

OVERSIGHT OF THE INDIAN CHILD WELFARE ACT OF 1978

APRIL 25, 1984

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 10:45 a.m., in room SD 106, Dirksen Senate Office Building, Senator Mark Andrews (chairman of the committee) presiding.

Present: Senators Andrews and Gorton.

Staff present: Paul Alexander, staff director; Peter S. Taylor, general counsel; Debbie Storey, legislative assistant; Max Richtman, minority staff director; Gertrude Wilson, secretary.

Senator ANDREWS. The hearing will come to order.

Today, we are conducting an oversight hearing on one of the most important pieces of legislation to have been produced by this committee; the Indian Child Welfare Act.

The purpose of the act is to protect the most valuable resources of Indian people; their children. This unique legislation, passed in 1978, is Congress effort to address the critical situation, documented by the American Indian Policy Review Commission, of Indian children in extremely high numbers being placed in adoptive and foster-care settings with non-Indian families. For many of these children, the placements effectively terminated their tribal ties and identity. The vast majority of these placement decisions were being made by non-Indian social service agencies and courts, without any viable Indian input.

The Indian Child Welfare Act reinforces tribal jurisdiction over child-welfare issues, creates preferences for placements with Indian families where possible, provides a mechanism for Indian participation in non-Indian judicial settings, and provides for the funding of Indian family service and child-welfare programs.

Our purpose today is to see how well the program is running, what improvements can be made in the administration of the program, and whether any modification of the original legislation may now be necessary.

Our first witness this morning is Deputy Assistant Secretary John Fritz. Welcome back to the committee, Mr. Secretary. We will be glad to hear from you.

STATEMENT OF JOHN W. FRITZ, DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS (OPERATIONS), BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY TED KRENZKE, DIRECTOR OF INDIAN SERVICES, BIA; AND RAY BUTLER, CHIEF, DIVISION OF SOCIAL SERVICES, BIA

Mr. FRITZ. Thank you very much, Mr. Chairman. With me today is Mr. Ted Krenzke, Director of Indian Services for the Bureau of Indian Affairs, and Mr. Ray Butler, the Chief of the Division of Social Services.

Senator ANDREWS. Let me assure you, Mr. Secretary, that as usual your remarks will appear as though given every word in the record. You may summarize if you want.

Mr. FRITZ. I would like to summarize my remarks in a very brief fashion. We have worked hard to implement the act. There have been a number of positive things which have grown out of Congress' intent. We recognize that the ideals that have been expressed in this act—that is, the protection of the children, the protection of the on-going tradition and cultures of the tribes and the families—are a critical part of the overall rationale for Congress' enactment of this legislation in 1978.

We think that, as an organization, we have had some very positive experiences, and we have had some less positive in terms of administration and in terms of funding, but I think that, overall, the position of the Department and the Bureau is that we will, to the best of our abilities, strive to carry out Congress' intent and desire for a sensible jurisdictional, as well as a care or custody program for the children who are affected by this act. Frankly, we look forward to continued good relations with this committee and with the Congress as a whole in evolving the act so that it truly meets the intent that you put into the law, and we look forward to the continued positive working relations we have had with the respective tribes, States, families, and other governmental entities and operations charged with the implementation of the act.

That really concludes my synopsis, sir. We will be pleased to answer any questions you might have.

Senator ANDREWS. Thank you very much, Mr. Secretary. The BIA budget reflects two programs for Indian children: the Child Welfare Assistance Program and the Grant Program under the Indian Child Welfare Act. What is the difference in these two programs. Are they comparable to any programs administered by the Department of Health and Human Services?

Mr. FRITZ. Let me answer the first part of your question, and then I will throw it over here to Mr. Butler for a response on the technical part. The assistance program is one of support for the children, where the grants are focused upon the support services, that is, upon the organizations and the ancillary-support mechanisms. Maybe Ray would care to expand upon my answer.

Mr. BUTLER. Mr. Chairman, the child-welfare assistance section of the Bureau's budget is to provide for the cost of care for the children that are in foster homes or for the children that are in residential treatment centers, whereas the Indian Child Welfare Act Grant Funding Program, under authorization of title II of the act, is for the service portion of the program which provides the tribes

and the Indian organizations with the funding to offer services to those children and their Indian families.

Senator ANDREWS. Does it provide the funding for general social services?

Mr. BUTLER. Yes, sir.

Senator ANDREWS. Is it somewhat similar to the programs under the Social Security Act, providing funds to States?

Mr. BUTLER. Yes, sir, very similar.

Senator ANDREWS. Only in this case, it provides it to the tribes. Is that correct?

Mr. BUTLER. To the tribes and the Indian organizations. It is very similar, Mr. Chairman, to what was formerly the IV-A AFDC foster-care program, which is now title IV-E of the Social Security Act, and the Indian Child Welfare Act grant funding, comparable to the title IV-B program of child-welfare services to the States through the Federal Government.

Senator ANDREWS. There had been some questions about it, and we wanted to make a complete record and get that on the record and show how it is indeed and in fact comparable to the program under the social security system setup.

For the past 4 years, the administration has not requested any funding for off-reservation programs. All available reports have indicated that the off-reservation programs are successful and have played an important part in keeping Indian children with their families, securing good foster placements, or having the child referred to tribal courts. Do you have any information to indicate to the contrary?

Mr. FRITZ. Mr. Chairman, no, I do not. I recall the discussion that we had before you and with you, both in this committee and during the appropriations process, regarding the funding of off-reservation programs. It has been one of the more vexing problems that has faced us as an organization and we who represent the administration are faced with a problem of not having an adequate historical relationship with nonreservation groups, as well as not having a service organization to deal with these off-reservation organizations. So, what we have attempted to do over the past several years is to put the money into the programs which are more clearly related to our overall mission as we have understood it, both from historical and practical points of view.

We recognize that Congress' intent was to fund both on-reservation as well as off-reservation programs. It has just been very difficult for us to get this activity on stream in a fashion that you would desire.

Senator ANDREWS. Your prepared statement, Mr. Secretary, justifies the proposal to zero fund the off-reservation programs on the grounds that: "they can conceivably receive funding from all other sources." That is the end of your quote. There were no such funds available when this act was enacted. Have you conducted any studies to determine the availability of such alternative funds now? Have there been some new programs coming into existence out there of which we are not aware?

Mr. FRITZ. One of the things which has occurred, Mr. Chairman, is that some of these off-reservation organizations can now receive

funds from United Fund and Community Chest, those types of organization.

Senator ANDREWS. But no Government program funds?

Mr. FRITZ. Title 20 moneys, I guess, would be available to these organizations, which the on-reservation groups would not have. But it is not really a systematic approach, in terms of getting the funds there on a regular basis.

Senator ANDREWS. The role of tribal courts is clearly important in the implementation of this act. However, the budget for tribal courts has remained relatively static since enactment of the act. Have you conducted any studies, either through the Social Services Division or the Tribal Government Services Division to determine the needs of tribal courts in the administration of this act?

Mr. KRENZKE. Mr. Chairman, yes. The Bureau of Indian Affairs has had some studies that have looked at the needs of tribal courts around the country, working with the National American Indian Court Judges Association.

Senator ANDREWS. Since this act was passed?

Mr. KRENZKE. Since this act was passed, yes.

Senator ANDREWS. Can we be provided a copy of the study?

Mr. KRENZKE. We would be pleased to provide that for the record.

[Subsequent to the hearing the following publication was submitted for the record: "Indian Courts and the Future," report of the National American Indian Court Judges Association long-range planning project, Judge Orville N. Olney, project director, David H. Getches, project planner/coordinator, 1978. The report, which was prepared under Bureau of Indian Affairs contract No. K51C14201023, was printed by the U.S. Government Printing Office, Washington, DC, stock No. 024-002-00065-9 and is retained in committee files.]

Senator ANDREWS. Some tribes have had difficulty obtaining funding for foster-care placements made by their tribal courts. What is the Bureau policy with regard to payment of foster-care support?

Mr. BUTLER. Mr. Chairman, the child-welfare assistance part of the Bureau's budget does provide for the payment of foster care, or institutional care, where you have a tribal court custody order. It does so in those States where the State welfare departments generally do not provide that type of funding. There have been instances, since enactment of the Indian Child Welfare Act, where certain tribes have petitioned to reassume exclusive jurisdiction over child-custody proceedings, where some States have resisted the payment of foster care. In the States of Michigan, Wisconsin, and, for a short time, in Florida, the respective State welfare departments questioned the authority of tribal court orders in providing for those foster-care payments.

Senator ANDREWS. Is this Bureau policy applicable in all the States or in only some?

Mr. BUTLER. It is not applicable in all States, sir. It is a supplementary program to the AFDC foster-care program. The States in which the Bureau provides assistance, are those with significant Indian populations such as Arizona, New Mexico, Nevada, the Dakotas, Idaho, and Minnesota for Red Lake only. However, in a lot

of other States, the State welfare departments are willing and have been able to pay for the foster care of Indian children.

Senator ANDREWS. In fiscal year 1984, Congress reduced the funding of the Indian Child Welfare Act grant program from \$9.7 million to \$8.7 million. The Select Committee on Indian Affairs recommended, as I recall, funding at \$12 million. The funding level for the various grants appears to have been at a barebones level all along. From the BIA's perspective, how has this funding reduction affected the program operations? Have you decreased the number of the programs funded, or did you simply reduce the level of the funding provided the grantees?

Mr. FRITZ. Both were affected. We reduced the number as well as the level of funding. So it has had a deleterious effect on the organization serving the Indian children.

Senator ANDREWS. You did not request any increase for the on-reservation program?

Mr. FRITZ. We were trying to hold the line there. The various competing interests of our budget process really forced our hand into keeping that at a level, but it has had an impact.

Senator ANDREWS. But it stayed at a relatively constant level, as I recall it. No, it did not. It went down \$1 million. So, in effect, you made the decision to cut out the off-reservation funding in order to give you the ability to stay constant on the on-reservation?

Mr. KRENZKE. Mr. Chairman, that is essentially correct. The administration's request was to drop the off-reservation funding and to keep the on-reservation funding at a continuing level. What happened, however, as a result of the action of the Congress is that there was a net reduction of \$1 million from the previous year, but we continued to fund both the on-reservation and the off-reservation programs. So as Mr. Fritz indicated previously, the result of it was that there has been a cutback, both in some of the numbers of grants and in the sizes of some of the grants, both to on-reservation and to off-reservation programs.

Senator ANDREWS. A number of tribes have complained about the competitive grant process. The BIA regulations provide for achievement of a minimum score for consideration of a grant but do not establish either a minimum funding level or criteria for funding. Could you explain how the grant process works and what factors you consider in awarding funding?

Mr. BUTLER. Yes, Mr. Chairman. The Bureau's position is that the grants are funded on a basis of merit and need. We have guidelines that have been published in the Federal Register, wherein for a service area population of 3,000 or less, there is a maximum grant of \$50,000; for a population greater than 3,000 but less than 15,000, we have a \$150,000 maximum grant; and for those with a service population of 15,000 or more, a maximum \$300,000 grant.

In the funding process, for example, if you have a program that is proposed by an Indian tribe or an Indian organization that supports a service population of 1,200, which is under the 3,000 limit, the merit and need of that proposal will determine the funding level. A service population of 12,000, of course, would result in an estimated lesser grant than the maximum \$50,000 that is authorized under the guidelines.

other Federal and state funding programs. These recommendations closely paralleled the findings and recommendations of an independent assessment issued September 30, 1981, which was completed under a Bureau contract. That assessment provided an external review and study for potential administrative improvements in the program. As a result of the 1981 analysis and other considerations, we published and promulgated revised regulations on September 10, 1982, to provide improved administration of the program. As a result of these regulatory changes and the lack of significant programmatic problems, the Inspector General's Audit was cleared March 31, 1983, after only three months suggesting a well managed program. On January 11, 1984, further proposed regulatory revisions were published to update the administration of the grant programs. Our previous experience in evaluating grant proposals has been utilized to provide for a 3-year conditional approval thereby removing the annual review and submission obstacle of Indian tribes and Indian organizations which have reapplied yearly.

All of these actions, both the positive and the less positive, simply serve to reiterate the Bureau and the Department's position, that is, Congress' intent and desire for a sensible jurisdictional and care/custody program for Indian children is being carried out. We look forward to continued good relations in the evolution of the Act with affected tribes, states, families, and governmental agencies charged with the Act's implementation.

This concludes my prepared statement, and I will be pleased to respond to any questions the Committee may have.

Senator ANDREWS. Our next witness will be Casimer Wichlacz, Deputy Commissioner of the Administration for Native Americans, Department of HHS. It is good to have you here, Mr. Commissioner. We will be glad to hear your testimony, which you may summarize in any way you wish.

STATEMENT OF CASIMER WICHLACZ, DEPUTY COMMISSIONER, ADMINISTRATION FOR NATIVE AMERICANS, DEPARTMENT OF HEALTH AND HUMAN SERVICES; ACCOMPANIED BY LOUISE ZOKAN-DELOS REYES, SENIOR INDIAN CHILD WELFARE SPECIALIST, BUREAU OF INDIAN AFFAIRS; FRANK FERRO, DEPUTY ASSOCIATE COMMISSIONER, ADMINISTRATION FOR CHILDREN, YOUTH AND FAMILIES, HHS; AND DAVID A. RUST, DIRECTOR, OFFICE OF POLICY AND LEGISLATION, HHS

Mr. WICHLACZ. Thank you, Mr. Chairman, for the opportunity to present an overview of the activities within the Office of Human Development Services that support the Indian Child Welfare Act of 1978. Accompanying me this morning are several colleagues from the Department of Health and Human Services. On my left is David Rust, the Director of the Office of Policy and Legislation; on my right is Mr. Frank Ferro, the Deputy Associate Commissioner for the Administration for Children, Youth and Families; and to his right is Louise Zokan-Delos Reyes, who is on detail to the Administration for Native Americans as a senior Indian welfare specialist from the Bureau of Indian Affairs.

The basic mission of the Office of Human Development Services within the Department of Health and Human Services is to reduce dependency among various populations through programs that foster the optimal development of individuals and families. The provision of services to prevent, reduce and eliminate dependency emphasizes a balance between social and economic development in local communities. Within the framework of promoting self-sufficiency, the Office of Human Development Services addresses the child welfare concerns of American Indian families and children primarily through the Administration for Children, Youth and

Families [ACYF] and the Administration for Native Americans [ANA].

The Administration for Children, Youth and Families supports programs and activities designed to improve the quality of life for children, youth and their families. Primary emphasis is on developing better services for vulnerable child populations and meeting the developmental needs of low-income preschool children. For example, in fiscal year 1983, the Head Start program funded 93 Indian Head Start projects, which served 13,435 Indian children at a funding level of \$33,364,319. In fiscal year 1984, the Head Start program will be expanded, and additional Indian children are expected to be served.

The ACYF also administers the Child Welfare Services program authorized under title IV-B of the Social Security Act. This program assists State public welfare agencies in establishing, extending and strengthening child welfare services to enable children to remain in their homes under the care of their parents or, where that is not possible, to provide alternate permanent homes for them.

Under section 428 of the Social Security Act, beginning in fiscal year 1983, grants were awarded directly to eligible Indian tribes meeting the child welfare plan requirements of the law. In fiscal year 1983, grants totaling \$242,780 were made to 23 Indian tribes in nine States. In fiscal year 1984, we anticipate that additional Indian tribes will be eligible and will apply for funds for fiscal year 1984 and future years.

In addressing Indian child welfare this year, the focus will be on improved implementation of Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, and the problem of fragmented State and Federal funding. Through this effort, we intend to increase preventive services and permanency planning and improve coordination of child welfare planning and delivery of child welfare services with tribes and States.

The Administration for Native Americans promotes social and economic self-sufficiency for American Indians, Alaskan Natives, and Native Hawaiians through competitively awarded grants. Its social development goal focuses on increasing Indian self-determination in delivering social services and is interrelated with its other goals of economic development and governance. In regard to governance, the primary role of Indian tribal governments and their cultural and social standards in child custody and placement proceedings is recognized as being instrumental in preventing the break-up of Indian families.

The Administration for Native Americans' strategy for addressing Indian child welfare concerns includes social and economic development grants; replication of innovative techniques and program concepts, referred to as technology transfer efforts; Federal coordination; and advocacy.

The Administration for Native Americans funds social and economic development projects that will make the greatest impact in promoting self-sufficiency. The most recent program announcements for financial assistance for these projects articulate the measures and results expected in the social development area. Examples of the types of outcomes in the area of child welfare include

the assumption of control of planning and delivering social services on Indian reservations by Indian tribes and Indian organizations in off-reservation areas; increase in Indian children adopted or placed in permanent homes in compliance with the Indian Child Welfare Act, who would otherwise be in foster-care institutions; increase in Indian children returning to their own homes from foster care; increase in number of developmentally-disabled Indian children served by appropriate agencies, including adoption; and decrease in general-assistance welfare caseload and Aid to Families with Dependent Children caseloads in Indian country.

We believe it is important for all agencies involved in services to cooperate and coordinate. Here are a few examples within the Office of Human Development Services, which represents the cooperation of the Administration for Native Americans and the Administration for Children, Youth and Families.

A project by the American Indian Law Center offers tribes technical assistance in the area of permanency planning, which previously had been targeted only to States. Permanency planning is the determination of each child's future in the best interest of that child. For example, this may involve preventing family break-up, the return of children to their homes, where possible, and the placement of children unable to return to home to a permanent-home arrangement other than an institutional setting. This is not only in the best interest of the children, but it is also cost-effective and reduces dependency.

Another project, the National American Indian Court Judges Association, is assisting in the tribal development of locally-determined and culturally-specific approaches to enhancing parenting skills. These services are designed to assist tribes in strengthening family life and preventing the break up of families. The project includes the Ponca Tribe of Oklahoma, the Eastern Band of Cherokee, Zuni Pueblo in New Mexico, and the Fort Belknap Tribe in Montana.

The Blackfeet Community College is conducting another project designed to prevent fetal alcohol syndrome among Plains Indians. This model is designed to reduce the number of fetal alcohol syndrome affected infants born on the reservation. In addition, it will promote curricula changes in health courses at local colleges and the high school level. The overall result of this project will be to reduce the developmental and educational problems stemming from this severe defect.

The Office of Human Development Services also plays a role in policy development, advocacy for Indian families, implementation and modification of statutes or regulations which provide incentives for strengthening tribal governments. Fiscal incentives, such as title IV-B of the Social Security Act, enable tribes to take direct responsibility for providing social services. In addition, the joint planning process under this program is perhaps the most significant component of the program. The joint planning process links the Department and the Indian tribes on a government-to-government basis in the technical development and improvement of child welfare services.

Another advocacy effort of the Department is the development of legislation for title XX direct funding to Indian tribes, submitted to

Congress on April 27, 1983. Direct funding under the title XX social services block grant will provide tribes a basis for ongoing funds, in addition to discretionary moneys. Direct funding under the social services block grant is also expected to be a major resource for Indian tribes to support their own child welfare services. Although not yet acted on by the Congress, this amendment will continue to be pursued by the Department.

The Office of Human Development Services also coordinates with other Federal agencies to improve Indian child welfare services. Support has been provided to enhance the relationship between tribes and States through cooperative efforts with the Bureau of Indian Affairs, the Administration for Native Americans, and the Commission on State-Tribal Relations. The Commission works to improve State and tribal intergovernmental relations through identification of productive elements in State-tribal relationships and to develop a framework for new ones.

The Commission grew out of work done by the National Conference of State Legislatures, the National Congress of American Indians, the National Tribal Chairmen's Association, and the American Indian Law Center. Experience suggests that this cooperation leads to significant results. For example, the Sisseton-Wahpeton Tribe has entered into a cooperative child welfare agreement with the State of South Dakota. Through this cooperative effort, the child welfare case load has declined by 56 percent since 1981.

At the Federal level, the senior Indian child welfare specialist from the Bureau of Indian Affairs, who is accompanying me this morning, is currently working with the Office of Human Development Services to assist in designing a coherent and comprehensive plan for Indian child welfare services for both agencies. This initiative will coordinate the resources and activities of the Administration for Native Americans, the Administration for Children, Youth and Families, and the Bureau of Indian Affairs. This effort will be results-oriented and will establish a framework for measuring change and progress.

In summary, the Office of Human Development Services' approach to improving Indian child welfare services involves coordinating Federal efforts and supporting Indian tribes in implementing those services that best meet their needs. Included in this effort is our support for State and tribal agreements which facilitate the delivery of tribal child welfare services. This approach, we believe, can best address the problems which result in the break up of Indian families and can best protect the interests of Indian children and promote the stability and security of Indian tribes and families.

I appreciate this opportunity to appear before the committee. I will be happy to answer any questions you may have at this time. Senator ANDREWS. Thank you, Mr. Commissioner. The December 1982 inspector general's report from the Department of the Interior indicated that your department had conducted a 3-year study, entitled "Indian Family Support Project." Can you supply this committee with a copy of that study?

Mr. WICHLACZ. Mr. Chairman, I am not specifically familiar with that study. I will look into it, and I will be happy to provide it to the committee.

Senator ANDREWS. But you are sure where it is in the archives, and you can find it and send it on the committee?

Mr. WICHLACZ. This is the first I have heard of it, Mr. Chairman. I will do my very best to provide it to you.

Senator ANDREWS. I think that is great when our committee staff knows more about what you have been doing in your department than you do.

Mr. WICHLACZ. I believe you said it was a Department of the Interior IG report, sir.

Senator ANDREWS. Sure, But any time an IG report concerns the department that I am responsible for, I would make certain I knew where it was and what it says. So if you can pick it up and send it on to us, it will be helpful.

Mr. WICHLACZ. Yes, sir.
[Subsequent to the hearing the report was supplied for the record and is retained in committee files.]

Senator ANDREWS. In the 97th Congress, legislation was enacted to provide funding of some programs to Indian tribes through a block grant process. Have you developed any information on the extent to which the tribes have been able to utilize funds for child welfare through these programs; and if so, what have you found?

Mr. WICHLACZ. The block grants that Indian tribes are eligible for, which include the low-income energy assistance program and the community services block grant, do not have a specific child welfare focus. I do not know that we have any specific information on any child welfare-related activities conducted under these block grants.

Senator ANDREWS. In other words, to the best of your knowledge, there are no block grant programs available to the tribes having to do with child welfare?

Mr. WICHLACZ. At this time, that is correct, Mr. Chairman. As I mentioned, we have proposed direct funding under the Social Services Block Grant—

Senator ANDREWS. But there are none available at this time?

Mr. WICHLACZ. Not as a block grant, sir.
Senator ANDREWS. Thank you. Your statement indicates that less than \$250,000 was received by tribes under section 428 of the Social Security Act. How are these funds allocated to the tribes? Is it on a formula basis?

Mr. WICHLACZ. Yes, the allocation is on a formula basis, based on population and weighted on a poverty factor. For Indian tribes, we use the maximum poverty factor allowable under the statute for States or territories on the assumption that most reservations represent a population that is generally poor.

Senator ANDREWS. Of the actual amount of \$242,000, how much money was allocated to the Navajo Tribe?

Mr. FERRO. Approximately \$160,000 was allocated to the Navajo Tribe.

Senator ANDREWS. \$160,000 out of \$242,000?

Mr. FERRO. In the three States where they reside.

Senator ANDREWS. Then you had about \$90,000 to allocate to the other 22 tribes?

Mr. FERRO. Yes.

Senator ANDREWS. How do you justify that?

Mr. FERRO. It was based upon the formula utilized. The formula utilized to determine allotments to the eligible Indian tribes is the same that is used to make allocations to the States: that is, population under age 21 and poverty. That was the determination that was made in the proposed regulation, published in the Federal Register, and the final rules that were published on May 23, 1983.

Senator ANDREWS. With respect to the study ANA is undertaking, what is your plan of operations, and what is your time frame for completing the study?

Mr. WICHLACZ. I believe the study referred to, Mr. Chairman, is the agreement we have with the Bureau of Indian Affairs to have the senior child welfare specialist working on detail with our department. This is anticipated to be a 1-year detail, and we are working currently at the staff level with the Department of the Interior, the Bureau of Indian Affairs, and within the Office of Human Development Services to develop an action plan that involves several components. One of the components will be to identify those projects, activities, and findings from research, demonstration and evaluation efforts that would be of some use and interest to Indian tribes and Indian organizations in this area and to ensure the maximum availability of that to those to whom it might be helpful. That is one aspect of it.

The other aspect is coordinating our funding and our program development activities. As we look forward to our program announcements and our current funding activities in fiscal year 1984 and anticipating our plans for 1985, we saw this would be an opportunity for us to do greater coordination of our respective resources and program interests, where they and we have an overlapping interest.

The third effort is a very assertive effort to implement the section 428 of the Social Security Act, with direct funding of title IV-B, which I mentioned. Probably more effective than the money, perhaps, is the joint planning effort that this involves in our department with the Indian tribes. We think that this link to the tribes on a routine basis, having them as part of a network that previously statutes like title IV-B only connected the States to, will have a very significant impact in improving services to Indian children and their families.

Senator ANDREWS. When did the detail start?

Mr. WICHLACZ. It started on January 3, Mr. Chairman, of this year, and we anticipate it going to 1 year from that date.

Senator ANDREWS. So you are not going to complete the study until January of next year?

Mr. WICHLACZ. I would not characterize it, Mr. Chairman, as a study so much as a process of coordinating our Federal efforts in the area of Indian child welfare services.

Senator ANDREWS. Do you expect to develop any legislative proposals?

Mr. WICHLACZ. We certainly will be examining legislative and budget issues, Mr. Chairman. At this time, there would be no specific legislative issues that we have on the agenda.

Senator ANDREWS. Unless you develop legislative proposals out of this study, are you not just spinning your wheels?

Mr. WICHLACZ. Mr. Chairman, I would like to think that we are doing a very important effort, in terms of coordinating Federal resources that have been allocated in various programs to ensure that they meet the intent of Congress to work together in a mutually-reinforcing way for the impact as intended for the Indian children and families in support of the tribes. I think that there is more that we can do in this area, and I think this has been a great opportunity that has had the support of the highest level of policy-makers in the two departments, the two assistant secretaries and throughout the departments, to work in this direction.

I think that is the intent, as described under the Indian Child Welfare Act, of the Department of Health and Human Services and the Bureau of Indian Affairs.

Senator ANDREWS. Have you made any preliminary determinations with respect to the eligibility of Indian tribes for programs under the Administration for Children, Youth and Families; and if so, what have you found out so far?

Mr. FERRO. If I understand the question, Mr. Chairman, eligible tribes are those tribes which provide child welfare services directly and under contract with the BIA for those services that were provided in the past or would have been provided by the BIA. I hope I have answered your question.

Senator ANDREWS. I just wanted to find out if you had made any preliminary determinations on this eligibility, and I guess you have not.

Mr. FERRO. Well, we have. In fiscal year 1983, 89 tribes were potentially eligible. In fiscal year 1984 thus far, 97 tribes are potentially eligible, although that number may increase.

Senator ANDREWS. If you would like to expand on that for the record later on, you certainly may.

Has the Department developed any statistics on rates of placement of Indian children in foster or adoptive settings in comparison to the general population?

Mr. WICHLACZ. Yes, Mr. Chairman. We have had some statistics that we have developed based on 1980 data of children in State placement.

Senator ANDREWS. What have you found out?

Mr. WICHLACZ. Our best estimate currently is that the Indian placement rate overall in the Nation is higher than that of the non-Indian rate by a significant degree.

Senator ANDREWS. I would suspect that, but by what general figure is "a significant degree?"

Mr. WICHLACZ. Our best estimate, Mr. Chairman, is about five times the overall rate.

Senator ANDREWS. That is pretty significant.

Mr. WICHLACZ. Yes, sir.

Senator ANDREWS. Can you provide the details for the record?

Mr. WICHLACZ. Yes, Mr. Chairman. We would be happy to do that.

[Subsequent to the hearing the following information was applied for the record:]

ADMINISTRATION FOR NATIVE AMERICANS

OUT OF HOME PLACEMENT RATE, INDIAN CHILDREN COMPARED TO GENERAL POPULATION, 1980

In 1980, American Indian Children were placed out of home at a rate nearly five times greater than that for all children in the United States.

This fact is derived in the following manner from data published by the U.S. Department of Health and Human Services, Office of Civil Rights, 1980 Children and Youth Referral Survey (September, 1981), and the U.S. Census (PC-80-1-C).

	Number	Symbol
Indian children placed by State agencies		
Indian children placed by BIA.....	5,475	
Total.....	3,300	
Total American Indian population (including Eskimos, Aleuts).....	8,775	(A)
Rate of out of home placement of Indian children to total Indian population.....	1,418,195	(B)
All children placed by State agencies (including Indians).....	¹ 6,18744	(C)
Total U.S. population.....	301,943	(D)
Rate of out of home placement of all children to total population (D) - (E) = (F).....	226,504,825	(E)
Comparison of placement rate for Indian children to placement rate for all children in United States (C) - (F) = (G).....	¹ 1.33305	(F)
	4.64-1	(G)

¹ Per 1,000.

Senator ANDREWS. In 1980, Congress enacted the Adoption Assistance and Child Welfare Act. This act included provisions of benefits to Indian tribes on placements through tribal courts. To what extent are Indian tribes or their tribal courts participating under this act?

Mr. FERRO. The act has two parts, Mr. Chairman: title IV-E, which is the Foster Care and Adoption Assistance Maintenance Program, and title IV-B, which is the Child Welfare Services Program. The title IV-E Foster Care and Adoption Assistance Program replaced the title IV-A Foster Care Program, which did not have an adoption assistance provision in it. Up until Public Law 96-272, there was no Federal fiscal participation in adoption assistance.

Those funds are available only to States under the title IV-E authority, and the States are defined as the 50 States and the District of Columbia. Therefore, tribes are not eligible entities to receive title IV-E foster care or adoption assistance funds. However, tribes can receive those funds under an agreement with the State, and there have been such agreements, I believe—although I would not swear to it at the moment—entered into between States and some tribes. But that is definitely a possibility. It is something that is permissible, both under the statute and the regulations.

Senator ANDREWS. It is permissible, but there is no defined statute that would, in effect, give priority to the tribes where five times the number of these adoptions per unit of population is going on. So it is just if the States wish to give the tribal courts a little extra assistance, they might, you are saying?

Mr. FERRO. Well, it is not just the tribal courts; it is the tribes. Yes, you are correct, sir.

Senator ANDREWS. So there is no clear channel defined?

Mr. FERRO. Absolutely not. That would require a legislative change.

Senator ANDREWS. Section 203 of the Indian Child Welfare Act specifically provided for agreements between the Secretary of HEW and the Secretary of the Interior in support of Indian child and family services programs. Would that not solve this dividing of the channel, and what efforts have been made by the two Departments to enter into agreement?

Mr. WICHLACZ. Mr. Chairman, the agreement that we have is not a formal interagency agreement. Currently, it is working as I described earlier, under a three-pronged approach to improving child welfare services. We have had other agreements on specific projects, such as the one I mentioned with the Commission on State-Tribal Relations, on which we have had coordinated funding in our efforts for specific projects.

Senator ANDREWS. But this is an act that was passed in 1978. We are talking about 6 years later.

Mr. WICHLACZ. There are many activities that we have coordinated on a routine basis with the Bureau of Indian Affairs. At the time the statute was enacted, the Indian Child Welfare Act, for example, there was no provision under title IV-B for Indian tribes to receive direct funding. Congress, under Public Law 96-272, made it permissive, and our department made it a routine process by policy and regulations and enacted direct funding.

Senator ANDREWS. You are correct: Congress made it permissive, but we did provide for these agreements between HEW and the Secretary of the Interior because Congress perceived some 6 years ago the challenge that we had in those fields. Now, are there any legal barriers to such agreements?

Mr. WICHLACZ. Mr. Chairman, I know of no legal barrier. I think we have the authority within the Indian Child Welfare Act, as well as other statutes that are supportive and permissive of interagency cooperation and agreement.

Senator ANDREWS. Thank you, Mr. Commissioner.



[Subsequent to the hearing the following material was received for the record. Testimony resumes on p. 51.]



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of
Human Development ServicesAdministration for Native Americans
Washington DC 20201RECEIVED AUG 14 1984
OCT 26 1982

MEMORANDUM TO: Regional Administrators
Regions I-X

THRU:  Teresa Hawkes, Director
Office of Program Coordination
and Review 

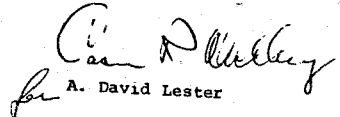
FROM: Commissioner
Administration for Native Americans

SUBJECT: Indian Adoption Issues

Attached for your information is a staff paper prepared by the Administration for Native Americans for the Assistant Secretary for Human Development Services. I thought that it may be of interest to you by way of background for the Indian adoption elements that were included in the HDS FY 1983 proposed Discretionary Funds Plan (Federal Register, September 23, 1982). Also, Indian adoption issues will be specifically considered in the national HDS adoption initiative that is being developed.

I hope that the information in the paper and attachments will be of interest to you. One of the attachments, Attachment B, is being updated by the Commission on Tribal-State Relations. At such time that an updated report on the implementation of the Indian Child Welfare Act by the States is available, I will forward it to you. The survey date mentioned in the paper is from the 1980 national survey conducted by the Office of Civil Rights, Department of Health and Human Services (2 volumes).

Please consider that this is an internal staff paper and it is not intended for external release.


A. David Lester

Attachment



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of
Human Development ServicesAdministration for Native Americans
Washington DC 20201

August 10, 1982

MEMORANDUM TO: Dorcas R. Hardy
Assistant Secretary
for Human Development Services

THRU: ES _____

FROM: Commissioner
Administration for Native Americans

SUBJECT: Indian Adoption Issues

This is the additional information that you requested regarding the problems in the area of Indian adoptions.

The exceedingly high incidence of Indian children separated from their families in comparison to the population at large has continually surfaced as the critical problem in Indian child welfare matters. ANA analyzed the 1980 survey data on child placements with respect to Indian and non-Indian placement rates by State. The Indian Child placement rate by State is provided in Attachment A. The States are ranked from highest to lowest ratio of Indian to non-Indian placements. For example, South Dakota is top on the list with an Indian placement rate that is 27 (rounded to the next whole number) times that of the non-Indian placement rate. As previously mentioned, these figures are an undercount of the number of Indian children in placements. The data does not include the BIA child welfare caseload and tribal placements. These statistics reflect the States' child welfare system for 1980. There are a significant number of children in this group of Indian children in out-of-home placement that are potential candidates. The 1980 survey data however limited, does provide reliable national data that can be used by HDS for targeting.

The passage of the Indian Child Welfare Act of 1978 (ICWA) Public Law 95-608, was intended to prevent the break up of Indian families. Perhaps the most significant feature of this legislation is the recognition of the primary role of Indian tribal government and Indian cultural and social standards in the proceedings of child custody and placement. ICWA established State standards for the placement of Indian children in foster and adoptive homes. Indian children are to some extent moving from State child welfare systems under ICWA to the custody of the tribes. A problem in this area is that few Indian tribal codes effectively address adoptions. The lack of tribal adoption codes tends to support the continued build up of Indian children in out-of-home placements at the Reservation level. In the absence of any program initiatives, the ICWA may result in simply the transfer of the problem rather than a solution. Attached is a status report (Attachment B) on the implementation of ICWA from the perspective of the States.

Another significant Federal law that can have a positive impact in the area of Indian adoptions is the Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272. This Act specifically authorizes direct funding to Indian tribes under Title IV-B of the Social Security Act. Indian tribes, however, cannot apply under Title IV-B until final regulations for P.L. 96-272 are published.

To address the problems in the area of Indian adoptions, ANA recommends the utilization of the FY'83 discretionary funds process to include the following:

1. A national effort to assist Indian tribes in the development and implementation of Indian tribal codes on adoption. This effort is expected to reduce the numbers of Indian children in foster homes and other out-of-home placements by facilitating the adoption of Indian children through tribal courts.
2. Challenge grants to those Indian tribes operating their own child welfare services to reduce the number of Indian children inappropriately in placement. This includes the application of permanency planning, case reviews and comprehensive emergency services techniques. This is consistent with the HHS policy articulated in the NPRM to implement P.L. 96-272. The eligible tribes for these

challenge grants should be the same that will become available under Title IV-B when final rules are issued.

3. Challenge grants to States for the implementation of Title I of ICWA. The development of cooperative processes between States and Indian tribes for the disposition and management of child custody, jurisdiction and service matters should be the focus of this effort. A positive working relationship between States and Indian tribes is needed to protect the best interests of Indian children.

Caution must be taken to the sensitive nature inherent in the return of Indian children to their tribes by the States in support of Title I of ICWA. It is important to avoid putting pressures on States to "dump" children on tribes who lack the structures and resources to handle these child welfare matters. Financial reasons alone, in a period of budget constraints have the potential of providing institutional incentives for blindly reducing the Indian child welfare caseload in State agencies pursuant to Title I. "Dumping" children in fact would only serve to transfer the problem rather than to offer a solution.

I look forward to discussing this with you at your convenience.

Car D. Walker

for A. David Lester

Attachments

ADMINISTRATION FOR NATIVE AMERICANS
COMPARISON OF PLACEMENTS OF
INDIAN VS. NON-INDIAN CHILDREN
BY STATE (1980)

ATTACHMENT "A"

	Indian Placements Per 1000 Population	Non-Indian Placements Per 1000 Population	Rate of Indian Placement Compared to Non-Indian Placements*
South Dakota	11.20	0.42	26.67
North Dakota	7.14	0.55	12.98
Minnesota	20.21	1.68	12.03
Utah	9.50	0.81	11.73
Nebraska	16.96	1.61	10.53
Alaska	8.37	0.88	9.51
South Carolina	10.07	1.10	9.15
Maine	14.92	1.75	8.53
Arizona	1.20	0.77	8.31
Iowa	7.88	0.97	8.12
Wyoming	5.47	0.79	6.92
Washington	6.66	1.06	6.28
Wisconsin	8.24	1.32	6.24
Montana	5.10	0.85	6.00
Massachusetts	7.36	1.67	4.41
Idaho	3.52	0.84	4.19
Illinois	4.12	1.00	4.12
Oregon	7.40	1.94	3.81
Mississippi	3.40	0.94	3.62
Colorado	4.65	1.44	3.23
North Carolina	3.68	1.43	2.57
Michigan	2.97	1.16	2.56
Oklahoma	1.52	0.63	2.41
Hawaii	1.44	0.61	2.36
Vermont	3.05	1.50	2.03
California	2.22	1.15	1.93
New Hampshire	2.22	1.43	1.55
Connecticut	1.98	1.32	1.50
Kansas	2.47	1.69	1.46
New Mexico	1.29	0.95	1.36
Texas	0.65	0.48	1.35
Indiana	2.42	1.89	1.28
Florida	1.19	1.02	1.17
New York	2.66	2.32	1.15
Maryland	1.99	1.77	1.12
Ohio	1.80	1.64	1.10
Arkansas	0.64	0.59	1.08
Alabama	1.45	1.37	1.06

	Indian Placements Per 1000 Population	Non-Indian Placements Per 1000 Population	Rate of Indian Placement Compared to Non-Indian Placements*
Missouri	1.46	1.52	0.96
Nevada	1.13	1.21	0.93
Georgia	0.92	1.09	0.84
Pennsylvania	0.95	1.24	0.77
Louisiana	0.75	1.25	0.60
Virginia	0.75	1.58	0.47
West Virginia	0.62	1.36	0.46
New Jersey	0.36	1.40	0.26
Tennessee	0.20	0.94	0.21
Kentucky	0	1.34	--
Rhode Island	0	1.73	--
Delaware	0	1.78	--

*For example in South Dakota, the rate of Indian placements is about 27 times greater than non-Indian placements.

1980 Population Totals for American Indians, Eskimos, and Aleuts

RANK	STATE	TOTAL
1	California	201,311
2	Oklahoma	169,464
3	Arizona	152,857
4	New Mexico	104,777
5	North Carolina	64,635
6	Alaska	64,047
7	Washington	60,771
8	South Dakota	45,101
9	Texas	40,074
10	Michigan	40,038
11	New York	38,732
12	Montana	37,270
13	Minnesota	35,026
14	Wisconsin	29,497
15	Oregon	27,309
16	North Dakota	20,157
17	Florida	19,316
18	Utah	19,256
19	Colorado	18,059
20	Illinois	16,271
21	Kansas	15,371
22	Nevada	13,304
23	Missouri	12,319
24	Ohio	12,240
25	Louisiana	12,064
26	Idaho	10,521
27	Pennsylvania	9,459
28	Arkansas	9,411
29	Virginia	9,336
30	Nebraska	9,197
31	New Jersey	8,394
32	Maryland	8,021
33	Indiana	7,835
34	Massachusetts	7,743
35	Georgia	7,619
36	Alabama	7,561
37	Wyoming	7,125
38	Mississippi	6,180
39	South Carolina	5,758
40	Iowa	5,453
41	Tennessee	5,103
42	Connecticut	4,533
43	Maine	4,087
44	Kentucky	3,610
45	Rhode Island	2,898
46	Hawaii	2,778
47	West Virginia	1,610
48	New Hampshire	1,352
49	Delaware	1,330
50	District of Columbia	1,031
51	Vermont	984

ATTACHMENT "B"

STATE IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT*

1. ALABAMA

The State has not implemented ICWA.

2. ALASKA

Within the State of Alaska, there are over 200 villages and other native groups that are federally recognized, while there are over 280 federally recognized tribal groups in the lower 48. Immediately following enactment of ICWA, the Division of Family and Youth Services adopted an ICWA section in their program manual. An updated revision of this program manual is scheduled for publication this fall. The State Courts have not adopted rules on ICWA but the State plans to revise the children's court rules and it is anticipated that ICWA will be included. A tribal-state agreement is currently in the beginning stages of negotiations between the North Pacific Rim Native Association and the Alaska Department of Health and Social Services.

3. ARIZONA

Implementation of ICWA has been a joint process between the twenty (20) tribes and the Arizona Department of Economic Security (ADES), including: extensive training sessions with tribal, Bureau of Indian Affairs (BIA) and ADES staff; individual meetings with each Arizona tribe; identification of all Indian children in the state foster care system; publication of an "Indian Child Welfare Resource Directory" (which includes the names of all Arizona tribes, ADES Local Offices, Tribal and State Court Judges, written referral and notification procedures for the state and tribe, copies of model petitions for transfer of jurisdiction, etc.); and, development of tribal-state (Inter-Governmental) agreements on ICWA. See A.R.S. § 11-952, Inter-governmental Agreements and Contracts, for Arizona's statutory requirements for Inter-Governmental Agreements (IGAs). Arizona state law requires that children may only be placed in "licensed or approved" foster homes or institutions (when state allocated funds are used for foster care payments); therefore, an ICWA IGA could only be developed with those tribes that have developed foster home licensing/approval standards. At the present time, three reservations have developed such

*Abstract of information collected by Commission on Tribal-State Relations of the Association of State Legislators and includes information through September 1981.

standards: Gila River Indian Community, Salt River Indian Community, and Fort McDowell. Salt River has presented a negotiated ICWA IGA to the tribal council for approval, and Gila River and Fort McDowell are in the process of doing so. It is anticipated that these agreements will be signed by October, 1981.

ADES has also rewritten internal agency operating procedures to specifically delineate responsibilities of workers in regard to Indian children served by the Department. ADES is in the process of developing a videotape presentation entitled: "The 1978 Indian Child Welfare Act: Arizona's Perspective" for use in training staff about ICWA and for public relations purposes. At this time, there are no plans to issue state court rules on ICWA.

4. ARKANSAS

No ICWA agreement is in effect in Arkansas. ICWA administrative procedures and policy have been developed and implemented for foster care and adoption by the Division of Social Services, Department of Human Services.

5. CALIFORNIA

An ICWA agreement will probably be considered as soon as a tribe (or consortium of tribes) reassumes exclusive jurisdiction under ICWA (California is a P.L. 83-280 state). Administrative procedures have been adopted for adoption and foster care ICWA cases in two separate publications. The state does not plan to draft ICWA court rules.

6. COLORADO

In July, 1981, the State executed ICWA agreements with the Ute Mountain Tribe and the Southern Ute Tribe. Court rules on ICWA have not been issued, nor are there plans to issue such rules in the near future. The Department of Social Services is in favor of promoting adoption of special regulations for foster care pre-adoptive placement of Indian children, and plans to seek promulgation of these rules as soon as possible.

7. CONNECTICUT

There are only state-recognized tribes in Connecticut, no federally recognized; therefore, there are no plans to issue court rules or social service procedures.

8. DELAWARE

There are no federally recognized tribes in Delaware. The Nanticoke Indian Tribe was officially recognized by Delaware in 1922. The Tribe has had no problem in resolving related issues within the Nanticoke community and has no plans for implementing ICWA through an agreement with the state.

9. FLORIDA

The State of Florida and the Seminole Tribe finalized an interim ICWA agreement in March, 1980. The agreement outlines their resolution to identified problems, i.e., jurisdiction, foster care licensing and payment of foster care. Neither the State Courts nor State Health and Rehabilitative Services have issued rules on ICWA.

10. GEORGIA

There are no federally recognized tribes in Georgia; therefore, the state has not entered into an ICWA agreement with a tribe. No social service procedures on ICWA have been issued.

11. HAWAII

There are no federally recognized tribes in Hawaii and the Indian population is not large enough to warrant enactment of special ICWA court rules or special social service procedures. There are no plans to adopt any special rules or procedures on ICWA.

12. IDAHO

In 1977, a pre-ICWA agreement was executed by the Department of Health and Welfare, Region VI, and the Shoshone-Bannock Tribes of the Fort Hall Reservation. This agreement established procedures for handling child protection cases, as well as recognized the need for cooperation and coordination and the need to preserve the integrity of the Tribes' culture. The agreement was negotiated as a result of the volume of Indian children involved in Child Welfare services in Region VI. ICWA agreements with other tribes in Idaho have not been negotiated but there have been continuous work efforts between the Department of Health and Welfare staff, Tribal Social Services and Bureau of Indian Affairs officials. The Department of Health and Welfare is in the process of drafting a social services policies and

procedures manual to be promulgated through the Administrative Procedures Act. These procedures will serve as a formal guide in implementing the intent of ICWA. The Tribal Court Administrator of the Shoshone-Bannock Tribes of the Fort Hall Reservation developed an ICWA reference manual for participants in a March, 1981, statewide conference.

13. ILLINOIS

There are no federally recognized tribes in Illinois but there is an Indian population of some 18,000, centered in Chicago. The Department of Children and Family Services has issued regulations to be followed in ICWA cases.

14. INDIANA

There are no federally recognized tribes within Indiana's geographical boundaries. The Department of Public Welfare, Division of Child Welfare/Social Services has provided information on ICWA to 92 county welfare departments and private licensed child welfare agencies. Additional information regarding the ICWA is being included in the Child Welfare/Social Services manual to be issued in early 1982. There are no plans for adoption of court rules.

15. IOWA

There is one (1) federally recognized tribe, Sac & Fox of the Mississippi, in Iowa and the Indian population is a small percentage of the total population. There are no plans for a tribal-state agreement on ICWA. The Department of Social Services adopted a policy and procedures for ICWA in a chapter of the 1980 Employee's Manual. The problems encountered in implementation of ICWA includes: payment of foster care board in transfer cases; response from tribes after notice on cases, miscommunication (between the tribe and state) in placement orders; and determination of membership or eligibility of membership of Indian children.

16. KANSAS

The Department of Social and Rehabilitative Services is adopting written procedures for implementation of ICWA, which support the efforts of a consortium formed by the four federally recognized tribes in Kansas to develop a child welfare system. The Kansas Legislature will be considering a proposed major revision of the Kansas Juvenile Code, which refers to ICWA.

17. KENTUCKY

There are no federally recognized tribes in Kentucky, and the occasion for families of federally recognized tribes to be before the State Court would be extremely rare; there is no plan for issuing rules for state courts. The Department of Human Resources would handle any rare situation involving ICWA on a case by case basis.

18. LOUISIANA

The state has not executed an ICWA agreement with any tribe but plans have been made to meet in the near future to discuss ICWA and to determine the need for such agreements.

19. MAINE

There are three (3) federally recognized tribes in Maine and negotiations on an ICWA agreement are in the initial stages with the Penobscot Tribe. The Department of Human Services is currently following an informal ICWA policy on ICWA cases but a formal policy will be issued in late fall. During their orientation, social workers are provided with relevant information on ICWA. There are currently no plans to enact court rules on ICWA.

20. MARYLAND

There are no federally recognized tribes and no plans for any tribal-state agreements. The State Courts and the Social Service Department are aware of ICWA and have not encountered any problems in its implementation. The Maryland Commission on Indian Affairs and the Baltimore American Indian Center have been helpful to state and local social service departments, as well as Indian families dealing with ICWA.

21. MASSACHUSETTS

No response.

22. MICHIGAN

There are no plans to negotiate a tribal-state agreement, to enact court rules or to adopt social service procedures on ICWA.

23. MINNESOTA

There are eleven (11) reservations and all but one, Red Lake Chippewas, falls within P.L. 83-280 jurisdiction as Minnesota was a "mandatory" 280 state. The state has executed ICWA agreements with the Minnesota Chippewa Tribe (six reservations) and the Minnesota Sioux Tribe (three reservations). The Department of Public Welfare has issued Instructional Bulletins on ICWA for County Welfare Boards, Human Services Boards, Voluntary Child-Placing Agencies, County Commissioner Boards and County Attorneys. The State Courts have not issued special rules on ICWA, nor are there plans to do so. The biggest problem in implementation was dealing with the issue of subject matter jurisdiction and its affects on the State's jurisdiction under P.L. 83-280. Resolution to this issue was addressed in the tribal-state ICWA agreements.

24. MISSISSIPPI

No response.

25. MISSOURI

Within Missouri's geographical boundaries, there are no federally recognized tribes in the state and the Indian population is a small percentage of the total. There are no plans for any tribal-state agreements, courts rules or social service procedures on ICWA.

26. MONTANA

There are seven (7) reservations in Montana and the state is currently negotiating an ICWA agreement with the Flathead Tribe and Blackfeet Tribe. The Department of Social and Rehabilitation Services currently handles ICWA cases based on informal rules but the Social Services Bureau plans to formalize their rules in their manual by late fall. There are no plans to issue rules for state courts on ICWA.

27. NEBRASKA

There are three federally recognized tribes in Nebraska, a P.L. 83-280 state, and one tribe, Omaha, has petitioned to reassume exclusive jurisdiction pursuant to ICWA. The issue of tribal-state ICWA agreements is currently under discussion but legislative barriers may prevent such agreements. The Department of Welfare has not promulgated regulations on ICWA but there is an existing regulation that recognizes tribal court orders for foster care (AFDC). The State Courts are aware of ICWA but specific plans for rules have not been made.

28. NEVADA

Although there are no formal ICWA agreements with the four (4) Indian social services agencies or the tribes in Nevada, it is the policy of the Welfare Division to refer a child covered by ICWA to the appropriate Indian social service agency. The Department of Human Resources, Welfare Division, has developed formal procedures to be followed in handling ICWA cases. These procedures are included in the Social Services Manual.

29. NEW HAMPSHIRE

No response.

30. NEW JERSEY

There are no federally recognized tribes in New Jersey; therefore, there are no plans to negotiate a tribal-state ICWA agreement. There are no plans to enact court rules or social service procedures but steps have been taken to inform the appropriate Court or Department of Human Services official/worker, i.e., Administrative Office of the Courts, Interstate Liaison, Staff of Division of Youth and Family Services. Plans indicate that ICWA "State Court Guidelines" or applicable federal law, whichever is more advantageous for the child, will be followed in any ICWA case in New Jersey.

31. NEW MEXICO

The New Mexico Supreme Court has not adopted, nor is it presently contemplating the adoption of, rules on ICWA but the Human Services Department has established informal procedures for handling ICWA cases. Formal procedures are currently being drafted. The State and the Mescalero Apache and Navajo Tribes have initiated negotiation steps for an ICWA agreement. The State Legislature has amended the Children's Code to conform to notice requirements of ICWA.

32. NEW YORK

There are nine (9) Indian reservations in New York. The state has not executed any tribal-state ICWA agreements but some feasibility studies have been completed. The Department of Social Services hopes to fund a demonstration project to develop a child welfare program for the Seneca Nation of Indians. Additionally, it has begun discussion with the Iroquois Nations into the feasibility of tribal-state implementation of ICWA. Funding has been the major problem in tribal implementation of ICWA.

33. NORTH CAROLINA

There is one (1) federally recognized tribe, Eastern Band of Cherokee, and several state-recognized tribes in North Carolina. There are no plans to adopt court rules on ICWA but the Department of Social Services will be adopting formal ICWA procedures in the near future. The state executed an agreement with the Eastern Band in January, 1981, but this was not the first child welfare agreement with the tribe.

34. NORTH DAKOTA

There are no ICWA tribal-state agreements but pre-ICWA foster care tribal-state agreements continue to be effective. There are no plans to adopt ICWA Court rules or social service procedures.

35. OHIO

There are no federally recognized tribes in Ohio; therefore, an ICWA tribal-state agreement is not planned. The Supreme Court of Ohio does not plan to issue any rules on ICWA but the Department of Public Welfare, Division of Social Services, plans to issue guidelines and promulgate rules on ICWA. These guidelines are currently in draft form but should be released in late fall as part of a child welfare manual.

36. OKLAHOMA

Oklahoma has thirty-seven (37) federally recognized tribes within its geographical boundaries and at this time, there are no formal ICWA tribal-state agreements. The Department of Human Services has been working closely with the various tribes; a great deal of cooperative training among the Department of Human Services; the Bureau of Indian Affairs (BIA), the CFR (Code of Federal Regulations) Court, and the tribes has been going on since the effective date of ICWA. More legal questions have developed over the adoption section of the Act than any other and parts of the Act have been challenged in the State Courts.

37. OREGON

An ICWA tribal-state agreement has not been executed with any tribe but the Children's Services Division of the Department of Human Resources plans to initiate negotiations in the near future. The Children's Services Division will publish their final ICWA Administrative Rules by the end of September, 1981, and these rules include the requirements relative to tribal-state agreements. There are no plans to enact Court rules on ICWA.

38. PENNSYLVANIA

Within Pennsylvania's geographical boundaries, there are no federally recognized tribes and only a small percentage of the total population is Indian. Neither the Pennsylvania Supreme Court nor the Department of Public Welfare have adopted rules or procedures on ICWA but all the Courts have received information on ICWA and are to provide the Court Administrative Office with required information for reports to the Secretary of Interior. Also, there are no plans for tribal-state agreements.

39. RHODE ISLAND

There are no federally recognized tribes in Rhode Island but the Narragansett Tribe has petitioned for acknowledgment. There are no plans for negotiating a tribal-state ICWA agreement. The Rhode Island Supreme Court has not issued any rules on ICWA nor are there any plans and the Department of Children and Rehabilitation Services and Their Families does not plan to adopt any procedures.

40. SOUTH CAROLINA

An ICWA agreement is not planned as there are no federally recognized tribes in South Carolina. There are no plans for adopting formal court rules. The Children and Family Services Division of the Department of Social Services will be working with their Legal Services Division to implement formal ICWA policy and procedures.

41. SOUTH DAKOTA

There are no plans for an ICWA tribal-state agreement or social service procedures. Recent South Dakota Supreme Court decisions have referred to ICWA "State Court Guidelines" but the Court has not adopted formal ICWA rules. Some Circuit Court Judges use informal arrangements with the South Dakota tribes and these arrangements seem to be working.

42. TENNESSEE

Within Tennessee's geographical boundaries, there are no federally recognized tribes; therefore, an ICWA tribal-state agreement has not been considered. The Tennessee Supreme Court does not plan to issue rules on ICWA nor does Department of Human Services plan to issue administrative procedures.

43. TEXAS

Status information not provided.

44. UTAH

An ICWA tribal-state agreement has not been enacted but negotiations are underway with the Ute Tribe at Ft. Duchesne. ICWA provisions are being included along with boundary designations, fishing and hunting, and imposition of sales taxes. The Utah Board of Juvenile Court Judges is considering the possibility of ICWA rules. The Division of Family Services has adopted regulation VPIC 235 in relation to state protection service intervention in ICWA cases.

45. VERMONT

There are no federally recognized tribes in Vermont but the Abenakis Tribe has petitioned for acknowledgment. There are no plans to adopt ICWA Court rules or social service procedures.

46. VIRGINIA

There are no federally recognized tribes in Virginia but the Rappahannock Tribe has petitioned for acknowledgment. An ICWA tribal-state agreement is not being considered nor will it be for quite some time. There are no plans for court rules or social service procedures on ICWA; however, the internal "Central Office Procedures Regarding Native American Indian and Alaskan Eskimo Children For Whom Adoption is the Goal" is followed by the Department of Welfare and all ICWA cases are referred to the Division of Social Services, Department of Welfare to assist in following these internal procedures and to assure compliance with the intent of the Act.

47. WASHINGTON

Region I, Department of Social and Health Service (DSHS), executed an ICWA agreement with the Spokane Tribe in March, 1981, and negotiations are nearing completion with the Colville Tribe. Other tribal-state ICWA agreements are planned but negotiations have not been initiated. Washington Indian child welfare statutes and administrative procedures predates ICWA and in this unprecedented move, the state set up by Local Indian Child Welfare Advisory Committees. In October of 1980,

DSHS updated their Indian Affairs Policy to restate their commitment in terms of planning and service delivery to tribes in Washington. DSHS has adopted ICWA administrative rules in the Washington Administrative Code and these rules have been proceduralized in the caseworkers Manual G (Internal desk book). Court rules on ICWA are in the process of review and implementation.

48. WEST VIRGINIA

Within West Virginia's geographical boundaries, there are no federally recognized tribes and the Indian population is a small percentage of the total population. There are no plans for enactment of court rules or for negotiation of a tribal-state agreement. The Department of Welfare has no plans for adopting social service procedures on ICWA.

49. WISCONSIN

There are eleven (11) reservations in Wisconsin but there has not been negotiations of an ICWA tribal-state agreement. The Youth Policy and Law Center developed a chapter on ICWA for the Department of Health and Social Services' Handbook on Implementing the Wisconsin Children's Code. This Handbook was drafted for use by court and health and social services personnel. There are no plans for enactment of court rules.

50. WYOMING

There is only one (1) reservation, the Wind River Reservation, in Wyoming, and there are no plans to negotiate a tribal-state agreement with Wind River. The State Division of Public Assistance and Social Services (D-PASS) has no plans to issue ICWA procedures and the enactment of court rules have not been planned.

Race and Ethnicity of Children in State Foster Care Systems

The foster care component of the States' child welfare systems addresses the needs of the community's most vulnerable families and children. Progress has been made in the past several years in substantially reducing both the number of children in foster care as well as reducing the average amount of time such children are receiving foster care services (CHILD WELFARE RESEARCH NOTES #1). However, there continues to be a shift in the racial and ethnic composition of the children in the States' foster care systems.

In 1945, at the time that World War II was coming to a close, the percentage of minority children in the foster care system was 17%. This proportion has increased until by 1982 it was estimated that 47% were minority children, with Black children comprising 80% of all minority children.

In 1980, the Office for Civil Rights conducted a national study of the racial and ethnic characteristics of children in foster care on a county basis (OCR). Subsequently, as part of the Voluntary Cooperative Information System (VCIS) data collection efforts by the American Public Welfare Association, data for 1982 were obtained from the participating States. These data have been used for a comparative analysis of the number of children in State foster care systems by race and ethnicity as shown in Table 1.

To adjust for population differences, the total State's population under 21 years was used to obtain the point prevalence rate (Rate) of children in foster care. The Rate is the number of children in foster care on a single day divided by the total number of children in the State less than 21 years. To eliminate the decimal point, this quotient is multiplied by 10,000. Thus a Rate of 33 indicates that 33 children per 10,000 children are in foster care on a single day. The higher the Rate, the more children in foster care on a single day.

To facilitate comparisons, the distributions of Rates were divided into five equal parts, 20% of the States in each part, and a quintile score (Q) assigned. A quintile score of 5 indicates that the State is part of the group of States with the 20% highest Rates, a quintile score of 1 was given to 20% of the States with the lowest Rates. A similar quintile scoring was computed for the actual number of children in foster care as shown in Tables 2-5.

Indian Children

With the passage of the Indian Child Welfare Act of 1978 and the Adoption Assistance and Child Welfare Act of 1980 there has been a directed effort to improve child welfare services for American Indian children. State agencies may be assigned custody and placement responsibility for Indian children by State or Indian courts. The number of Indian children in State operated foster care systems, the total number of Indian children less than 21 years, and the Rates are shown in Table 2.

The number of Indian children in State foster care systems varies from 0 to 622. There are 13 States with 100 or more Indian children in the State's foster care system; the largest number of Indian children in a State's foster care system is 622, in Minnesota. Arizona and New Mexico, which have large numbers of Indian children less than 21 years, have very low Rates, 10 and 13 respectively. These figures do not include the Indian children in foster care under the supervision of the Indian Tribal Organizations or private arrangements. Consequently, the reported State figure undercounts Indian children in foster care which may account for the low Rates in some States with large numbers of Indian children.

Black Children

Black children are the largest minority group in State foster care systems and, as shown in Table 3, they vary from 5 to 15,898 children in foster care in the respective States. Rhode Island, District of Columbia, New York, Ohio, New Jersey, Massachusetts, Indiana, Kansas, Delaware, Minnesota and Colorado have Rates that exceed 120. Texas, Mississippi, Arkansas, Tennessee, Florida, and South Carolina, each with over 100,000 Black children less than 21 years, are in the lowest Rate quintile. The 15,898 Black children in New York is the largest racial or ethnic group in foster care in any one State.

The large numbers and Rates of Black children in State foster care systems may be due to the following factors:

- o As the Black population migrated to the urban areas seeking employment, after World War II, Black children entered the foster care system at much faster rates than White children and this pattern continues.
- o Beginning in the 1960s, there was an increase in the number of Black children living in female-headed, single-parent families and this pattern continues.

- o During this period, Black children left the foster care system at a slower rate than White children resulting in an increase in the proportion of Black children in the foster care system with longer average duration of time in placement and this pattern continues.

This pattern may account for Jenkins' (1984) finding, based on the 1980 OCR data, that for 14 of the largest cities there were 77% minority children in foster care, including 63% Black, compared with the 42% minority children, 33% Black, for all the States.

Hispanic Children

The Hispanic children have the lowest Rates among the three minority groups as shown in Table 1. The number of Hispanic children in State foster care systems varies from 0 to 5,211 as shown in Table 4. The Rate for the Hispanic children living in the Northeast (Puerto Rican heritage), Connecticut, Massachusetts, New Jersey, New York and Pennsylvania, was 53; for the children living in the Southwest (Mexican heritage), Arizona, California, Colorado, New Mexico, and Texas, the Rate was 18; and for the children living in the Southeast (Cuban heritage), Florida, the Rate was 7. These differences reflect a combination of national origin, poverty level, urbanization and State policies as they impact on families with an Hispanic heritage.

White Children

The urbanized States generally have high numbers of White children in foster care as shown in Table 5. The number of White children in foster care varies from 66 to 15,544. California, Ohio, Indiana, Massachusetts, Minnesota, Missouri, Oregon, and Kansas have both high Rates and numbers of children in foster care. However, Pennsylvania, Florida, Illinois and Michigan have high numbers of White children but low Rates. Texas, with 2,703 White children in foster care, has the lowest foster care Rate for White children in the country, 7 per 10,000 children.

Community Orientation Towards Placement

Rates are quantitative indicators of States' orientation toward placement. Indications that placement decisions are affected by community factors was first suggested in the classic 1959 study by Maas and Engler. Jenkins (1984), using the Office for Civil Rights data examined the hypothesis, "...the way a community organizes itself, and its typical approach to handling problems, will be reflected in the placement system." Her analysis supported the hypothesis and the 1982 VCIS data reported above are also indicative

of its validity. High Rates would indicate a propensity for a community's ready placement of children from families with problems while low Rates may indicate a reluctance to use placement as the treatment of choice. Which approach leads more readily to a sustained nurturing environment for the child has yet to be determined.

Program Variability

In general, as shown in Table 1, Rates vary across different racial and ethnic groups within States; Rates vary among the States for each of the racial and ethnic groups; and Rates vary both within and among the regions. An analysis of the 1980 Office for Civil Rights data by Jenkins (1983) found similar variability.

The Rates for each State reflect the Rates for each county within a State. The source of the variability noted above is a consequence, in part, of the differences among local agencies, particularly urban and non-urbanized service delivery areas. Thus, to fully understand a State's Rates necessitates an examination of local Rates.

Table 1
1982 POINT PREVALENCE RATES OF CHILDREN
IN STATE FOSTER CARE SYSTEMS BY RACE AND ETHNICITY*
(Per 10,000 children)

Region/State	Indian		Black		Hispanic		White		Total	
	Rate	Q	Rate	Q	Rate	Q	Rate	Q	Rate	Q
1 Connecticut	79	4	50	2	66	5	28	4	45	4
1 Maine	189	5	74	3	17	3	54	5	57	5
1 Massachusetts ^{d/}	194	5	133	5	74	5	47	5	52	5
1 New Hampshire	0	1	68	3	0	1	33	4	34	3
1 Rhode Island ^{c/}	49	3	414	5	80	5	83	5	113	5
1 Vermont	223	5	171	5	37	5	41	5	45	4
2 New Jersey ^{d/}	10	1	131	5	43	5	23	3	43	4
2 New York	(62)	3	167	5	53	5	26	3	60	5
3 Delaware ^{d/}	0	1	125	4	30	4	33	4	52	5
3 Dist. of Col. ^{d/}	75	4	208	5	7	2	24	3	176	5
3 Maryland	116	4	107	4	23	3	33	4	55	5
3 Pennsylvania	(23)	2	(112)	4	(43)	5	20	2	30	2
3 Virginia	14	2	82	3	5	2	26	3	40	4
3 West Virginia	39	3	96	4	12	2	26	3	29	2
4 Alabama	3	1	60	2	1	1	24	3	33	3
4 Florida	46	3	37	1	(7)	2	(17)	2	22	1
4 Georgia ^{c/}	40	3	48	2	3	1	26	3	34	3
4 Kentucky ^{d/}	0	1	83	3	8	2	34	4	38	3
4 Mississippi	10	1	25	1	1	1	13	1	20	1
4 North Carolina	40	3	42	2	0	1	16	1	25	2
4 South Carolina	0	1	38	1	0	1	18	2	26	2
4 Tennessee	0	1	39	1	3	1	21	2	26	2
5 Illinois	90	4	100	4	20	3	18	2	37	3
5 Indiana ^{d/}	64	4	127	4	47	5	45	5	53	5
5 Michigan ^{c/}	38	2	105	4	21	3	18	2	34	3
5 Minnesota ^{d/}	345	5	177	5	32	4	37	5	46	4
5 Ohio ^{c/}	(52)	3	135	5	(45)	5	33	4	64	5
5 Wisconsin	163	4	86	3	35	4	24	3	31	2
6 Arkansas	17	2	29	1	2	1	15	1	18	1
6 Louisiana	34	2	62	2	7	2	29	4	41	4
6 New Mexico	13	1	63	2	19	3	10	1	19	1
6 Oklahoma	34	2	44	2	15	3	16	1	20	1
6 Texas	26	2	19	1	8	2	7	1	10	1
7 Iowa	(173)	5	94	4	33	3	27	3	33	3
7 Kansas	55	3	122	4	35	4	43	5	50	4
7 Missouri	16	2	89	3	9	2	30	4	39	3
7 Nebraska ^{a/}	312	5	103	4	52	5	37	5	48	4

(continued)

Table 1 (continued)

1982 POINT PREVALENCE RATES OF CHILDREN
IN STATE FOSTER CARE SYSTEMS BY RACE AND ETHNICITY*
(Per 10,000 children)

Region/State	Indian		Black		Hispanic		White		Total	
	Rate	Q	Rate	Q	Rate	Q	Rate	Q	Rate	Q
8 Colorado ^{b/}	52	3	75	3	32	4	22	2	27	2
8 Montana	90	4	199	5	18	3	27	3	33	3
8 North Dakota	205	5	60	2	33	4	21	2	31	2
8 South Dakota	197	5	62	2	0	1	13	1	33	3
8 Utah	130	4	66	2	28	4	19	2	21	1
8 Wyoming	38	2	35	1	15	3	12	1	13	1
9 Arizona ^{a/}	10	1	23	1	10	2	11	1	12	1
9 California	47	3	109	4	25	4	29	4	40	4
9 Hawaii	(39)	3	14	1	1	1	13	1	18	1
9 Nevada ^{c/}	32	2	90	3	13	3	40	5	41	4
0 Alaska ^{d/}	171	5	30	1	2	1	25	3	54	5
0 Idaho ^{d/}	71	4	87	3	21	3	21	2	23	2
0 Oregon	95	4	244	5	32	4	47	5	58	5
0 Washington ^{ab/}	176	5	85	3	20	3	33	4	41	4

* Data from the Voluntary Cooperative Information System (VCIS) except as noted in footnote ^{d/} and ⁽⁾ below.

Rate Point Prevalence Rate equals the number of children in foster care of a specific racial/ethnic group on a single day divided by the total number of children less than 21 years of the specific racial or ethnic group expressed per 10,000 children, i.e., a Rate of 52 for Colorado in the Indian column indicates that 52 Indian children per 10,000 Indian children in that State are in foster care on a single day.

Q A Quintile (Q) represents the ranking when the distribution is divided into five parts; a Quintile of 5 indicates the State is among the the highest 20% of the States for that distribution.

^{a/} State estimates reported to VCIS.
^{b/} Adjusted for whole month rather than single day reporting.
^{c/} Includes children in in-home care as well.
^{d/} Data from the 1980 Office for Civil Rights (OCR) study when no race/ethnicity data were reported to VCIS.

⁽⁾ Parenthesis indicates that specific race/ethnicity data were not provided and an estimate was computed based on the OCR percentage.

Table 2

1982 POINT PREVALENCE RATES AND NUMBER
OF INDIAN CHILDREN IN STATE FOSTER CARE SYSTEMS*
(In sequence by number of children in Foster Care)

Region/State	F.C.	Q	Indian		
			Pop. -21	Rate	
5 Minnesota ^{a/}	622	5	18,016	345	5
0 Alaska ^{d/}	536	5	31,408	171	5
0 Washington ^{ab/}	497	5	27,069	176	5
8 South Dakota	488	5	24,832	197	5
9 California	378	5	79,737	47	3
6 Oklahoma	257	5	76,464	34	2
5 Wisconsin	238	5	14,599	163	4
8 North Dakota	226	5	11,022	205	5
8 Montana	171	5	18,988	90	4
7 Nebraska ^{a/}	147	5	4,698	312	5
8 Utah	145	4	11,132	130	4
4 North Carolina	118	4	29,321	40	3
0 Oregon	114	4	11,972	95	4
2 New York ^{e/}	97	4	15,709	62	3
9 Arizona ^{a/}	83	4	80,120	10	1
6 New Mexico	73	4	54,180	13	1
5 Michigan ^{c/}	71	4	18,626	38	2
5 Illinois	57	4	6,357	90	4
1 Massachusetts ^{d/}	57	4	2,944	194	5
7 Iowa ^{e/}	47	4	2,732	173	5
8 Colorado ^{b/}	40	3	7,763	52	3
1 Maine	38	3	2,013	189	5
6 Texas	38	3	14,563	26	2
3 Maryland	37	3	3,201	116	4
0 Idaho ^{d/}	37	3	5,243	71	4
7 Kansas	36	3	6,523	55	3
4 Florida	31	3	6,718	46	3
5 Ohio ^{e/}	23	3	4,438	52	3
5 Indiana ^{d/}	19	3	2,972	64	4
9 Nevada	19	3	5,868	32	2
6 Louisiana	18	3	5,355	34	2
1 Connecticut	13	2	1,652	79	4
8 Wyoming	13	2	3,460	38	2
4 Georgia	11	2	2,770	40	3
1 Vermont	9	2	404	223	5
3 Pennsylvania ^{e/}	8	2	3,465	23	2
7 Missouri	7	2	4,516	16	2
1 Rhode Island ^{c/}	6	2	1,234	49	3
6 Arkansas	6	2	3,537	17	2
9 Hawaii ^{e/}	4	2	1,013	39	3

(continued)

Table 2 (Continued)

NUMBER AND POINT PREVALENCE RATES
OF INDIAN CHILDREN IN FOSTER CARE IN 1982*

Region/State	F.C.	Q	Indian Pop. -21	Rate	Q
3 Virginia	3	1	2,163	14	2
4 Mississippi	3	1	2,889	10	1
2 New Jersey ^{d/}	3	1	2,980	10	1
3 Dist. of Col. ^{d/}	2	1	265	75	4
3 West Virginia	2	1	515	39	3
4 Alabama	1	1	3,098	3	1
3 Delaware ^{d/}	0	1	0	0	1
4 Kentucky ^{d/}	0	1	1,301	0	1
1 New Hampshire	0	1	497	0	1
4 South Carolina	0	1	2,463	0	1
4 Tennessee	0	1	1,682	0	1

* Data from the Voluntary Cooperative Information System (VCIS) except as noted in footnotes ^{d/} and ^{e/} below.

F.C. Number of children in foster care on any one day in 1982.

Rate Point Prevalence Rate equals the number of children in foster care on a single day divided by the total number of children less than 21 years per 10,000 children, i.e., a Rate of 14 for Virginia indicates that 14 children per 10,000 Indian children are in the State's foster care system on a single day.

Q A Quintile (Q) represents the ranking when the distribution is divided into five parts; a Quintile of 5 indicates the State is among the highest 20% of the States for that distribution.

^{a/} States which reported estimates to VCIS.
^{b/} Adjusted for whole month rather than single day reporting.
^{c/} Includes children in in-home care as well.
^{d/} Data from the 1980 Office for Civil Rights (OCR) study when no race/ethnicity data were reported to VCIS by eight States.
^{e/} Specific race/ethnicity data were not provided and an estimate was computed based on the OCR percentage.

Table 3

1982 POINT PREVALENCE RATES AND NUMBER
OF BLACK CHILDREN IN STATE FOSTER CARE SYSTEMS*
(In sequence by number of children in Foster Care)

Region/State	F.C.	Q	Black Pop. -21	Rate	Q
2 New York	15,898	5	949,586	167	5
9 California	7,918	5	724,854	109	4
5 Illinois	7,252	5	728,277	100	4
5 Ohio ^{c/}	5,888	5	436,208	135	5
5 Michigan ^{c/}	5,306	5	507,684	105	4
2 New Jersey ^{d/}	5,123	5	389,683	131	5
3 Pennsylvania ^{e/}	4,559	5	405,916	112	4
3 Maryland	4,169	5	388,290	107	4
6 Louisiana	3,439	5	557,941	62	2
3 Virginia	3,286	5	400,324	82	3
3 Dist. of Col. ^{d/}	3,166	4	152,224	208	5
4 Georgia ^{c/}	3,088	4	637,672	48	2
4 North Carolina	2,328	4	556,143	42	2
5 Indiana ^{d/}	2,294	4	180,712	127	4
4 Florida	2,167	4	590,995	37	1
4 Alabama	2,016	4	336,727	60	2
7 Missouri	1,928	4	217,414	89	3
4 South Carolina	1,614	4	419,558	38	1
1 Connecticut	1,460	4	293,102	50	2
6 Texas	1,373	4	723,651	19	1
1 Massachusetts ^{d/}	1,232	3	92,891	133	5
4 Tennessee	1,189	3	307,235	39	1
4 Mississippi	1,047	3	419,751	25	1
4 Kentucky ^{d/}	905	3	108,794	83	3
5 Wisconsin	757	3	88,319	86	3
7 Kansas	671	3	55,162	122	4
3 Delaware ^{d/}	523	3	41,803	125	4
1 Rhode Island ^{c/}	505	3	12,209	414	5
6 Arkansas	491	3	171,387	29	1
5 Minnesota ^{a/}	423	3	23,860	177	5
6 Oklahoma	397	3	90,066	44	2
0 Washington ^{a/b/}	389	2	43,625	85	3
0 Oregon	384	2	15,748	244	5
8 Colorado ^{b/}	330	2	42,048	75	3
3 West Virginia	237	2	24,635	96	4
7 Nebraska ^{a/}	229	2	22,317	103	4
9 Nevada ^{c/}	210	2	23,233	90	3
7 Iowa	179	2	19,141	94	3
9 Arizona ^{a/}	75	2	32,577	23	1
6 New Mexico	67	2	10,563	63	2
8 Utah	28	2	4,213	66	2

(continued)

Table 3 (continued)

1982 POINT PREVALENCE RATES AND NUMBER
OF BLACK CHILDREN IN STATE FOSTER CARE SYSTEMS*

Region/State	F.C.	Q	Black Pop. -21	Rate	Q
0 Alaska ^{d/}	17	1	5,608	30	1
8 Montana	15	1	752	199	5
1 New Hampshire	12	1	1,770	68	3
1 Maine	10	1	1,356	74	3
0 Idaho ^{d/}	10	1	2,972	87	3
9 Hawaii	10	1	7,041	14	1
1 Vermont	9	1	527	171	5
8 North Dakota	7	1	1,159	60	2
8 South Dakota	6	1	971	62	2
8 Wyoming	5	1	1,444	35	1

* Data from the Voluntary Cooperative Information System (VCIS) except as noted in footnotes ^{d/} and ^{e/} below.

F.C. Number of children in foster care on any one day in 1982.

Rate. Point Prevalence Rate equals the number of children in foster care on a single day divided by the total number of children less than 21 years per 10,000 children, i.e., a Rate of 30 for Alaska indicates that 30 children per 10,000 Black children are in the State's foster care system on a single day.

Q A Quintile (Q) represents the ranking when the distribution is divided into five parts; a Quintile of 5 indicates the State is among the highest 20% of the States for that distribution.

^{a/} States which reported estimates to VCIS.
^{b/} Adjusted for whole month rather than single day reporting.
^{c/} Includes children in in-home care as well.
^{d/} Data from the 1980 Office for Civil Rights (OCR) study when no race/ethnicity data were reported to VCIS by eight States.
^{e/} Specific race/ethnicity data were not provided and an estimate was computed based on the OCR percentage.

Table 4

1982 POINT PREVALENCE RATES AND NUMBER
OF HISPANIC CHILDREN IN STATE FOSTER CARE SYSTEMS*
(In sequence by number of children in Foster Care)

Region/State	F.C.	Q	Hispanic Pop. -21	Rate	Q
9 California	5,211	5	2,082,972	25	4
2 New York	3,728	5	697,596	53	5
6 Texas	1,115	5	1,429,166	8	2
2 New Jersey ^{d/}	930	5	214,895	43	5
5 Illinois	612	5	301,223	20	3
8 Colorado ^{b/}	522	5	159,110	32	4
1 Massachusetts ^{d/}	515	5	69,815	74	5
1 Connecticut	407	5	62,043	66	5
6 New Mexico	402	5	216,921	19	3
3 Pennsylvania ^{e/}	352	5	73,583	43	5
4 Florida ^{e/}	330	4	279,491	7	2
5 Ohio ^{c/}	252	4	55,898	45	5
9 Arizona ^{a/}	205	4	213,961	10	3
5 Indiana ^{d/}	195	4	41,801	47	5
5 Michigan ^{c/}	169	4	80,067	21	3
0 Washington ^{ab/}	126	4	59,627	20	3
5 Wisconsin	113	4	32,043	35	4
7 Kansas	108	4	30,812	35	4
0 Oregon	103	4	32,164	32	4
8 Utah	89	4	31,334	28	4
7 Nebraska ^{a/}	73	3	14,123	52	5
1 Rhode Island ^{c/}	69	3	8,574	80	5
3 Maryland	60	3	25,600	23	3
5 Minnesota ^{a/}	51	3	16,069	32	4
6 Oklahoma	42	3	28,348	15	3
0 Idaho ^{d/}	41	3	19,172	21	3
7 Iowa	41	3	12,524	33	4
9 Nevada ^{c/}	30	3	23,398	13	3
6 Louisiana	27	3	41,002	7	2
7 Missouri	21	3	22,973	9	2
8 Wyoming	18	3	11,960	15	3
3 Virginia	15	2	31,591	5	2
3 Delaware ^{d/}	14	2	4,728	30	4
4 Kentucky ^{d/}	9	2	11,732	8	2
8 Montana	9	2	5,104	18	3
4 Georgia ^{c/}	7	2	26,144	3	1
8 North Dakota	7	2	2,108	33	4
3 West Virginia	6	2	4,857	12	2
9 Hawaii	5	2	37,887	1	1
4 Tennessee	5	2	16,716	3	1
1 Vermont	5	2	1,348	37	5

(continued)

Table 4 (continued)

1982 POINT PREVALENCE RATES AND NUMBER
OF HISPANIC CHILDREN IN STATE FOSTER CARE SYSTEMS*

Region/State	F.C.	Q	Hispanic Pop. -21	Rate	Q
1 Maine	4	1	2,316	17	3
3 Dist. of Col. ^{d/}	3	1	4,086	7	2
6 Arkansas	2	1	8,192	2	1
4 Alabama	1	1	14,061	1	1
0 Alaska ^{d/}	1	1	4,376	2	1
4 Mississippi	1	1	11,216	1	1
1 New Hampshire	0	1	2,565	0	1
4 North Carolina	0	1	24,097	0	1
4 South Carolina	0	1	14,795	0	1
8 South Dakota	0	1	5,544	0	1

* Data from the Voluntary Cooperative Information System (VCIS) except as noted in footnotes ^{d/} and ^{e/} below.

F.C. Number of children in foster care on any one day in 1982.

Rate Point Prevalence Rate equals the number of children in foster care on a single day divided by the total number of children less than 21 years per 10,000 children, i.e., a Rate of 17 for Maine indicates that 17 children per 10,000 Hispanic children are in the State's foster care system on a single day.

Q A Quintile (Q) represents the ranking when the distribution is divided into five parts; a Quintile of 5 indicates the State is among the highest 20% of the States for that distribution.

^{a/} State estimates reported to VCIS.
^{b/} Adjusted for whole month rather than single day reporting.
^{c/} Includes children in in-home care as well.
^{d/} Data from the 1980 Office for Civil Rights (OCR) study when no race/ethnicity data were reported to VCIS by eight States.

^{e/} Specific race/ethnicity data were not provided and an estimate was computed based on the OCR percentage.

Table 5

1982 POINT PREVALENCE RATES AND NUMBER
OF WHITE CHILDREN IN STATE FOSTER CARE SYSTEMS*
(In sequence by number of children in Foster Care)

Region/State	F.C.	Q	White Pop. -21	Rate	Q
9 California	15,544	5	5,419,519	29	4
2 New York	11,033	5	4,199,703	26	3
5 Ohio ^{c/}	10,588	5	3,217,528	33	4
3 Pennsylvania	9,076	5	3,305,418	20	2
5 Indiana ^{d/}	7,843	5	1,732,200	45	5
1 Massachusetts ^{d/}	7,805	5	1,675,793	47	5
4 Florida ^{e/}	6,276	5	2,181,691	17	2
5 Illinois	5,334	5	2,945,163	18	2
5 Michigan ^{c/}	4,960	5	2,704,560	18	2
5 Minnesota ^{a/}	4,933	5	1,350,821	37	5
0 Washington ^{ab/}	4,330	4	1,221,364	33	4
7 Missouri	4,201	4	1,406,054	30	4
2 New Jersey ^{d/}	4,187	4	1,846,601	23	3
4 Kentucky ^{d/}	3,975	4	1,183,372	34	4
0 Oregon	3,736	4	799,545	47	5
5 Wisconsin	3,650	4	1,518,744	24	3
3 Virginia	3,531	4	1,352,055	26	3
4 Georgia ^{c/}	3,373	4	1,311,171	26	3
3 Maryland	3,187	4	977,937	33	4
7 Kansas	3,048	4	705,705	43	5
6 Louisiana	2,948	3	1,012,842	29	4
6 Texas	2,703	3	3,821,425	7	1
4 Tennessee	2,611	3	1,246,016	21	2
7 Iowa	2,597	3	964,571	27	3
1 Connecticut	2,400	3	851,688	28	4
1 Rhode Island ^{c/}	2,320	3	279,367	83	5
4 North Carolina	2,299	3	1,423,214	16	1
4 Alabama	2,261	3	946,058	24	3
1 Maine	2,032	3	378,549	54	5
8 Colorado ^{b/}	1,903	3	843,786	22	2
7 Nebraska ^{a/}	1,869	3	503,083	37	5
3 West Virginia	1,642	2	637,057	26	3
6 Oklahoma	1,359	2	841,818	16	1
4 South Carolina	1,311	2	712,571	18	2
8 Utah	1,128	2	590,096	19	2
1 New Hampshire	1,007	2	308,614	33	4
6 Arkansas	943	2	717,972	15	1
9 Nevada ^{c/}	853	2	215,447	40	5
9 Arizona ^{a/}	755	2	717,972	11	1
0 Idaho ^{d/}	732	2	340,600	21	2
4 Mississippi	726	2	543,128	13	1

(continued)

Table 5 (continued)

1982 POINT PREVALENCE RATES AND NUMBER
OF WHITE CHILDREN IN STATE FOSTER CARE SYSTEMS*

Region/State	F.C.	Q	White Pop.	-21 Rate	Q
1 Vermont	725	1	176,343	41	5
8 Montana	674	1	253,671	27	3
3 Delaware ^{d/}	520	1	157,761	33	4
8 North Dakota	471	1	219,183	21	2
6 New Mexico	346	1	342,315	10	1
8 South Dakota	291	1	221,081	13	1
0 Alaska ^{d/}	271	1	108,888	25	3
8 Wyoming	196	1	162,966	12	1
9 Hawaii	134	1	103,030	13	1
3 Dist. of Col. ^{d/}	66	1	27,840	24	3

* Data from the Voluntary Cooperative Information System (VCIS) except as noted in footnotes d/ and e/ below.

F.C. Number of children in foster care on any one day in 1982.

Rate Point Prevalence Rate equals the number of children in foster care on a single day divided by the total number of children less than 21 years per 10,000 children, i.e., a Rate of 41 for Vermont indicates that 41 children per 10,000 White children are in the State's foster care system on a single day.

Q A Quintile (Q) represents the ranking when the distribution is divided into five parts; a Quintile of 5 indicates the State is among the highest 20% of the States for that distribution.

a/ State estimates reported to VCIS.
b/ Adjusted for whole month rather than single day reporting.
c/ Includes children in in-home care as well.
d/ Data from the 1980 Office for Civil Rights (OCR) study when no race/ethnicity data were reported to VCIS by eight States.
e/ Specific race/ethnicity data were not provided and an estimate was computed based on the OCR percentage.

Technical Notes

DATA SOURCES

- o The Voluntary Cooperative Information System (VCIS, Fiscal Year, 1982). The American Public Welfare Association implemented a voluntary system to collect child welfare information about children less than 21 years in substitute care. Forty-eight States responded with aggregate information for varying reporting periods and for varying time periods. The State aggregated data spans the periods beginning January 1, 1981 to March 31, 1983 with most States reporting for a 12 month period and some States for nine, six and three month periods. The model group was 15 States for the Federal Fiscal Year 1982. States also varied in their definition of who was included in their report. As States did not respond to all of the items, the data for each item represents a different aggregation of States. (American Public Welfare Association, "Voluntary Cooperative Information System," grant number 90-PD10021.)
- o The Office for Civil Rights 1980 Survey (OCR, 1980). This was a national county-specific census conducted by the Office for Civil Rights of all children in the legal custody of the agency for referral or out-of-home placement as of January 8, 1980 for a limited set of information items. A high rate of return was achieved, 99.9% of the counties participated. Agencies were required, by court order, to participate. The information is aggregated by county, State, and national totals. The findings from the study are reported in Office for Civil Rights, Department of Health and Human Services, 1980 Children and Youth Referral Survey: Public Welfare and Social Service Agencies, 1981.
- o 1980 Census of Population, General Population Characteristics, Vol 1, Series PC 80-1-B, U.S. Bureau of Census, 1980, Tables 22 and 67.

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- CHILD WELFARE RESEARCH NOTES #1, Administration for Children, Youth and Families, Human Development Services, December 1983.
- Shirley Jenkins et al, "Ethnic Differentials in Foster Care Placements," Social Work Research and Abstracts, Vol. 19, No. 4, National Association of Social Workers, Inc., Winter 1983.
- Shirley Jenkins, Beverly Diamond, and John Grundy, "A Social Analysis of Foster Care Data," (paper, American Orthopsychiatric Association Conference, 1984).

Henry S. Maas and Richard E. Engler, Jr., Children in Need of Parents, New York, Columbia University Press, 1959.

COMMENT

- o The definitions of race/ethnicity are in accordance with State definitions.
- o The 1980 OCR data were used for those States which did not report any race/ethnicity data to VCIS. Where the reported data included combined race/ethnic groups estimates were made using the OCR data. Adjustments were also made for whole month rather than single day reporting. Some States reported children receiving in-home services and these are noted in the tables.
- o The child population less than 21 years in 1980 was used in computing the point prevalence rates. Race/ethnicity by age tables for 1982 were not available. Between 1980 and 1982 there was an increase in the number of children less than six years and a decrease in the number of children six years or older. The population less than 21 years decreased by 1.6 percent.

This note was prepared by Dr. Charles P. Gershenson with the assistance of Mrs. Vardrine Carter and Mrs. Lois Harris, Administration for Children, Youth and Families, Office of Human Development Services, Box 1182, Washington, D.C. 20013. No permission is necessary to reproduce this note. Suggestions for additional topics are welcomed.

Senator ANDREWS. Senator Gorton, do you have questions?
Senator GORTON. I will submit my questions for the record.

Senator ANDREWS. Senator Gorton has questions he will submit for the record, and other members of the committee might well have questions they will submit for the record.

Our next witness is the executive director of the Association of American Indian Affairs, Mr. Steven Unger.

Let me assure you, Mr. Director, that we have your prepared statement. It will be included in the record as though you uttered every word, and we would be glad to have you summarize it so that we leave a little bit more time for questions.

STATEMENT OF STEVEN UNGER, EXECUTIVE DIRECTOR, THE ASSOCIATION ON AMERICAN INDIAN AFFAIRS, INC., ACCOMPANIED BY GREG ARGEL, PROGRAM ASSISTANT, AND BERTRAM E. HIRSCH, ATTORNEY-AT-LAW

Mr. UNGER. Thank you, Mr. Chairman. I will be glad to summarize our statement. With me on my left is Bert Hirsch, an attorney-at-law, and on my right, Greg Argel, of the association's staff.

Ten years ago this month the predecessor to this committee held oversight hearings on Indian child welfare needs at which it received shocking testimony from Indian people from around the Nation about their abusive treatment by State agencies. Those oversight hearings eventually led to enactment of the Indian Child Welfare Act.

The association is a nonprofit national citizens organization, entirely supported by its members and contributors, who are Indian and non-Indian. We appreciate the continuing interest of this committee in Indian child welfare needs and think that congressional concern is perhaps the most significant factor in helping Indian tribes meet their needs.

The association's comments this morning will focus on three areas which we feel are the unfinished agenda that Congress has in regard to Indian child welfare. These areas are: (1) The need for local day schools for all American Indians, so that no Indian child is forced to be separated from his or her parents to be placed in Federal boarding schools. This need is particularly urgent in regard to large numbers of elementary age children at the Navajo reservation; (2) The large and disproportionate number of Indian youth arrested and often incarcerated in the juvenile justice system; and (3) The need, as we have heard this morning, for more adequate funding for Indian programs under the Indian Child Welfare Act, and for certain technical amendments which we have submitted to the committee staff.

Title IV of the Indian Child Welfare Act recognized that the massive numbers of Indian children placed in boarding schools were part of a similar concern to which Congress paid its attention in the matter of adoptive and foster care placement of Indian children. Title IV stated, "It is the sense of Congress that the absence of locally convenient day schools may contribute to the breakup of Indian families."

As this committee conducts its oversight hearing today, the most significant part of the unfinished agenda of the Indian Child Wel-