. I think their problems grow out of two things. One, having an identity that they can't express, the majority identity; and being forced, because of their race, into an identity that they don't understand.

The second, not having around them other Indians, extended family, who can support them through this difficult stage, where they're being expected to change their social and cultural identities.

So, I would see those two factors as being operative but not during childhood, primarily during adolescence.

Senator BARTLETT. Then, you wouldn't see very clearly the solution to the problem of having Indian foster parents if such adoption was, or having adoptive parents that were Indian?

Dr. WESTERMEYER. I think most adoptive and foster parents would be necessarily much less often utilized if the Indian family had services to keep the families intact.

Senator BARTLETT. Did you have a chance to make a judgment between foster parents and adoptive parents?

Dr. WESTERMEYER. I didn't run into enough adoptive parents to really obtain what I thought was significant in number. I only had three cases where people were adopted at a young age and then raised within a white family.

Senator BARTLETT. Is there a lack of Indian parents who are interested in adoptions, or is this just not pursued?

Dr. WESTERMEYER. I think that's a complicated question. In Minnesota once a person is adopted, at least in the past, their

finances have stopped. So, if you have an Indian couple who is coping and has a large enough home, usually they have so many other children of their own and children of kinship, that to take another child on is virtually impossible.

So, you're talking about the majority of Indian people who might take on this kind of a child, not having this kind of money to do it. So, there's an economic stricture against it.

Also, there is the matter of housing. A lot of the rules that grew out of the housing, grew out of a previous era in which housing was related to infectious disease, tuberculosis and streptococcosis. There's that emphasis on infectious disease within a home rather with caring parents. All of that gets into a rather complicated area that operates against adoption by Indian parents, and for adoption by white parents.

Senator BARTLETT. What has been your experience with the readjustment problems of children who have been in non-Indian homes and who return to Indian homes in Indian communities?

Dr. WESTERMEYER. That doesn't happen very often, at least returning to the home of origin.

What does happen fairly often, is that people raised in this way do drift back, say, in the area of Minneapolis, where they know there are some relatives around, but they don't go back out to the reservation, and they may make contact with their extended kinship group, but they do that when they're 16 or about 18 years old. They do it when they're running away at age 16, or they do it when they finally get out of school at the age of 18 or out of the service at age 20.

That's when I see these people are having suicide attempts or difficulty with alcoholism, using drugs. That's when they are surfacing the psychiatric recognizance and that's when they end up on my ward.

Senator BARTLETT. To carry that a bit further, in the adults that you see that have had this background, is that a continuing matter, where you have had good success and readjustments? What has been your experience?

Dr. WESTERMEYER. It's extremely difficult once this pattern establishes itself in the late teens or early twenties, and a person in the mid-thirties or forties decides that that isn't any longer the way to live, and you're really talking about rehabilitation. It is extremely expensive and has very limited goals, and a somewhat low success rate.

I can point to a few dozen people that I feel really have done well, but it has been at great cost to themselves, and it has been at great cost to any children or family they have. The family is all busted up. It is such a long rehabilitation that probably 60 or 70 percent of them are not going to be rehabilitated. They are going to end up in the morgue or in prison, or in an institution of some kind.

All efforts in that area are good, they certainly aren't, from my own perspective, a solution. I guess that is why I was willing and anxious to come here today because I see what I'm doing in my own little place, sitting in a psychiatric unit, while it may be of interest to me, certainly it isn't going to solve the problem of the Indian people.

Senator BARTLETT. I think that you mentioned the inadequacy of white and black, in general, to know the social needs of Indians and to really be able to analyze any solutions as best as they might?

Dr. WESTERMEYER. That's true. The economic center, too. I'm at a university setting where the citizens pay my salary and I can see people irrespective of their ability to pay. Most mental health workers, this isn't true of them. Somebody has to pay them or they don't provide care.

Senator BARTLETT. Dr. Westermeyer, thank you very much.

Senator ABOUREZK. Thank you very much for your testimony, Dr. Westermeyer.

The next witness will be Mrs. Alex Fournier from Fort Totten, N. Dak.

Mrs. Fournier, would you like to come up to the witness stand, and I think it might be better if your grandson not come up to the stand itself. I think that was a rough experience on Anna Townsend, and I don't want us to repeat that.

Is this the first time you've been in Washington?

#### STATEMENT OF MRS. ALEX FOURNIER, FORT TOTTEN, N. DAK.

Mrs. FOURNIER. This is the second time.

Senator ABOUREZK. So you have flown on an airplane before and you aren't as nervous about the Capitol here and all these buildings and the television lights and so on?

Mrs. FOURNIER. No.

Senator ABOUREZK. Good.

Would you tell us your name and where you are from?

Mrs. FOURNIER. I'm originally from Holliday, N. Dak.

Senator ABOUREZK. Do you live there now?

Mrs. FOURNIER. I'm living there now. I used to live there, and then I moved to Devils Lake in Fort Totten.

Senator ABOUREZK. What tribe are you enrolled in?

Mrs. FOURNIER. The Mandan Tribe.

Senator ABOUREZK. You have living with you your grandson, and his name is Ivan Brown?

Mrs. FOURNIER. He isn't my grandson. This child is no relative of mine, but I have taken him since his mother died.

Senator ABOUREZK. Are either of his parents living?

Mrs. FOURNIER. He takes me as his mother, and I take him as my own.

Senator ABOUREZK. Is his father living?

Mrs. FOURNIER. They were not legally married. They were just living together, the mother and father.

Senator ABOUREZK. How long have you had Ivan in your home?

Mrs. FOURNIER. He's 9 now. He was only about 3 weeks old when I started babysitting and raised him from there on.

Senator ABOUREZK. Did you have an experience with the county welfare people in North Dakota?

Mrs. FOURNIER. Yes. In Benson County, I did.

Senator ABOUREZK. Do you want to tell us about the experience you had? When was it, first of all?

Mrs. FOURNIER. It was around 1968, I think.

Senator ABOUREZK. 1968?

Mrs. FOURNIER. Yes.

When I first got the child.