

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.

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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-

fare Act is the continued placement—unwarranted, unjust, unhealthy, and unneeded—of vulnerable Indian children in Federal boarding schools.

The findings of the BIA, in its study done pursuant to title IV, are that 20,000 Indian children live in BIA boarding schools or dormitories; 5,000 of them are aged 10 or less; more than 10,000 of the children are in the elementary grades; 75 percent of the Navajo children in boarding school are in the elementary grades. Almost one out of every two Indian students served by BIA schools today are taken from their families and forced to spend approximately 9 months of each year in a boarding school or dormitory.

We have submitted detailed documentation coming from Government records of the numbers of children and their grade levels.

We have also examined State law in regard to the placement of children. We have found no other instance in the United States where taking children from their families is imposed on a group of people. Indeed, examining States that have small, rural, isolated populations, we found that often there is solicitude toward providing day schools for the families that need them. In South Dakota, for example, a petition by the parents of 15 eligible students mandates that a new day school be provided.

Can the Government of the United States, which in section 3 of the Indian Child Welfare Act declares that: "it is the policy of this Nation to protect the best interest of Indian children and to promote the stability and security of Indian tribes and families," afford to do less?

We examine in our testimony the long history, the horrible and tragic history, of the boarding schools, why they were originally conceived and put on Indian reservations, and the rationale still put forth today by the BIA. That this is a compelling child welfare issue can readily be summarized: Even if it were conceivable that all the educational needs of a child could be taken care of in the boarding school—and I emphasize again that we are talking about 10-, 11-, 12-, 9-, 8-, and 7-year-olds in the schools—it is still the emotional aspects of a child's development that cannot be taken care of by a matron or even a dozen matrons in a dormitory.

We have seen Indian communities make remarkable efforts to get day schools to replace the boarding schools that the BIA provides: The Alamo Navajo community in New Mexico is one example. At the Navajo Black Mesa community in Arizona the parents put together abandoned Atomic Energy Commission trailers into a building—which the BIA tried to condemn—so that they would not have to send their children to boarding school.

We feel it is a great indictment of the U.S. Bureau of Indian Affairs that the boarding school system continues to exist and that the children are made to suffer. The Bureau has never made it clear to Navajo parents that day schools are an option for them, that food and clothing can be brought to the families, and that the children can be cared for in the families while they learn.

In our written statement, we outline the data that we believe should be obtained to create a detailed day school implementation plan. Such a plan can be done by the Bureau with the affected tribes, especially the Navajos. We believe it should be submitted to

this committee no later than 1 year from today and should include recommended funding authorization levels.

As we meet this morning, there are more Indian children in BIA boarding schools and dormitories than there were Cherokees force marched to Oklahoma during the infamous and tragic "Trail of Tears" in the 1830's that all American children learn about as a great shame of the United States.

The second area that we are especially concerned about is juvenile justice. There are approximately 25,000 Indian juvenile arrests per year. An AAIA survey found that Indian children are incarcerated in State institutions at approximately three times the non-Indian rate. Adequate programs for Indian juveniles are a great need perceived by many tribes, and one that also cries out for congressional investigation and oversight.

Thank you. I will be happy to answer any questions at this time. Senator ANDREWS. Thank you very much for an excellent statement. It is pretty well all inclusive and gives us a good insight into your feelings and your organization's feelings, and we appreciate your taking the time to be here.

[The prepared statement follows. Testimony resumes on p. 96.]

PREPARED STATEMENT OF STEVEN UNGER, EXECUTIVE DIRECTOR, ON
BEHALF OF THE ASSOCIATION ON AMERICAN INDIAN AFFAIRS, INC.

I am Steven Unger, Executive Director of the Association on American Indian Affairs, Inc. Accompanying me are Greg Argel of the Association staff, and Bertram E. Hirsch, Attorney-at-Law.

The Association on American Indian Affairs is a private, non-profit, national citizens' organization. Policies and programs of the Association are formulated by a Board of Directors, the majority of whom are American Indian and Alaska Native. The Association is completely dependent upon contributions from its approximately 50,000 members and contributors, Indian and non-Indian.

The Association commends this Committee for its continuing interest in vital Indian child welfare needs, as evidenced by this hearing today. The interest and work of this Committee was sparked when, during the 1970s, Indian witnesses appeared before it and the House Interior Committee with horror stories of abusive child welfare practices on the part of federal and state agencies that shocked the conscience of the Congress and the Nation.

The Indian Child Welfare Act was passed into law five years ago in response to those hearings. Prior to that, as the Congress found, the integrity, stability and security of Indian families and tribes had been placed in serious jeopardy--and sometimes destroyed--by

abusive practices of state social service agencies and courts that denied Indian children, parents and families fundamental fairness in child custody proceedings. Thousands of Indian children had been separated from their families for placement in foster and adoptive homes, and in institutions. A significant number of placements, according to Congressional findings, were unjust and unwarranted, resulting from the insensitivity, and sometimes arrogance, of non-Indian institutions towards Indian families and tribes. State activities placing Indian children away from their families and tribal communities were often financed and participated in by the U.S. Bureau of Indian Affairs.

The Indian Child Welfare Act recognized that "there is no resource...more vital to the continued existence and integrity of Indian tribes than their children." The Act protects Indian families and tribes by providing legal safeguards against the unwarranted intrusion by government into Indian family life. It also authorizes Indian community child and family service programs "to prevent the breakup of Indian families and...to insure that the permanent removal of an Indian child from the custody of his parent or Indian custodian shall be a last resort."

The Bureau of Indian Affairs has issued guidelines to assist state courts in the implementation of the Indian Child Welfare Act. These guidelines are generally consistent with the Act's spirit and encourage approaches that will safeguard the protections

enacted by the Congress. The Bureau has also provided assistance to Indian tribes and families to protect their rights and develop family and child welfare programs.

A number of states have entered into cooperative agreements with tribal family and social service programs in an effort to carry out the goals of the Act in a manner consistent with tribal needs. These efforts have resulted in state laws, regulations, legislative resolutions, financing arrangements, and tribal-state agreements. For example, the Oklahoma Indian Child Welfare Act facilitates implementation on the state level of the federal law. Kansas and South Dakota have provided tribal social services programs with significant funding. Several states have licensed tribal and other Indian child welfare programs to give them authority to operate state-wide in providing services to Indian, as well as non-Indian children. A resolution of the Alaska legislature has requested the governor of that state to take all necessary measures to assure the proper implementation of the Act. The California legislature recently memorialized Congress to increase appropriations for Indian programs funded under Title II.

The Act has even had an international impact. As nearby as Canada and as distant as Australia, Native peoples have looked to the accomplishments American Indian tribes have made through the Indian Child Welfare Act as an example that gives hope in

their own countries. The governments of these countries have examined the workings of the Act as an example of an enlightened reform of public policy towards Native people.

The Association's comments today will focus on three areas that we believe are the unfinished and unfulfilled agenda of the Indian Child Welfare Act. These areas are:

- 1) The need for local day schools for all American Indian, especially Navajo, communities, 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 elementary-age children;
- 2) The large and disproportionate number of Indian youth arrested and often incarcerated in the juvenile justice system; and
- 3) The need for adequate funding for Indian programs under the Indian Child Welfare Act, and for technical amendments to assure that the Act functions as Congress intended.

I. THE NEED FOR DAY SCHOOLS

The Indian Child Welfare Act successfully addressed the problem of the unwarranted and unjust placement of Indian children in foster care and adoptive homes. Title IV of the Act recognized that the massive numbers of Indian children placed in boarding schools were part of a similar concern, stemming from almost two centuries of misguided federal policy towards Indian family life.

In Title IV the Congress 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 Welfare Act is the continued placement--unwarranted, unjust, unhealthy, and unneeded--of vulnerable Indian children in federal boarding schools. Thousands of these children are in the elementary grades.

The absence of day schools on Indian reservations, especially on the Navajo Reservation, is perhaps the greatest indictment of federal Indian policy in our time.

While the harmful effects of the boarding schools have been known for generations, and while this Committee and the Congress as a whole have urged reform of the situation for

years, these expressions of Congressional intent have been continually frustrated by the Bureau of Indian Affairs.

The findings of the study mandated by Title IV of the Indian Child Welfare Act were these:

- Almost 20,000 Indian children live in BIA boarding schools and dormitories;
- Almost 5,000 of them are age 10 years old or less;
- More than 10,000 of the children (55 percent) are in the elementary grades (K through 8);
- The great majority of Indian children in the boarding schools are Navajo;
- 75 percent of the Navajo children in boarding school are in the elementary grades;
- Almost one out of every two Indian students served by the BIA today (45 percent to be exact) are taken from their families and forced to spend approximately nine months of each year in a boarding school or dormitory.

To the best knowledge of the Association on American Indian Affairs, there is no other school system in the United States that imposes this tragedy on the families who depend upon it.

On the following three pages is a detailed breakdown by age, grade level, and location of the Indian children in BIA boarding schools and dormitories. The information is taken from the BIA's Title IV study.

AGES of
INDIAN CHILDREN in
BIA BOARDING SCHOOLS
and DORMITORIES

<u>Age</u>	<u>Children</u>
Five years old	117
Six years old	566
Seven years old	859
Eight years old	954
Nine years old	1149
Ten years old	1156
Eleven years old	1290
Twelve years old	1324
Thirteen years old	1469
Fourteen years old	1884
Fifteen years old	2153
Sixteen years old	2004
Seventeen years old	1899
Eighteen years old	1263
Nineteen years old	621
Twenty years old	236
Not Available	248
 Total	 19,192

GRADE LEVELS of
INDIAN CHILDREN in
BIA BOARDING SCHOOLS
and DORMITORIES

<u>Grade</u>	<u>Children</u>
Kindergarten	312
First	747
Second	1101
Third	1153
Fourth	1287
Fifth	1448
Sixth	1326
Seventh	1538
Eighth	1619
Ninth	2465
Tenth	2373
Eleventh	1894
Twelfth	1825
Not Available	104
 Total	 19,192

INDIAN CHILDREN in
BIA BOARDING SCHOOLS
and DORMITORIES: GEOGRAPHIC BREAKDOWN

Indian Children Boarded

<u>BIA Area Office</u>	<u>Elementary Grades (K-8)</u>	<u>High School (9-12)</u>	<u>Total</u>
Aberdeen	598	742	1340
Anadarko	136	559	695
Billings	114	38	152
Juneau	1	390	391
Muskogee	289	338	627
Phoenix	479	2291	2770
Albuquerque	180	480	660
Navajo	8601	3371	11,972
Portland	116	252	368
Eastern	17	96	113
Total	10,531	8557	19,088
	Grade not available		104
			<u>19,192</u>

In preparation for these hearings, the Association reviewed the provisions of state law regarding the establishment of schools. In the nine states reviewed, all of which have BIA boarding students (Arizona, Mississippi, Montana, Nevada, New Mexico, North Dakota, Oklahoma, South Dakota and Utah), the Association found no instances in which non-Indian children were by law forced to attend boarding schools. On the contrary, where there are special provisions in state law to provide for isolated rural students, the states make special efforts to provide for them. In Montana, for example, a petition by the parents of three children begins the process for provision of a day school. In South Dakota, a petition by the parents of 15 eligible students mandates that a new day school be provided.

Can the government of the United States, which in Section 3 of the Indian Child Welfare Act declares "that it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families," afford to do less?

Why is there an absence of day schools, especially on the Navajo Reservation? A century ago the answer would have been easy. The purpose of the first boarding school on the Navajo Reservation, as stated in its charter in the 1890s, was "to remove the Navajo child from the influence of his savage

parents." The reports of BIA boarding school superintendents from around the turn of the century are replete with ethnocentric and paternalistic references to the children in their care, and the families from which they came. Throughout the early years of the Twentieth Century, boarding schools were ravaged by disease and epidemics. As late as 1930, the Senate of the United States received testimony on "kid catching" on the Navajo Reservation, when government officials were employed to go out into the back country with trucks and bring in the children, "often roped like cattle," and take them from the parents, many times never to return.

In 1928, the Meriam Report characterized the BIA's reliance on boarding schools as chief among those government practices that operate against the development of "wholesome" family life for Indian children and parents.

No federal official would dare come before the Congress or the American people today and offer such reasons for the continued reliance on a system that is the shame of this Nation. Instead, the BIA offers other rationales for the boarding schools.

One of these is the so-called "social welfare" argument. Indian, particularly Navajo, families are said to be so disrupted that boarding school is the best alternative. There is no evidence whatsoever to show that Navajo families are more disrupted than Sioux, Chippewa, or any other Indian families;

yet no other Indian tribe has so many children in the elementary grades boarded. Nor is there any evidence that Indian families are more disrupted--except by government policy--than non-Indian families. And if indeed there are Indian families having difficulty functioning, the Indian Child Welfare Act recognizes that they should have social services provided to them, not their children taken away.

Another argument one sometimes hears from the BIA on the Navajo Reservation is that Navajo families lack food and clothing with which to provide their youngsters. If this be the case, then do not Indian children and their parents deserve to have food and clothing brought to the children, not the children brought to the food and clothing?

The study the BIA commissioned under Title IV made much of the lack of an adequate road network on the Navajo Reservation. Yet Navajo children go to Head Start programs; why could not they go to elementary schools in their own communities? Navajo parents shop at grocery stores or trading posts at their chapters; if the parents can get to the store, why cannot the BIA bring the children to a local day school?

No matter what the truth of the road situation is, it remains true that we know much more about how to repair a damaged road than we know about repairing the psychological health of vulnerable young children subjected to removal from

their families for no justifiable reason.

Bad weather is another factor sometimes mentioned by federal officials as a cause for the reliance on boarding schools. Here again the Bureau has been singularly deficient in exploring options to the institutionalization of children. In some non-Indian communities, schools have been closed during the worst part of the winter. If need be, children can stay at home. The school year itself can be adjusted so that children are able to spend the maximum time in the comfort of their families.

If weather conditions are so severe that children are unable to go home, emergency shelter could be provided in the schools, as it is being done by the Navajo parents at Black Mesa in the new day school being built there, or the children can be bunked overnight with nearby relatives.

Or does the BIA argue that weather conditions on the Navajo Reservation are unique in the U.S., making that the one area on the North American continent where day schools cannot be provided?

It used to be said that the small day school is no good educationally. This argument has largely been abandoned by the BIA since the late 1960s, but it does seem to persist in the subconscious of many BIA officials. Even today, a number of small Indian day schools operated by Indian tribes

under contract with the BIA report continuing problems with the funding available to them under standard Bureau funding formulas.

Bureau officials sometimes point to the difficulty small rural schools are likely to have in retaining teachers. We wonder whether it could possibly be worse than the rate of teacher turn-over in the BIA boarding schools now.

In summary, even if it were conceivable that all of the educational aspects could be taken care of in the boarding school--and this is far from likely--it is still the emotional aspects of a child's development that cannot be taken care of by a matron, or even a dozen matrons, in the dormitory. This is thrown into even sharper relief when one considers the importance of the acquisition of culture and familial nurturing to the educational achievement of a child.

Over the last decade, Indian communities have demonstrated increasing and remarkable fortitude in attempting to get day schools opened. A few years ago, when the Alamo Navajo Community in New Mexico opened a community-controlled day school, the Navajo parents withdrew all their children from the Magdalena dormitory operated by the BIA in favor of placement in the new school. At the Black Mesa Navajo Community in Arizona, Navajo parents put together abandoned Atomic Energy Commission trailers to form a local day school facility rather than send their children to boarding school.

Today this Navajo community is looking forward to the construction of a new day school facility to serve all the children in the community. The school is being built for a cost of approximately \$1 million.

In contrast to these hard-won gains by Indian communities, to the best knowledge of the Association on American Indian Affairs in the last 20 years no Navajo community has asked the BIA to close a local day school so that it could send its children to a distant boarding school.

A few years ago the U.S. Court of Appeals for the Tenth Circuit upheld a lower court decision that found the federal government guilty of negligence in its operation of the Chuska boarding school. The decision, which the United States did not appeal, upheld an award of nearly \$1 million in damages to be put in a trust fund for three Navajo children, Allison Bryant, Johnnie High, and Marvin High. The children, at the time 7-, 8-, and 10-years-old, were awarded the money in compensation for the loss of their limbs due to frostbite and gangrene when they ran away from the boarding school and tried to make their way home to their families.

On the day they ran away, a severe snow storm hit the area, and the boys camped out on a mountainside from which they could see the lights of the boarding school, but did not return.

The United States attorney defending the BIA in this case,

argued that the supervision that the BIA provided was prudent and that the government's efforts were focusing on making the boarding schools a more humane environment. If a child was going to run away, there was no way to prevent it. "You are virtually going to have to shackle them to their beds to prevent the problem," he said in his concluding argument to the court.

The BIA has said for years that the only option the Navajo parents have is the boarding school, that roads cost too much, that families are too disrupted, etc., ad nauseam. The BIA has never made it clear that day schools are an option for Indian parents, and that food and clothing can be brought to the families.

In short, the boarding schools have been studied to death. To do another study would be like that inglorious professor who lectures on navigation while the ship is sinking.

Only strong direction from the Congress can remedy the situation in a manner consistent with Indian tribal goals and humanitarian federal policy.

The sheer number of Indian children--and we again emphasize that thousands are aged ten and under--cries out for the attention of Congress. There are in 1984 more Indian children in government boarding schools than there were Cherokees force-marched to Oklahoma on the infamous and tragic Trail of Tears in the 1830s.

In the opinion of our Association, there is no worthier child welfare project that the Congress of the United States could authorize than a program to build day schools for all Indian children and families who need them.

The Association recommends that the Congress direct the BIA to develop and submit to it a Day School Implementation Plan to provide a sound basis for decisionmaking, funding, and other action to implement federal and tribal policy in a cost-effective and timely manner. The plan must reflect the standards and aspirations of the Navajos and other affected Indian communities, and be done in cooperation with them. The plan should provide for maximum participation by the local Indian community in the governance of their schools.

The Day School Implementation Plan should include:

- 1) Proposed location of all schools;
- 2) How and where existing facilities and roads might be utilized to serve more children better;
- 3) Where new facilities and/or roads are needed and desired;
- 4) The geographical area and approximate number of students that each school would serve;
- 5) Approximate busing distances and times;
- 6) A method of approximating costs regarding the construction of new, and the rehabilitation of existing, facilities and roads and the cost of busing;
- 7) An exposition of the arguments behind the decisions

made in preparing the plan;

- 8) A tabulation of changes necessary to achieve the conditions proposed in the plan, given the present situation as the starting condition;
- 9) A description of various alternatives for implementing the proposed plan;
- 10) An analysis of each alternative in terms of degree and type of change necessary over various timeframes; and
- 11) An analysis, in some detail, of the impact of the plan on selected local communities.

We recommend that such a plan be submitted first to the affected Indian tribes, and second to the Congress no later than one year from today. We further suggest that the Bureau include with the plan a detailed implementation timetable, over a suggested five-year period, and including recommended appropriations levels to build the necessary day schools.

II. JUVENILE JUSTICE

In 1983 the Association surveyed 150 public juvenile corrections facilities in 27 states to determine the extent of Indian juvenile incarceration. In addition, the Association reviewed government data available on Indian juvenile arrests.

The most recent government data available reports a total of 25,612 Indian juvenile arrests in 1979.

The composite profile of the Indian juvenile arrested which emerges from the data and our survey is of a 15-17 year old male arrested for an alcohol-related victimless offense. He appears before a state juvenile court judge or tribal judge. Generally, there is no program available in the community to address his specific needs and the person is released with no services provided.

Our survey of Indian juvenile incarceration is based on available data involving a sample of 50,000 residents in public juvenile corrections facilities in 1982. Indian juveniles constituted 3.4 percent of the juveniles in those facilities. On a per capita basis, Indian youth in the 27 states surveyed were incarcerated at three times the rate for non-Indian juveniles.

Every tribal social worker and program administrator surveyed stated that Indian juvenile delinquency is a problem

of great concern to the tribes. Every social worker commented on the absence of legal authority to intervene in state juvenile court proceedings and stated that the lack of resources and remedial services for Indian youth and their families inhibits tribes from actively working on such cases even where the state juvenile justice system is willing to cooperate. Some commentators indicated that the states were at times all too willing to offer such cases of Indian juvenile delinquents to tribal courts and agencies.

The Association believes that the large numbers of Indian juveniles arrested and their disproportionate placement in public juvenile corrections facilities require Congressional oversight and investigation. The Bureau of Indian Affairs and the Office of Juvenile Justice and Delinquency Prevention should be directed to provide the Congress with a report by January 31, 1985 addressing the following areas:

- 1) The nature and scope of Indian juvenile arrest and incarceration with recommendations to address the needs identified;
- 2) Whether current justice systems operate in a discriminatory manner against Indian juveniles:
 - a. whether arrest and conviction rates for Indian juveniles are higher than rates for non-Indians and if so, why?;

- b. whether Indian juveniles are sentenced to longer terms than non-Indian juveniles and if so, why?; and
 - c. whether Indian juveniles remain on probation and parole for longer periods than non-Indian juveniles and if so, why?
3. The extent to which current BIA and Department of Justice programs serve Indian tribes and communities in their attempt to address needs for juvenile justice and delinquency prevention programs and facilities, and whether current programs are adequate.

III. FUNDING UNDER TITLE II AND TECHNICAL AMENDMENTS

In 1983 the Association surveyed social workers, attorneys, judges and administrators in child-welfare programs on twenty-five Indian reservations, and in selected communities throughout the country. Comments from those surveyed can be summarized as follows:

- 1) Virtually every social worker and program director complained of inadequate funding. The purposes for which additional funding is needed are:
 - a. foster care
 - b. services to meet the actual needs of families
 - c. training for staff
 - d. training for tribal judges
 - e. pre-adoptive placements
 - f. special needs of handicapped children
 - g. staffing
 - h. enforcement of the Act and monitoring of performance by the states
 - i. dissemination of information
 - j. training for state social services personnel

- k. training for state judges
 - l. intervention
 - m. legal assistance for tribes in child custody proceedings
2. The comment second highest in incidence concerned complaints about late notices, the possibility that notices are not being sent, and the routine failure of certain states to send notices.
 3. A number of those surveyed commented on the lack of familiarity with the Act on the part of state judges and/or attorneys.

While it is apparent that the Act has resulted in the funding of numerous tribal and urban Indian child and family service programs providing critical services that, with few exceptions, were not previously available to Indian families and communities, it is also apparent that funding under the Act continues to fall short of Indian needs.

The Association expects that this Committee will receive at these hearings testimony from many Indian child welfare programs concerning their funding needs under the Act. In regard to funding, the Association only wishes to make the following comments:

The Indian Child Welfare Act was passed in response to

Congressional concern about the national tragedy of widespread unwarranted placement of Indian children. To the best of our knowledge, since the Act's passage, the BIA has never reported to Congress on the adequacy of funding levels to meet the needs perceived by Indian tribes and communities.

We suggest that this Committee require the Bureau to report to it on the unmet needs among reservation and off-reservation Indian communities for adequate child welfare services. This report should be done in cooperation with the affected tribes and communities, and provide on a reservation-by-reservation basis (or for each urban Indian community) the actual Indian child welfare need. We believe a report such as this will help the Congress evaluate whether the funding requested by the Administration under Title II is adequate to address Indian child welfare concerns.

Experience with the Act during the past several years has revealed a need for certain technical or clarifying amendments. Technical amendments drafted by the Association for the Committee's consideration follow, with explanations of why we believe them to be necessary.

TECHNICAL AMENDMENTS

Key: Present language

AdditionsDeletionsSECTION 3Amendment

The Congress hereby declares that it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and for the placement of ~~such~~ Indian children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs.

Explanation

The Act was intended to prevent the removal of Indian children from Indian families and to prevent the breakup of Indian families. Several courts have narrowly interpreted the Act to render the Act inapplicable to circumstances where an Indian child, not in the custody of an Indian parent, was the subject of a child custody proceeding. The amendment would clarify that the Act applies to the placement of all Indian children, both those in the custody of their parents or Indian families at the time of a placement proceeding and those who are not.

SECTION 4 (1) (1)Amendment

"foster care placement" which shall mean any administrative, adjudicatory or dispositional action, including an action under Section 103 of this Act, removing ~~which may result in the temporary placement of an Indian child from its parent or Indian custodian for temporary placement~~ in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have custody of the child ~~returned~~ upon demand, but where parental rights have not been terminated.

Explanation

Indian child custody proceedings arise in different legal contexts depending on state law. Some states have separate administrative, adjudicatory and dispositional proceedings while other states combine one or more of these proceedings. The Act has been construed in some jurisdictions to cover adjudicatory proceedings involved in the custody of Indian children and not administrative and dispositional proceedings. The amendment clarifies that each of these proceedings are included within the coverage of the Act. The words "removing" and "returned" are proposed for deletion for the reasons stated in explanation of the amendment to Section 3. The Section also is amended to state explicitly that voluntary placements under Section 103 are included within the definition of "child custody proceeding." Some courts have ruled to the contrary.

SECTION 4 (1) (ii)Amendment

"termination of parental rights" which shall mean any adjudicatory or dispositional action, including an action under Section 103 of this Act which may result~~ing~~ in the termination of the parent-child relationship.

Explanation

See explanation for Section 4 (1) (i).

SECTION 4 (1) (iv)Amendment

"adoptive placement" which shall mean the permanent placement of an Indian child for adoption, including any adjudicatory or dispositional action or any voluntary consent to adoption under Section 103 of this Act which may result~~ing~~ in a final decree of adoption.

Explanation

See explanation for Section 3 (1) (i).

SECTION 4 (1) (last paragraph)Amendment

Such term or terms shall include the placement of Indian children from birth to the age of majority, including Indian children born out of wedlock. Such term or terms shall not include a placement based upon an act which, if committed by an adult would be deemed a crime or upon

an award of custody in a divorce proceeding to one of the parents in any proceeding involving a custody contest between the parents.

Explanation

As discussed under Section 3, the Act has been held in some jurisdictions not to apply to Indian children who at the time of birth are not in the physical custody of an Indian parent or Indian family. The proposed amendment would clarify that the Act is applicable in such circumstances.

The Act is also not applicable to divorce proceedings where a parent will receive custody of a child. Unmarried parents, or those asking for separations or annulments, may also contest the custody of their children in court. The Association believes that the intent of the Act was to eliminate from its coverage any proceeding involving a custody contest between parents where a parent will be awarded custody. The amendment proposed expresses this intent.

SECTION 4 (3)Amendment

"Indian" means any person who is a member of an Indian tribe, ~~or who is an Alaska Native and a member of a regional corporation as defined in Section 7,~~ including an Alaska Native who is a member of any Alaska Native village as defined in Section 3 (c) of the Alaska Native Land Claims Settlement Act (85 Stat. 688, 689) or, for purposes of Section 107,

any person who is seeking to determine eligibility for tribal membership

Explanation

The definition of "Indian" in the Act has the effect of not including Alaska Natives who were born after the date of enactment of the Alaska Native Land Claims Settlement Act (December 18, 1971). The amendment would include such persons within the coverage of the Act. Also, Section 107 applies to persons who by definition cannot yet establish a right to tribal membership. The proposed amendment clarifies the applicability of the definition to such persons.

SECTION 4 (5)

"Indian child's tribe" means (a) the Indian tribe in which the Indian child is a member or eligible for membership or (b) in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which ~~the Indian child has the more significant contacts~~ after notice and an opportunity to be heard, is determined to have the more significant contacts with the Indian child.

Explanation

Implicit in the definition of "Indian child's tribe" is a requirement that where an Indian child is a member of or eligible for membership in more than one tribe, a hearing be held to determine which tribe has the more significant contacts with the child. The amendment would make the requirement for such a hearing explicit.

SECTION 102(a)

Amendment

In any involuntary child custody proceeding in a State court, where the court or the petitioner knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No involuntary child custody foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or until at least twenty-five days after receipt of notice by the Secretary: Provided, That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding.

Explanation

Involuntary foster care placements and terminations of parental rights occur under the laws of some states in the context of an adoption proceeding. The amendment, consistent with the intent of the Congress

to cover all involuntary foster care and termination of parental rights proceedings, would recognize this circumstance. In addition it is proposed that the section be amended to require a petitioner who knows or has reason to know that an Indian child is involved to provide the requisite notice. Under state law courts generally are not responsible for providing notice; petitioners are. It is more likely for information on the Indian identity of a child to be available to a petitioner than to a court. Finally the section as enacted allows a child custody proceeding to be held five days prior to the time within which the Secretary is authorized to provide notice to the parent, Indian custodian and the tribe. This is clearly a drafting error. The Association proposes an amendment that would prohibit such a proceeding from being held until at least ten days after the Secretary's time for providing notice expires.

SECTION 102(c)

Amendment

~~Each party to a foster care placement or termination of parental rights~~
in any involuntary child custody proceeding under State law involving an Indian child shall have the right to examine and copy all reports or other documents filed with the court upon which any decision with respect to such action may be based.

Explanation

In conformity with the amendment proposed for section 102(a) an amendment is proposed to clarify that the section covers adoption proceedings

that encompass foster care placements and termination of parental rights. Also the section is amended to make clear that the parties have a right not only to examine but to copy documents upon which a decision may be based. Some courts and agencies have narrowly construed this provision to permit examination and not copying.

SECTION 102(d)

Amendment

Any party seeking to effect a foster care or adoptive placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that active efforts, including wherever possible the involvement of an Indian child and family service program, have been made to provide remedial....

Explanation

For the reasons stated in the explanation to section 102(a), the amendment would add adoptive placements to the coverage of the section. In addition, an amendment is proposed that would state that "active efforts" should include utilization of Indian children and family service programs. Such an amendment is consistent with the intent of the section and conforms to Section D.2. of the BIA's guidelines for state courts.

SECTIONS 102(e) and (f)Amendments

Each section should be amended to delete the word "continued."

Explanation

There have been many circumstances where Indian parents were involved in child custody proceedings at a time when they did not have custody of the child or children involved. In some jurisdictions the language of the Act has been literally construed to render these sections virtually inapplicable in such circumstances. It is apparent that the Congress intended to extend the procedural safeguards of these sections to all Indian parents who could be temporarily or permanently deprived of custody, or of an opportunity to have custody, regardless of whether, at the time of the proceeding, the parent had actual physical custody.

SECTION 103(a)Amendment

Where any parent or Indian custodian who is not domiciled or resident within the reservation of the Indian child's tribe voluntarily consents to a foster care placement, ~~or~~ termination of parental rights, or adoption under state law, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained

in detail and were understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid. The Secretary of Health and Human Services is directed to require that Indian Health Services employees not obtain any such consent prior to the expiration of ten days after the birth of an Indian child. The Secretary of Health and Human Services shall provide each parent with a written statement informing him or her that such consent may not be validly given until at least ten days after the birth of an Indian child and that at no time shall a refusal to provide such consent result in any loss of rights to custody or a denial of any services provided by the Indian Health Service.

Explanation

The amendment to the section would clarify, consistent with the United States Supreme Court decision in Fisher v. District Court, 424 U.S. 382 (1976), and the intent of Congress, that state courts do not have jurisdiction over voluntary consents given by persons who are reservation residents or domiciliaries. Also, section 103(c) includes voluntary consents to adoption while section 103(a) omits any reference to such consents. An amendment is proposed that would clarify the intent of Congress to include voluntary consents to adoption.

The section is also amended to protect the rights of Indian parents who are recipients of the services of the Indian Health Service at the time of the birth of an Indian child. Many Indian children are born in IHS facilities and IHS employees have reportedly been involved in activities resulting in voluntary consents that are not in compliance with section 103(a). Prior to the Act IHS medical and other staff were often involved in practices that led to unwarranted placements of Indian children. Although circumscribed by the provisions of the Act, these practices have not ended and an explicit statutory directive to IHS may be necessary in order to assure that the intent of Congress is followed without exception.

SECTION 106(a)

Amendment

Notwithstanding State law to the contrary, whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, the party seeking to place the child, in accordance with the provisions of section 102(a) of this Act, shall notify the biological parent or prior Indian custodian and the Indian child's tribe of the pending placement proceedings and of their right of intervention; a. A biological parent or prior Indian custodian may petition for, and shall be notified of the right to petition for, return of custody and the court shall grant such petition unless there is a showing, in a proceeding subject to the provisions of Section 102

of this Act, that such return of custody is not in the best interests of the child.

Explanation

Section 106(a) authorizes the restoration of parental rights under certain circumstances while not requiring notice to biological parents that would enable them to exercise the rights granted. Such notice is implicit in the section. The proposed amendment would make such a notice requirement explicit.

SECTION 107

Upon application by an Indian individual who has reached the age of eighteen and who was the subject of an adoptive placement, the court which entered the final decree, through court records or records subject to subpoena or other court order, shall inform such individual....

Explanation

Section 107 authorizes adult Indians who have been adopted to petition for access to certain adoption record information. Often the information required by the section to be provided, is not part of court records but is part of agency or attorney records. Since enactment many Indian adoptees have been frustrated in their efforts to secure tribal membership as a result of this problem. The amendment would make it clear that where court records are insufficient to enable a court to assist an Indian adoptee to secure the rights contemplated by Section 107, the court is required to seek the necessary information from agency and other records that may be subject to court order.

SECTION 201(a)Amendment

....Such child and family service programs, in accordance with priorities established by the tribe, may include, but are not limited to....

(a)(8)

guidance, legal representation, and advice to Indian families and tribes involved in tribal, State, or Federal child custody proceedings.

Explanation

Although section 201(a) clearly states that the programs funded "are not limited to" the eight identified categories and although the section is clearly intended to permit tribes to establish their own service priorities, the Bureau of Indian Affairs has frequently interpreted the section as authorizing funds for programs limited to the enumerated categories. Programs that have attempted to spend Title II money to pay for legal representation of the tribe in a child custody proceeding have not been able to do so. The BIA has also imposed its own priorities on tribes. It is our understanding that grant applications that did not seek funds for Bureau priorities were denied. The amendment would assure that the intent of the Congress to expand tribal opportunities and resources for child and family services is properly carried out by the Bureau.

SECTION 201(b)Amendment

....For purposes of qualifying for assistance under a federally-assisted program, placement in, or licensing or approval of foster or adoptive homes or institutions by an Indian tribe shall be deemed equivalent to placement, licensing, or approval by a State.

Explanation

It was the purpose of this provision to make Indian tribal foster and adoptive homes eligible for funds appropriated for adoptive and foster care under the Social Security Act. In some jurisdictions this purpose has not been recognized because the section did not clearly state that children placed by tribes in foster or adoptive homes are to be treated equivalently to children placed by a state in foster or adoptive homes. The amendment would clarify this matter.

SECTION 301(b)Amendment

Upon the request of the adopted Indian child over the age of 18, the adoptive or foster parents of an Indian child, or an Indian tribe, the Secretary shall disclose such information as may be necessary for the enrollment-of-an Indian child to secure membership in the tribe in which the child may be eligible for enrollment membership or for determining any rights or benefits associated with that membership.

Explanation

Many Indian tribes do not define membership in terms of enrollment. This has been recognized in the definition of "Indian child's tribe" in section 4(5) of the Act. The proposed amendment would recognize this fact.

The Association, based on its review of experience with the Act during the past five years, also believes that the Congress should consider certain substantive amendments in order to assure that the Act's purposes and intent are adhered to by agencies and courts. We will submit proposed substantive amendments for inclusion in the record of this hearing.

SUMMARY OF SELECTED PROVISIONS
OF NINE STATE EDUCATION STATUTES

STATE	DEFINITION SCHOOLS	NEW SCHOOL PREREQUISITES	DECISION MAKING AUTHORITY RE: SCHOOL OPENINGS
New Mexico	Elementary: K-8, unless junior high school established	No specific provisions; Considerations from Public School Finance Act and School Construction: Need for school, number of students to be served, other schools within five mile radius, financial ability of school district to support new school, & whether an unreasonable proliferation of schools will result.	School boards (✓), Director of school finance (x).
Nevada	Elementary: K-8	Necessary and reasonable.	School board (✓), Superintendent of public institution (x).
Arizona	High school: 8 or 9 - 12 Intermediate: 7 - 8 or 9 Elementary: K - 7 or 8	Re: High school - 200 or more students and not less than 2 million in assessed valuation in district.	Re: High school - Petition and vote of majority of electorate in school district (x); Re: Intermediate school- School Board (✓) in County School Superintendent (x).

Notes: ✓ - Recommendation authority
x - Binding authority
Only South Dakota has a provision where under certain circumstances, by law,
a new school is required to be established; all other states vest decision-making
authority in one or more entities.

STATE	DEFINITION OF SCHOOLS	NEW SCHOOL PREREQUISITES	DECISION MAKING AUTHORITY RE: SCHOOL OPENINGS
South Dakota	K - 8	Discretionary. Re: Isolated areas - 15 or more students residing 24 miles from nearest school, all of whom reside within 1 mile of each other upon provision of a suitable building.	School board (x), Voter majority (x). Re: Isolated areas - Petition by parents of 15 eligible students (x).
Montana	K - 6 (If junior high exists) K - 8	Re: Elementary - General need and five or more students Re: Junior high - discretionary Re: High school - discretionary Isolated school: Elementary - 10 or more; High school - 25 or more. Relevant factors - general need; student population, distance and road conditions to nearest school (weighted extra for isolated schools), taxable value in district.	Petition by parents of 3 children (✓), School Board (✓), County Superintendent (✓); Board of County Commissioners (✓) Superintendent of Public Instruction (x).
North Dakota	K - 6, K - 8 K - 7, K - 9	Requisite and expedient.	School Board (x).

94

STATE	DEFINITION OF SCHOOLS	NEW SCHOOL PREREQUISITES	DECISION MAKING AUTHORITY RE: SCHOOL OPENINGS
Utah	Common schools are comprised of "primary and grammar" grades, which in turn are nowhere identified.	Discretionary Re: Voter petitions - 1,200 minimum students in the district for new high schools; no part of requesting precinct is within 5 miles of established high school, no high school is within 12 miles of proposed school.	All schools: School Board (x), and High schools: Majority of district voters (x).
Oklahoma	K - 6 or K - 8	Discretionary	School Board (x)
Mississippi	Local school board discretion	Discretionary but must avoid unnecessary duplications	School Board (x)

95

Senator ANDREWS. Our next witness is Evelyn Blanchard, president of the Association of American Indian and Alaska Native Social Workers. Welcome to the committee, Ms. Blanchard.

STATEMENT OF EVELYN BLANCHARD, PRESIDENT, ASSOCIATION OF AMERICAN INDIAN AND ALASKA NATIVE SOCIAL WORKERS; ACCOMPANIED BY LINDA AMELIA, DIRECTOR, COMANCHE FOSTER CARE REVIEW BOARD; AND ETHEL KREPPS, DIRECTOR, INDIAN CHILD WELFARE PROGRAM OF THE NATIVE AMERICAN COALITION OF TULSA

Ms. BLANCHARD. My name is Evelyn Blanchard, and I am president of the Association of American Indian and Alaska Native Social Workers. We want to express immediately our deep gratitude for this opportunity.

Our discussion will be handled in three sections. We will present a conceptual perspective of the developmental issues in Indian Child Welfare Act programming, and we will also highlight some problem areas and present some recommendations regarding approaches to funding and also some substantive amendments to the Indian Child Welfare Act.

On my left is Linda Amelia, director of the Comanche Foster Care Review Board and consultant with the Comanche Tribe's children court and child welfare program. Linda will provide discussion about one tribe's efforts to coordinate the services necessary to carry out the mandate of the law. On my right is Ethel Krepps, attorney and director of the Indian Child Welfare Program of the Native American Coalition of Tulsa. Ethel will address the legal issues and concerns that have surfaced during the implementation period thus far.

Senator ANDREWS. Evelyn, before you proceed, let me make a brief statement. I had anticipated another member of the committee would be here. I was supposed to be addressing the State experiment station directors at 11:30. So, I have to leave. Because I realize you have come a great distance, I do not want to hold you up over an hour or so. Until another Senator arrives, I am going to ask our staff director to continue the hearing so that we can make our record with a minimum amount of inconvenience to you.

Ms. BLANCHARD. Thank you.

The association proposes a funding level for Indian Child Welfare Act programs of \$29.5 million. This figure is based on data we received from our recent survey of tribes and Indian organizations, which indicated a minimum needed amount of about \$53,000. A further question was posed to them. What particular service would you add or expand if you had more money, and that amount averaged out to \$23,000. From the addition of those two figures times 400, we reached the \$29.5 million.

We would also like to call to your attention that the Bureau of Indian Affairs customarily and routinely receives requests for Indian Child Welfare Act funding in the amount of \$25 million yearly. In addition to that, we would ask you to recall that the Congressional Budget Office in 1978 proposed a funding level of \$125 million over a 5-year period. So we believe that our recom-

mendation is well in line with the need that has exhibited itself thus far.

We would also recommend that the funding period for Indian Child Welfare Act programs be extended to 3 years and that within the first year of the 3-year period, the Bureau of Indian Affairs and the Department of Health and Human Services be required to meet its responsibility clearly set out in 1978 to identify the fiscal resources available to these programs. In the examination of moneys available to these programs, we are asking that these departments identify discretionary funds also. At the present time, the methods of funding are so lopsided and fragmented, it is very difficult to gather the kind of information that is needed to ensure that the services we are providing are the ones that are necessary and are constructed in a way to ensure that Indian families will not be destroyed.

In that connection, we have very important needs in the area of knowledge development, regarding Indian social work practice and theory. These particular issues are, frankly, in our opinion, being neglected by both departments. There are studies going, and there are projects being funded, but the information and knowledge that is being developed by these various efforts is not being shared with the Indian community. As an example, we recently had access to an analysis of a 1977 study conducted by the Children's Bureau, entitled the "National Study of Social Services for Children and Families."

That study revealed that older Indian children were twice as likely to be in care because of neglect than any other racial group. About 10 percent of the Indian children in care have no formal service agreement. The service agreements for all minority children tended to emphasize aspects of service such as mental health, family functioning, and modification of child behaviors. Less than 10 percent had goals relating to financial, or household management, or reduced social isolation. Overall, only half of the families of minority children had services recommended, but Indian children had the fewest. How, you can readily see that if this kind of information is not shared with the tribes and Indians organizations, there is absolutely no chance to compare approach to correction of behavior. So we are being denied information that is absolutely necessary for the development of these programs.

Our survey also revealed that the Indian Child Welfare Act programs—and I believe that the bureau in its statements just a few minutes ago confirmed this—are in a sense becoming the social services programs for Indian country. The programs have moved to fill the void in services that were identified in 1978 at the time of the passage of the act. We found that 66 percent of the Indian Child Welfare Act programs, for example, are conducting child-protective investigations. Now, this is a legal responsibility of the State, and we are encouraged that we have the opportunity to do this and do not want to return this privilege.

However, in connection with this, we must look at some amendment to the definition of child custody proceeding under the act, because the character of the service has undergone a change. Also with regard to services taken over by Indian Child Welfare Act programs, we found that for the reporting period for grant period

fiscal year 1983, of those programs that reported, 523 cases had been taken over by Indian Child Welfare Act programs from counties and States, and these Indian programs were providing full service to these Indian clients.

The services that they most frequently provided are, (1) counseling and therapy for families, parents, and children; (2) outreach, investigations, consultation, home visits, and follow-up; (3) foster care and adoption work, which includes studies, placement, and recruitment; and (4) client advocacy, involving identification of resources, education, and legal assistance.

We call to your attention that very few Indian programs are operating under contracts or agreements with States and counties, where reimbursement for the services being provided is received. We are not aware that these services being provided are being captured in reports to the Bureau from tribes and Indian organizations.

That leads us to a very serious problem in the implementation of the Indian Child Welfare Act, and that is the failure of the Bureau of Indian Affairs to set in place adequate reporting mechanisms. We found in the survey that we did that there is no rhyme or reason about why a particular Indian Child Welfare Act program would select the individual as the case-reporting unit as opposed to the family as the case-reporting unit, as opposed to another group of other as the case-reporting unit. These problems in reporting are extremely serious, and the Bureau makes a number of efforts and continuing efforts to collect data, but none of these Bureau efforts are being brought forward to the tribes and Indian programs so that they have an opportunity to look at them to see how we can establish a fit and eventually develop a system that responds to universal information needs.

The other area that we would like to address is that of training. Training has been completely neglected. We are very concerned about this because those of us who are trained in the formal western schools know the very great differences between theoretical constructs in personality development, and so forth, that exist between the western thought and Indian thought. There is absolutely no leadership being provided the Indian tribes and Indian organizations in this connection.

We heard of various discretionary efforts that are being made, but none of this is being coordinated in a way that will assure us the development of a theoretical base for practice. I will conclude my remarks here and ask that Ethel continue with our concerns.

[The prepared statement follows:]

Testimony of the

Association of American Indian and Alaska Native Social Workers

Indian Child Welfare Act Oversight Hearings

April 25, 1984

My name is Evelyn Lance Blanchard and I am president of the Association of American Indian and Alaska Native Social Workers. The Association joins all Indian people in its expression of gratitude for the opportunity that the Select Committee on Indian Affairs has made available to us to explain our need, and to participate in a design for the use of our national resources to secure the healthy development of humankind's first and most important resource, the children.

Based on response to the Association's recent survey of tribes and Indian organizations we propose a funding level for Indian Child Welfare Act Title II programs of \$29.5m. The population of our survey included all tribes and Indian organizations. From this population, the Association received 93 completed surveys. This is broken down to 58 responses from programs that had received funding and 35 programs that had never received funding. The services which these programs are providing represent classical child welfare services programs and divisions. Our survey presented two leading questions which will serve as the basis for interpretation of the data received.

1. What do you consider the two most successful services your program provides? The response reveals the following listing.
 - a. Counseling for families, parents and children
 - b. Foster care development and placements
 - c. Licensing of foster homes
 - d. Legal services
 - e. Education of groups which includes clients, agencies and staff
 - f. Advocacy which includes outreach, education regarding benefits and the receipt of those benefits
2. What do you consider the two least successful services your program provides?
 - a. foster care licensing
 - b. Drugs and alcohol
 - c. Counseling
 - d. Foster home placements
 - e. Mental health services
 - f. Coordination

As you readily see these responses represent two sides of the coin and are descriptive of the varied program components based on differing developmental levels. We are knowledgeable of some of the ingredients of this profile and intend to pursue further study. Direct counseling services are the most successful ingredients of the programs. These counseling services provide the necessary one-to-one contact where the opportunity for the greatest clarity is presented. This experience lets the clients have an opportunity to directly address and interpret their distress and strength. It is these ingredients that social workers must have to translate the presenting problem into an

assessment or diagnosis and thus form the basis for the treatment method or approach. It appears that the programs have a good hold on this phase of the process. Importantly these responses indicate that the workers have been able to establish the requisite relationship to develop a good working environment. Without this characteristic base it is impossible to encourage and accomplishment correction of behaviors that contribute to the breakup of Indian families.

In line with this experience we further propose that beginning in FY 85 that the grant period be extended to three years and that a number of programs be targeted for special study. We are experiencing great difficulty in our attempts to describe successful efforts and are faced with powerful reports that assess accomplishment and compliance by the Office of the Inspector General. In our opinion the unfavorable tone of reports like these result from the failure of the Bureau of Indian Affairs to meet its mandate to assist the tribes and Indian organizations in the implementation of the Act. In this connection we are confused that there has not been a national effort under Bureau leadership to develop adequate reporting systems. Reporting systems are primal ingredients in our budget process. A national reporting system to measure the capability of Title II programs does not exist. The problems created for Congress and the Administration can be seen immediately.

The Bureau's Branch of social services performs two periodic surveys. One is the unduplicated case count that reflects separation in state and federal responsibility for various categories of assistance and service. The other is concerned with jurisdictional status of Indian Children. These reports give the Bureau a gauge of the direct federal financing needed. The Bureau has not brought these reports forward to the tribes and Indian organizations for examination as to how universal information needs can be met. It is impossible to understand how the Bureau is able to translate the operations of the Title II programs to the Administration and Congress when basic reporting mechanisms have not been developed. Upon entry into office the Administration determined to eliminate the Title II programs because they were inadequately funded to perform. In view of the responsibility that was thrust upon tribal governments we agree with the Administration's position that funding is inadequate. However we contest its position that the programs are not adequately performing. In FY 82 the Cheyenne-Arapahoe programs returned 71 children to their families and people. In the same period the Burns-Paiute and Metlakatla communities did not place any children outside their families. What are the specific ingredients of effort that have made this possible? Unfortunately, focus to determine the characteristic knowledge and technique of these success is absent in the Bureau's activities.

The lack of adequate reporting systems together with on again, off again funding patterns directly undermine the developmental efforts of tribal and Indian organization programs and severely curtail our opportunity to develop a stable knowledge base of Indian social services practice and theory. Unless we are given the opportunity to develop a truly disciplined approach the Congress and every Administration will always be faced with emergency situations that are costly to fund and inadequate means to address and understand the causes of family breakup in these communities. The difficulties that we face in funding and programming contribute directly to the cycles of inefficiency and inappropriate use of resources that are of concern to all of us.

We further recommend that during the first year of the proposed three year funding period that the Bureau of Indian Affairs and the Department of Health and Human Services identify and coordinate the funding resources available to garner by the second year a funding level of \$29.5m. Attention should be given to resources from Title II, Title IVB, Title IVE, Title XX and P.L. 93-638 social services contracts. In addition to the implementation of these resources and identification of all discretionary monies available for understanding and resolution of problems should also be presented. These efforts are necessary to clearly identify the national resources to meet our needs and at the same time set up a process to distinguish continuing need from discretionary efforts. Presently funding for these programs is being approached on a project basis and there is inadequate recognition of the real problems involved.

For example, information regarding Bureau of Indian Affairs placements for the period of August 1983 reveal the following levels.

State	Foster Homes	Special Homes	Institutional Needs	Total # in care
Arizona	300	3	210	513
Montana	264	16	24	304
South Dakota	171	38	26	235
North Dakota	187	7	9	203
New Mexico	82	1	62	145
Mississippi	102	4	2	108
Colorado	73	0	23	96
Wyoming	37	0	4	41
Minnesota	8	1	5	14
North Carolina	2	0	9	11
Wisconsin	1	0	9	10
Nevada	9	0	1	10
Oklahoma	8	1	1	10
California	8	0	0	8
TOTAL	1252	71	385	1708

The information presented to you has not been made available to the tribal and Indian organization programs in spite of the continuing high rates of out of home placements being supported by the Bureau. Unless there is a direct move on the part of the Bureau to share information like this with the programs it will be impossible for the overall Title II effort to set targets and measure accomplishments. Failure to share information and develop integrated targets can result in a situation similar to that in which the Community Health Representative program finds itself. These matters are clearly tied to accountability and we are only asking for trouble if these serious problems in reporting are not addressed immediately.

Little analysis, if any, of the characteristics of Indian children in care is being done by the Bureau. It is a well accepted fact that problems experienced in childhood are likely to continue into adulthood if appropriate attention is not given. We have recently had access to analysis of a 1977 Children's Bureau survey entitled National Study of Social Services to Children and Their Families.