

May 16, 1984

WRITTEN TESTIMONY
COMMENTS AND RECOMMENDATIONS

Submitted by

THE OREGON LEGISLATIVE COMMISSION ON INDIAN SERVICES

To

THE CONGRESSIONAL OVERSIGHT COMMITTEE

On the Indian Child Welfare Act of 1978

Honorable Senator Mark Andrews and Members of the Oversight Committee:

The Commission on Indian Services was created in 1975 by Oregon statute to advise the State of Oregon and others on the needs and concerns of American Indians in the State of Oregon. As part of this obligation, the Commission wishes to urge you to review these comments and recommendations relating to the Indian Child Welfare Act of 1978.

GENERAL COMMENTS

The Indian Child Welfare Act is a powerful law for Indian children, families and tribes. In many instances it has reunited Indian families and has spared much of the trauma of unwarranted separation. Among some of the positive effects of the ICWA are that it has insured Indian tribes a role in determining custody proceedings and has improved and enhanced state/tribal relations in working with Indian children and families.

RECOMMENDATIONS:

1. THE COMMISSION ON INDIAN SERVICES RECOMMENDS AN INCREASE IN THE LEVEL OF FUNDING FOR ICWA PROGRAMS. Though the Act has had positive impact, it hasn't been enough. The potential impact is lessened because of the lack of resources available to tribes. Most Oregon tribes do not have the resources to fund their own tribal child welfare programs and therefore are dependent upon federal funding. When such funding is not forthcoming, then tribes are unable to provide needed family services.

Also because of a lack of resources, tribes are often not able to exert the full rights they have under the Act. If a tribe feels it cannot provide the needed social services, it will not request that cases be transferred to tribal courts or that the child be placed on the reservation. Congress can and should fulfill its trust responsibility to Indian people and the hope it created in passing the ICWA by providing adequate levels of funding. This Commission recommends a funding level of at least 10 million dollars.

2. THE COMMISSION ON INDIAN SERVICES RECOMMENDS A CHANGE IN THE PRESENT METHOD OF FUNDING FOR ICWA PROGRAMS. The annual competitive process reduces the impact of even the minimal funding that has been available. Under the present funding method, programs are funded only for 1 year and then must reapply and compete with other applicants for funding. This may result in a newly funded grantee setting up a program, establishing contacts in the community, and being looked to as a service provider, only to close after one year because it did not receive a grant the next year. To avoid this, a different method of funding ICWA programs should be developed, such as entitlements or multi-year funding.

3. THE COMMISSION ON INDIAN SERVICES RECOMMENDS THE ESTABLISHMENT OF A MECHANISM TO MONITOR STATE, FEDERAL, AND TRIBAL COMPLIANCE OF THE ACT. None exists. Neither the Bureau of Indian Affairs nor any other agency is charged with monitoring compliance. Non-Compliance does exist be it due to ignorance, misunderstanding, or flagrant violation.

4. THE COMMISSION ON INDIAN SERVICES RECOMMENDS THAT A NOTICE TO TRIBES BE REQUIRED UNDER THE ACT FOR VOLUNTARY PLACEMENTS. Though the Act requires notice to tribes, authorizes tribal intervention, and provides for invalidation of proceedings for involuntary placements; there is no such clarity regarding voluntary placements. The Act does provide that tribes may alter the voluntary placement preferences by resolution, but there is no requirement that tribes be contacted to ascertain this preference. Because of this absence of a clear invalidation provision, those handling voluntary adoptions may conclude that they can ignore the placement preferences of the Act with impunity.

5. THE COMMISSION ON INDIAN SERVICES RECOMMENDS DEVELOPING CLARITY IN THE DEFINITION OF CHILD CUSTODY PROCEEDINGS. At present it is unclear if such proceedings include cases when the state intervenes in an Indian home and places a child under state supervision but does not remove the child from the home. In such cases, the tribe should be notified and the provisions of the Act should apply.

6. THE COMMISSION ON INDIAN SERVICES RECOMMENDS FURTHER DEVELOPMENT OF EMERGENCY REMOVAL PROVISIONS WHICH CLEARLY APPLY AND ARE FAVORABLE TO EMERGENCY REMOVAL OF INDIAN CHILDREN DOMICILED IN OFF-RESERVATION HOMES. At present, the only reference in the Act to emergency removal is to children domiciled on a reservation.

7. THE COMMISSION ON INDIAN SERVICES RECOMMENDS CLEAR INCLUSION OF TERMINATED TRIBES IN THE PROVISIONS OF THE ICWA. Oregon tribes were the most seriously affected by Congress's Termination Policy in the 1950's and early 60's. Of the 109 tribes and bands terminated nationally, 62 of them were in Oregon. Nevertheless, many of these tribes and bands continue to exist as distinct communities of Indian people and some have been able to have their federal recognition restored. ICWA policy specifically allows for the funding of Child Welfare programs of terminated tribes but does not extend as specifically, the

protections and safeguards guaranteed by the Act to such terminated Tribes. The families and children of these tribes have a need for these safeguards and protections equal to, if not greater than the needs of those families and children of federally recognized tribes. This gross inconsistency must be remedied to include the terminated tribes.

In closing, I wish to say again that the ICWA is working in Oregon. Our courts, State children's authority, and the Legislature are fully aware and committed to its application as demonstrated by the withstanding of a challenge to the Act's constitutionality, the informal extension of the spirit of the law to terminated tribes, and the passage of a 1983 law amending Oregon adoption statutes requiring compliance with the Act. We do though, need it to work better.

Although there are other technical problems with the Act, we include no further recommendations. Should the Committee consider technical amendments to the ICWA, we would welcome the chance to comment upon them.

Thank you for the opportunity to share our views.

Respectfully submitted on behalf of the Oregon Legislative Commission on Indian Services by:

Katherine M. Gorospe,

Katherine M. Gorospe
Executive Secretary, Commission on Indian Services

TESTIMONY SUBMITTED TO
THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS
REGARDING IMPLEMENTATION OF THE
INDIAN CHILD WELFARE ACT

SUBMITTED BY THE
CONFEDERATED TRIBES OF SILETZ INDIANS OF OREGON

May 30, 1984

The Confederated Tribes of Siletz Indians of Oregon has had tremendous success enhancing family welfare and preventing the unwarranted breakup of tribal families since passage of the Indian Child Welfare Act of 1978. Although funding levels for Title II programs are kept woefully low by inadequate appropriations, and tribes are forced to compete for these funds, our Tribe's social service program has continued to provide needed services and legal representation to troubled families.

Despite the overall success of efforts to implement the Indian Child Welfare Act, over the years we have identified several areas where the Act was not wholly adequate to meet the pending emergency. Below we set forth the areas where we think improvement in the Act is appropriate and offer justification for our recommendations.

On several occasions, we have encountered opposition to our intervention in cases involving Siletz families because the children were not eligible for "enrollment." For example, two children in a family with the same mother but different fathers, one of whom is not eligible for enrollment, arguably will receive separate treatment in a state custody proceeding. This can happen even though both children are culturally part of the Tribe and are looked upon by the Tribe as members of our community.

This denial of rights stems primarily from state agencies' failure to understand the distinction between "enrollment" and "membership." We suggest, therefore, that the term "membership" be added to the definitions and be defined as follows:

"Membership" shall mean being enrolled or eligible for enrollment in an Indian tribe or being considered by an Indian Tribe to be a part of that Indian community.

We also have had difficulty on occasion involving our social service people in state rehabilitative programs for troubled Siletz families because no formal "child custody proceeding" had been initiated. For example, in some cases, the state social service people are able to impose standards of conduct on a family under the threat of filing a custody case. Thus, the family is embroiled with the state social service agency, with family breakup as the possible end result, without the legal right to the support mechanism provided by tribal social services. Therefore, we suggest that the definition of child custody proceeding be expanded to include the following as subsection (v) of section (1) of the definitions:

Any other state agency involvement with an Indian family which could result in a foster care placement, termination of parental rights, preadoptive placement or adoptive placement as defined herein.

To be consistent with the foregoing, the first sentence of 25 U.S.C. §1912(a) should be amended to read as follows: "In any involuntary, child custody proceeding in a state court..." This change would ensure that the tribes are given notice of any involuntary action which could result in a foster care placement or termination of parental rights.

Our Tribe also has identified situations where indigent families were denied the appointment of counsel in "informal" or "preliminary" hearings. Because the informal hearing do not make "legal" determinations of custody, the state agency justifies its failure to appoint counsel for the parents.

In many instances, however, these informal hearings are the critical stage in a case, for it is the failure to meet unreasonable standards imposed on the family at these proceedings which result in the initiation of a custody case. To avoid this situation, we suggest the first sentence of 25 U.S.C. §1912(b) be amended to read as follows:

In any case in which the court or state agency determines indigency, the parent or Indian custodian shall have the right to court appointed counsel in any child custody proceeding as defined herein.

This will ensure that families are appointed counsel at all stages of proceedings which could have an effect on family unity.

Our Tribe also has experienced difficulty in reviewing the case files of state social service agencies even though these

records were relied upon in preparing evidence presented to support the breakup of an Indian family. As the Act reads presently, we have only the right to review those records which have been submitted to the court and on which the court might rely in making a determination. Under state law, we have greater authority to receive records but it has been argued that because we received our party status pursuant to the Indian Child Welfare Act and not state law, we are limited to the discovery granted by the Act. To correct this situation, we suggest that 25 U.S.C. §1912(c) be modified to read as follows:

Each party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child shall have the same right of discovery as any other party to the proceeding and at a minimum, shall have the right to examine and copy all reports or other documents filed with the court or which were reviewed in preparation for giving oral testimony in a hearing involving foster placement or termination of parental rights.

In one case, our Tribe faced an interpretation by an attorney for the State of Oregon that a request for anonymity on the part of a parent in an adoption case was grounds to preclude any tribal involvement in the adoptive placement of a tribal member. This interpretation is wholly inconsistent with the requirement that every placement follow the placement preference of the Act absent good cause and the requirement only that weight be given to requests for anonymity by parents. To prevent this kind of unreasonable interpretation, we request that the proviso at the end of §1915(c) be amended to read as follows:

Provided, That where a consenting parent evidences a desire for anonymity, the court or agency shall give

weight to such desire in applying the preferences but such request for anonymity shall not be used as the sole basis to deny tribal involvement in the appropriate placement of the child.

To further ensure that the tribes' placement preferences are followed, we suggest that §1914 be amended and renumbered as §1916. Thus, §1915 would become §1914 and §1916 would become §1915. These provisions then would be followed by what is now §1914, which should be amended to read as follows:

Any Indian child who is the subject of any action for foster care placement or termination of parental rights under state law, or the subject of any voluntary relinquishment, any parent or any custodian from whose custody such child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate such action upon a showing that such action violated any provision of Sections 1911, 1912, 1913, 1914 or 1915 of this Title.

By accomplishing the foregoing, states will be required not only to fulfill the jurisdictional, remedial services, voluntary consent and burdens of proof standards imposed by the Act but also will be required to meet the placement preferences of the tribes. Failure to do so will create the possibility of having a disposition overturned at a later date. While the Act presently implies that placements made in violation of the preferences are subject to being vacated in the future, it does not explicitly so provide. The foregoing recommendation will ensure that no question exists regarding the intent of the Act to enforce tribal placement preferences.

The Tribe also suggests that §1916(a) [under our recommendation, §1915(a)] be modified slightly to ensure that biological parents have the opportunity to reacquire custody of

their child following a failed adoption. As it stands now, the provision does not specifically require notice to such parents following the failed adoption. Thus, we suggest that §1916(a) be amended to read as follows:

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, a biological parent or prior Indian custodian shall be given notice and the opportunity 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 §1912 of this Title, that such return of custody is not in the best interest of the child.

Finally, we have a suggestion regarding emergency placements under §1922. As the Act stands now, the State has no authority to take emergency custody of an Indian child who is not subject to the exclusive jurisdiction of an Indian tribe by virtue of his residence or domicile on an Indian reservation. The remedial services and other provisions technically must be complied with if the child is otherwise subject to state actions before a removal can be effected.

We have heard state agencies threaten that they will not touch any emergency case involving an Indian child. They fear that, unless they can determine that the child is a resident or is domiciled on a reservation, the removal will be invalid. Clearly, this creates a threatening situation for the children of our Tribe and we suggest that the §1922 be amended as follows:

* Nothing in this subchapter shall be construed to prevent the emergency removal of an Indian child, regardless of whether he or she is subject to the exclusive jurisdiction of an Indian tribe, from his parent or

Indian custodian or the emergency placement of such child in a foster home or institution, under applicable State law, in order to prevent the imminent physical damage or harm to the child. The State authority, official, or agency involved shall ensure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent the imminent physical damage or harm to the child or, if the child is not subject to the exclusive jurisdiction of an Indian tribe, expeditiously initiate a child custody proceeding subject to the provisions of this subchapter, or if the child is subject to the exclusive jurisdiction of an Indian tribe, transfer the child to the jurisdiction of the appropriate Indian tribe, or restore the child to the parent or Indian custodian as may be appropriate.

This recommendation also attempts to clarify the present wording of §1922, which is somewhat confusing about what rights it grants to states. States have used the present provision to initiate custody proceedings even where the emergency which caused the initial removal had ceased to exist. While that may be appropriate if the state otherwise has jurisdiction, clearly the Act did not intend to give states continuing jurisdiction if the child otherwise was subject to the exclusive jurisdiction of the tribe.

Again, we want to emphasize our complete support for the Indian Child Welfare Act and the benefits our Tribe and our families have received from it. The foregoing suggestions are merely ideas which reflect ways in which we feel the Act can better work for us. We thank the Committee for the opportunity to submit the testimony.

**CONSORTIUM OF COASTAL INDIAN RANCHERIAS
INDIAN CHILD & FAMILY SERVICES**

P.O. Box 1420
Trinidad, California 95570
707-677-3035

RECEIVED MAY 16 1984

May 1, 1984

Senator Mark Andrews, Chairman
Senate Select Committee on Indian Affairs
838 Hart Building
Washington, D.C. 20510

Dear Committee Members:

The Consortium has operated a program funded under the Indian Child Welfare Act since September, 1981. Program activities include family supportive services, recruitment of Indian foster and adoptive homes, and cultural activities for Indian children living in non-Indian homes.

Because of the distance and cost involved in attending the recently held oversight hearings on the ICWA, our program was not able to send someone to testify. However, the following written testimony is being submitted by our organization for the record. It is our understanding that the record is kept open for written testimony for two weeks after the hearing date. Our concerns deal mainly with the issues of the ICWA implementation and the funding process.

ICWA IMPLEMENTATION

One of our biggest concerns is the fact that the Act as written applies only to a small number of Indian children in California. Although the Act should be liberally construed in order to be in accord with the intent of Congress, many agencies take a strict interpretation in determining if the provisions of the Act apply to Indian children. All California Indians are members of aboriginal Indian tribes which have existed in California and which continue to exist today. Yet none of these tribes are the Indian tribes which are federally recognized today. The federally recognized tribes are those Indian entities which are from the reservations and rancherias created by the federal government within California. These federally recognized tribes are very important, however the ICW rights of all California Indians are also very important even if they are not enrolled members of federally recognized tribes from reservations. The provisions of the Act should also apply to their children. The BIA Guidelines to State Courts

Del Norte County Outreach Office • 227 Price Mall • Crescent City, California 95531 • (707) 464-1121
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Enrollment is the common evidentiary means of establishing Indian status but it is not the only means...." A definition of Indian child and tribe which takes into account the historical and legal relationship of Indians should be made. The question of eligibility for services as resolved by the Snyder Act and court interpretations of the Snyder Act should be followed in determining if the Act applies to an Indian child. This would include a broader base of California Indians.

The ICWA also contains some significant oversights. The Act does not require notice to anyone regarding pre-adoptive or adoptive hearings. It also limits the right to intervene to two situations - foster care placements and termination of parental rights. After the Indian parent's rights are terminated, there does not appear to be any way for any party to intervene at some later date to ensure that the court follows pre-adoptive and adoptive placement preference required by the Act. Even if someone could intervene, no one could be aware of their intervention rights since there is no notice provision. Similarly Section 1916 (a) gives petition rights to Indian parents or custodians (following specified events) but there is no notice requirement to either of the parties, so they would not know the appropriate time to petition. Section 1916 (b) likewise indicates that changes in placement should meet provisions of the Act but in certain instances of foster care, pre-adoptive and adoptive placements, no notice requirements are called for. Also, the law bestows on an Indian child who was the subject of an adoptive placement, the right to apply for information. But unless the child self-initiates or has self-knowledge, there is no provision of notice to the child that he or she can apply for such information.

There is no mechanism to monitor state courts compliance with the Act. Many state court decisions have not been efforts to deal positively with the goals of the Act. Often times the courts actions defeat the intent of the Act. The fact that the Act does not include placements based upon an act, which, if committed by an adult, would be deemed a crime has been detrimental to some Indian youth. We are aware of cases where Indian children have continued to be classified under the "602" Welfare and Institutions Code Section so that the provisions of the Act would not have to be complied with. In other circumstances these youth, based on present behaviors, would have been reclassified as "601's". Our program is also aware of many cases where Indian children were placed in non-Indian homes at a very young age. The court process moves so slowly that an Indian parent trying to obtain custody has to face many delays in the proceedings. Usually by the time a court decision regarding final placement can be made, the child has been in the non-Indian home several years. The relationship the child has developed with the non-Indian caregivers is often cited as "good cause to the contrary" for not following placement priority specified in the Act. Although the Guidelines to State Courts state that "....children younger than 5 can be expected to adjust more readily to change", these guidelines are ignored by the courts as are the potential

detremental long range effects of the placement (ie. identity crisis, poor self-concept). According to the guidelines the courts are to routinely ask if a child is an Indian child. We are not aware of this question ever being asked in the courtroom as a matter of course. Although the guidelines do not have binding legislative effect, they are crucial to effective implementation of the Act. They must be utilized by attorneys in this field, and judges who must enforce the law. Utilization of the guidelines would have a tremendous impact on the outcome of individual cases.

There also is no mechanism to monitor compliance of the Act by state, county, and private agencies involved in child welfare matters. Recently a state wide survey was done by the California State Department of Social Services reviewing compliance of provisions of the Act by county welfare departments. This survey found a 70% - 80% failure rate for proper notification and that 50% of Indian children were placed out of the preference order specified. The survey also found that proper identification of Indian children is a problem. We are concerned that little or no action seems to be taken by the BIA offices on the notices of hearings received. Local agencies routinely send required notices to the Bureau. What happens to these notices when they are received is a mystery. Attempts to notify the tribe seem minimal. As discussed earlier, in many cases, "tribes" are not available to assist. Notices pursuant to the Act must be handled effectively and quickly. It would be helpful to all involved if ICW programs within the geographic area of the hearing are informed of the hearing by the Bureau.

A weakness of the Act is that it does not make provisions for providing legal representation to tribes. Although tribes are given the right to intervene and be a party to the hearing, most smaller tribes do not have the financial resources to pay for legal representation. Tribes, as well as Indian parents and custodians, should have the right to court appointed counsel if needed, to ensure their interests are protected. If court appointed counsel is not available to the tribe, funding for a lawyer should be available through the Bureau.

The Bureau should very strongly consider providing funds for legal services for ICW cases routinely. The need for adequate legal representation is outstanding. Perhaps a contract with an agency such as California Indian Legal Services could be developed. Presently California Indian Legal Services has very little resources. Because of their limited resources they seem reluctant to become involved in these cases. Although court appointed counsel is often available for indigent parents, this representation is usually insufficient. The attorney provides bare minimum required for the case and this naturally affects the outcome of the case. Securing proper legal counsel is a must and the Act and the Bureau should address this adequately.

FUNDING

A higher level of funding is necessary nationwide in order to meet the needs of Indian families, ie. legal representation, foster home licensing by tribes, and in order for tribes to implement the Act to it's fullest extent (ie. developing tribal court systems in PL 280 states). In order for ICW programs or tribes to accept full responsibility for care/custody of Indian children needing placement they must have resources available to meet this responsibility. At present, funding levels of most programs do not allow this, so ultimately the decisions affecting Indian children are still made by local governmental agencies. At one time there was much discussion of increased appropriations through additional funds provided by the Department of Health and Human Services. This has yet to materialize.

California's share of ICW funds have been drastically reduced over the past several years. Reductions imposed on California, the state with the largest number of Indian residents, have been much greater than in other states. An equitable share of ICW funds, based on population and need, must be restored to California. The allocation system used in recent years have violated California Indian's rights to equal protection under the Act.

Within the state itself, funding should be distributed more equitably and meaningfully. In our rural area, an ICW program with a much smaller service area and population base than our program, gets \$50,000 more in funding. Also, the monthly reimbursement system used by the Bureau is slow and causes severe cash flow problems that affect service delivery. A reimbursement system that pays funds quarterly in advance may alleviate this problem.

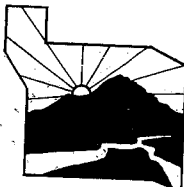
The time span allowed for preparation of grant proposals is not adequate. At least 60 days should be allowed for this activity. Programs should be funded on a more long-term basis. Having to reapply for funding every year is detrimental to program development. This uncertainty of program existence year to year also affects the ICW programs relationships with other agencies. Often times programs are preconceived by these agencies to be short lived, inadequate and uninflunclal. The stability offered by more long term funding would improve this situation as well as affect program development capability.

Although this testimony is not all inclusive, the issues presented here are some areas of concern. The opportunity to express these concerns as part of the record of proceedings to the Senate Select Committee on Indian Affairs is appreciated.

Sincerely,

Julie Mannarino
Julie Mannarino, M.S.W.
Program Coordinator

JM:sh



Copper River Native Association
ATNA' TAENE NENE'

Drawer H • Copper Center, Alaska 99573 • Phone (907) 822-5241

HS84-1649

RECEIVED MAY 21 1984
 May 15, 1984

Senator Mark Andrews, Chairman
 Select Committee on Indian Affairs
 U.S. Senate
 Washington, D.C. 20510

ATTN: Pete Taylor

RE: Indian Child Welfare Act

It is imperative that direct service programs, such as this, have continuity. If they do not, the credibility and effectiveness of the effort is seriously impaired. The ICWA program here at CRNA has been beneficial but has suffered from "on-again, off-again" funding and the concomitant change of staff. This leads to a lack of community trust in personnel and a lack of credibility for the program.

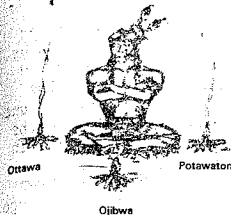
For these reasons, we feel that funding for the ICWA program should be on-going.

Sincerely,

Edna Charley

Edna Charley
 Executive Director

EC/RW/mp



INTER-TRIBAL COUNCIL
 OF
 MICHIGAN, INC.

405 East Enderday Avenue Sault Ste. Marie, Michigan 49783
 Phone (906) 632-6896

RECEIVED MAY 22 1984
 May 18, 1984

Mr. Mark Andrews, Chairman
 Selection Committee on Indian Affairs
 U.S. Senate
 Washington, D.C. 20510

RE: P.L. 93-608, Indian Child Welfare Act Oversight Hearings

Dear Mr. Andrews:

I would like to take this opportunity to present written testimony on the above referenced topic as an individual who has been a part of the system. I am presently the Executive Director for the Inter-Tribal Council of Michigan, Inc., however, for three years prior to this I have worked as the Child Welfare Attorney representing and working with our four member tribes in all types of child welfare activities. I feel that we are probably one of the most active and advanced states when it comes to the implementation of the Indian Child Welfare Act. This has led to many advances in the services available for our people, but not without a like number of problems. These have in some instances been overcome with assistance from the very helpful staff of the Michigan Department of Social Services, who have worked with us to develop an Indian Child Placement Agency and a group home licensed for eight (8) juvenile males and located on one of our member reservations.

I feel that maybe a little history is probably needed at this point to put my final remarks in perspective. Michigan when the Inter-Tribal Council was incorporated in 1969 had four federally recognized tribal groups which are the present members and were serviced by a Bureau of Indian Affairs Agency office located in Ashland, Wisconsin. This was changed in April 1976 with the establishment of a Michigan Agency located in Sault Ste. Marie, Michigan. The portion of the Ashland Agencies budget allocable to Michigan activities was to be transferred to the new Michigan Agency, well we knew that the services we were receiving were limited but the dollars transferred were even more so. This has continued to be the type of treatment the Michigan Agency receives and is especially true when a review, by State, is made of Child Welfare Programs approved in February 1984.

Bay Mills Reservation
 Brimley, Michigan 49715

Keweenaw Bay Reservation
 L'Anse, Michigan 49946

Isabella Reservation
 Mt. Pleasant, Michigan 48858

Hannahville Reservation
 Wilson, Michigan 49896

According to our statistics and available information the Minneapolis Area Office received a cut in funding this year which totaled \$224,000.00 leaving approximately \$1,077,000.00 to disburse. The problem is further documented by the following facts. Michigan contracts will total approximately \$119,000.00 less than last year which means we absorbed 53% of the cut allocated to the Area Office. This is a reduction of 38% from the Michigan funding level of one year ago. The Inter-Tribal Council of Michigan, Inc., program took 48% of the Michigan cut or approximately 25% of that received by the Minneapolis Area. In as much as these grants are designed for urban as well as tribal groups, we feel that the total Indian population of the State should be considered when program allocations are made. According to the 1980 Census Michigan has a larger Indian population than either Wisconsin or Minnesota, yet our total share of the funding which was never equitable has been further reduced from a 26% share of the total for 1983 to an 18% share for the 1984 programs presently funded.

My major concern is that whenever we develop a program that works and starts to address problems long ignored or left dormant we are cut. The mere fact that we have had some minor successes does not mean that our needs have been met and we can go on to something else, it should instead show that there is a need for the program and continued funding is required to complete the system before reductions to maintenance levels are advisable.

If there are any questions or comments regarding my testimony I would be more than happy to respond to them. I would also like to thank you and your committee for taking the time to consider my comments.

Sincerely,

Michael C. Parish

Michael C. Parish
Executive Director

ac

cc: Tribal Chairpersons

Iowa Tribe of Oklahoma

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Perkins, Oklahoma 74059

Wallace Murray, Chairman
John White, Vice Chairman
Joyce Miller, Secretary
Vern White, Treasurer
Pete McClellan, Councilperson

May 24, 1984

RECEIVED JUN 4 1984

Senator Mark Andrews, Chairman
Select Committee on Indian Affairs
U.S. Senate
Washington, D.C. 20510

Attention: Mr. Pete Taylor

Dear Mr. Taylor:

RE: Statement to Senate Select Committee on Behalf of the Iowa Tribe of Oklahoma
Regarding the Indian Child Welfare Act

The Iowa Tribe of Oklahoma wishes to have entered into the Senate record a statement of certain items which we consider rather serious deficiencies in the Indian Child Welfare Act.

BACKGROUND

The Iowa Tribe of Oklahoma currently consists of some 279 members and is the smallest tribe in the Shawnee, Oklahoma, area. Of this population, about 60 or approximately 20% are minors. At the time of termination of our Child Welfare Act program 5 children, or almost 10% of the juvenile population, was in custody adjudication in various state and CFR courts.

Upon notification of program termination, the tribe requested the BIA agency social services officer (who was also the agency project officer for the Indian Child Welfare Act program) to provide representation for the children in litigation. The response was: "That is not my concern and you (the tribe) will have to make your own arrangements." At this point, these children were immediately without representation or the protection the Act was intended to provide since the tribe does not have independent resources. Subsequently, the following disposition has been made with respect to these children.

C.P., female, age 2 years - Parental rights of both parents were terminated November 1983, five (5) months after program closure, and custody remained with the tribe. In February of 1984, the foster parents filed for adoption and the final hearing should be held sometime in August. Home studies, court appearances, travel, and other required effort has been provided on a voluntary basis by the former caseworker at their own expense to ensure this case is brought to a reasonable conclusion.

E.M., male, age 8 - This youngster has been in foster care since infancy, and a great deal of confusion with regard to jurisdiction has surrounded his case. At first, the Pawnee Tribe assumed jurisdiction; however, they determined the child did not meet tribal membership requirements. The Otoe-Missouria Tribe next accepted jurisdiction; they also determined the child did not meet tribal membership requirements. Here the record becomes a little hazy in that a CFR court minute order indicates a meeting

was held with Iowa and Otoe tribal officials and BIA personnel. At this meeting it was agreed the BIA would handle the matter since the Iowa Tribe had no Child Welfare program at that time...here the record ends.

The Otoe-Missouria Tribe has generously provided representation in this matter since closure of the Iowa program in June of 1983. Unfortunately, because of the press of client caseload, it has been necessary to move this child at least twice and he has not been placed within the Iowa territory but, in one instance, as far away as Lawton...over 100 miles from the country and people he has known all his life.

The other three (3) children, all girls, have been placed in different foster homes since program termination. Not all these homes are in near proximity to one another nor are they within Iowa territory. This is particularly unfortunate since these children are related and had previously been placed in the same household.

PROBLEM STATEMENT

Bureau personnel need to be impressed with the intent of the Indian Child Welfare Act and their responsibility in its application. In the fall of 1982 in a meeting between Bureau personnel and Iowa tribal personnel, the area social services officer repeatedly stated that the BIA did not "have to give" funds to the tribe for the program and that it was not a 93-638 program. The tone was generally coercive in nature. As noted above, the agency then refused to provide necessary support when the program was not funded...the refusal coming from a social services program officer whose annual income is more than the total budget requested by the Iowa Tribe.

Bureau personnel reviewing applications and proposals need to be provided with orientation in the Indian Child Welfare Act and proposal evaluation. A comment made by the review team indicated a goal stated in the proposal was "too vague". Ironically, the goal so criticized was not a tribally developed one, but a goal restated verbatim from the BIA specifications to assist the reviewer in understanding the priority level (assigned by the BIA) for which objectives were developed. A second comment in response to an objective for data gathering was that this particular information should have been available since the program had been in operation for over two years. Unfortunately, the data-gathering was based on a facility which was not even built yet (it was completed in the summer of 1984). Although this was explained in the text, the review team failed to recognize the time-frame as a governing factor. An appeal was filed; however, the Bureau response was not one of problem solving but of assuring all and sundry that the program termination was not their fault.

Bureau personnel and personnel reviewing applications and proposals need to be more aware of realistic operational costs. Some years ago, Harvard business school used the rule of thumb that for any project utilizing one professional and necessary clerical support, the minimum beginning budget figure for operations is \$70,000 per annum. Certainly the Iowa Tribe does not maintain that \$70,000 a year should be the minimum budget, but there needs to be recognition on the part of BIA personnel that tribal social service commitment should not mean poverty level income utilizing donated facilities. Additionally, there needs to be a real awareness of the true

level of effort required by tribal Child Welfare workers. These workers must maintain a high level of competency for they are required not only to provide the counseling and assistance of the average social worker but frequently must also: of protection or representation is reflected in the cold fact that Iowa children have been scattered to the winds since program cancellation and the tribe is powerless to assist or protect them. Further, because of the specialized knowledge and broad capabilities required, even if funds were available today, the tribe would essentially be required to build a new program from day zero!

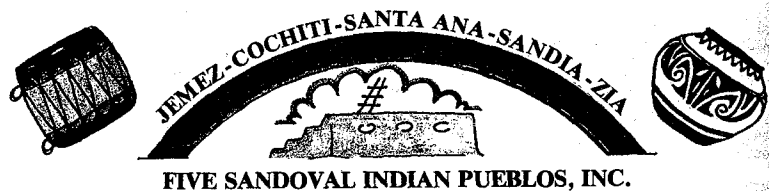
SUMMARY

Based on tribal experience with the Indian Child Welfare Act, the Iowa Tribe of Oklahoma feels the following to be of significant importance for Congressional consideration:

1. Defining the budgeting structure to ensure that even the smallest tribes receive sufficient funding to meet clearly identified needs.
2. Initiate a requirement for orientation of federal personnel to assure a clear understanding of the intent and purpose of the Act when allocating program funds and reviewing proposals and applications. Perhaps a re-allocation to 93-638 would be appropriate to ensure that even small tribes have the capability of contracting to meet their needs.
3. An alternative method of providing support services for children in litigation (as is required by 93-638) wherein the BIA would be required to administer the caseload for any tribe defunded thereby ensuring no child is left unprotected as ours has been.

Respectfully,

Wallace Murray
Wallace Murray
Chairman
Iowa Tribe of Oklahoma



TESTIMONY ON
 PUBLIC LAW 95-608
 THE INDIAN CHILD WELFARE ACT OF 1978
 PRESENTED TO THE
 SENATE SELECT COMMITTEE ON INDIAN AFFAIRS
 ON OVERSIGHT HEARINGS ON IMPLEMENTATION OF THE
 INDIAN CHILD WELFARE ACT
 BY
 RAMUS SUINA, CHAIRMAN
 FIVE SANDOVAL INDIAN PUEBLOS, INC.

Mr. Chairman and Members of the Committee, my name is Ramus Suina. I am the Chairman of the Governing Board of the Five Sandoval Indian Pueblos. Our consortium is a not-for profit corporation organized for benevolent, charitable, community welfare and scientific purposes. Our mission is to promote the common welfare of our tribal members whereby improving the quality of life on our reservations. Five Sandoval Indian Pueblos does foster the social and economic advantage of the five Pueblos to preserve and protect inherent rights of self-government, land and water; to foster and encourage the assumption of increasing civic responsibilities by the five tribes. Further purpose is to help ameliorate the social and economic plight of our Pueblo people.

Five Sandoval Indian Pueblos (FSIP) has a twelve member governing board comprised of the five Governors and representatives of all five Pueblos. The consortium represents five Pueblos; the Pueblos of Jemez, Zia, Santa Ana, Cochiti and Sandia. Our reservations are located in central New Mexico within Sandoval County. The combined tribal population is 5,000 Pueblos and approximately 900 family units.

(505) 867-3351

P. O. Box 580

Bernalillo, New Mexico 87004

Among the social service programs that our consortium administers is the Title II, Indian Child Welfare Act, Family Services Program. Our program has been in operation for three years. During the past three years, this program has experienced great growth from a planning grant in its first year to nearly two years of day care development and operation. This day care program was specifically designed as a tribal family program to support and help maintain family life on our reservations. It provides day care with an emphasis on family stability to help reduce stress and breakup thus enabling our families to lead productive family lives. Currently, we operate three day care centers in the Pueblos of Jemez, Zia and Santa Ana and soon in Sandia. Our grant provides technical assistance to the Pueblo of Cochiti with the intent to provide new programs for families based upon the desires of the tribe.

We wish to thank the committee for allowing our organization the opportunity to submit our successes, problems and recommendations on the implementation of the Indian Child Welfare Act for Congressional Record. It is the express purpose of this act to provide support to tribal groups for the operation and improvement of child welfare services and programs.

One overwhelming need we would like to express is the need of increased funding for the Indian Child Welfare Act. It is our recommendation that this level of funding be increased to 15 million. The current 1983-84 level of 9.5 million was inadequate for tribes to operate child welfare and family service programs. In this area of funding, it would be wise for Congress to reevaluate the current funding of year to year and consider the implementation of three-year funding cycles. This lends to critical situations of "just getting started" when funding may cease. This also handicaps future growth and program development.

Other critical needs of ICWA, Title II Programs is the need of stable funding needed to improve and maintain these tribally-administered family programs. I believe this to be imperative for the tribes to accept current and greater responsibilities for those families in need of support and services. Only with this monetary support can tribal groups meet the full intent of the act. It is never known from one year to another what funding levels that we are eligible for. Each year we review with our tribes whether it would offer more advantage to separate and compete or remain as a consortium. We are always faced with eternal funding issues of small tribal population and great need versus large tribal population and even greater needs.

It is our understanding that the Bureau of Indian Affairs is currently considering the absorption of ICWA funds into the Social Service program funds. We wish to make this recommendation to Congress to maintain the separation of ICWA, Title II grant program from Indian Services (Social Services) of general assistance, substitute care reimbursements and the Tribal Work Experience Programs. This is an absolute necessity. The programs authorized under ICWA are young in age and need more maturity before any gains, that we as tribes have made will become evident. If this absorption is allowed, neither Congress or tribes will be able to gauge accurate implementation of ICWA.

We offer the following outline of problematic areas of implementation:

A. The funding process includes the submittal of competitive proposal grant applications. The request for proposals poses undue burdens and marginal success factors for the Rio Grande Pueblos. This RFP always comes in December with submittal date of mid-January. Our traditional Pueblos are realizing

tribal leadership changes at that time. New Governors are inaugurated in the first few weeks of January, thus making program changes and development with its needed resolution extremely hard to receive. The Southern Pueblos Agency (BIA) has acknowledged this critical time factor and did advocate to Area Office the need of this change on our behalf.

B. There is great risk and handicaps for smaller or less sophisticated tribes who do not have in their employ expert grant writers. Since this is a competitive grant process, the proposal means all for new potential grantees and to ongoing grantees.

C. There is no standard for the review process and or selection of the Evaluation Review Teams. Reviewers are not necessarily trained or knowledgeable about child welfare matters. Reviewers are not trained to conduct objective evaluations. The use of competing tribal program staff as reviewers is a controversial issue. Not only are competing program staff used as reviewers of the competitive proposals, but in our Albuquerque Area as the program evaluators for ongoing Title II grant programs. For ongoing programs this review must be done before the competitive proposal is submitted and be satisfactory.

D. There is currently no mechanism for Bureau of Indian Affairs or tribes to determine if state courts are monitored to insure compliance with P.L. 95-608. In New Mexico since we are unable to monitor state courts, we have seen the abuse of independent adoptions of Indian children. Although our children have not been affected from this abuse, the potential does exist for this to happen to our Pueblo children. The independent adoption of any Indian child must be recorded and tribe or tribes of that child must be notified. Private, religious and charitable independent adoption agencies must be licensed and controlled by the state government. Currently in New Mexico, some of these groups are not licensed or given waivers.

E. Another problematic issue which needs resolving is the need to clarify roles of the Public Health, Indian Health Social Workers with regard to foster care and adoptions. It is our observation that this group of social workers are doing a good job in seeking advice from tribal groups and working with state human service agencies. They need to be brought into the fold of those of us working in Indian child welfare issues. For lack of formal invitation, they have begun to hold their own meetings with tribes to seek advice and provide information on children in need of child welfare services.

One concern we have as tribal groups is that of mutual assistance since this program implementation mandates a triad of responsibilities that of the federal government through the Dept. of the Interior, Bureau of Indian Affairs, state governments and tribes. For successful implementation, this must be achieved and maintained. Currently this is a "hit or miss" situation. The variance of these relationships is great considering the different relationships of tribes to the state governments. In New Mexico, it has taken four years of operation to finally see the fruits of years of advocacy and fostering this relationship. In 1981 our organization held the first of formal meetings of all three partners, federal, state and tribal representatives for the first N.M. Indian Child Welfare Conference in Albuquerque, New Mexico. It is a limited success. This was the beginning of our efforts to eliminate the historical barrier between tribes and the state. That conference hosted approximately 100 people. To date we have held several meetings of this group on various issues but most pressing is the issue of the independent adoptions.

In closing, Mr. Chairman, it is only fitting to list the positives of this act and its authorized programs. Our state through its state employees and tribal representatives have made progress. Increased number and frequency of meetings are being held and better relationships have evolved between the state and tribes on child welfare issues. It is heartening to feel that the United States Congress feels the same importance to protect our Indian children and families. Through this act we are experiencing the growth of developing the capabilities to make child welfare decision for ourselves. Thank you.



KAWERAK, INC.

P.O. BOX 948 • NOME, ALASKA 99762

(907) 443-5231

RECEIVED MAY 21 1984

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WALE
WHITE MOUNTAIN

May 18, 1984

Select Committee on Indian Affairs
U.S. Senate
Washington, D.C. 20510

Attention: Senator Mark Andrews, Chairman

Dear Senator Andrews and Committee Members:

This letter will serve as written testimony on the implementation of the Indian Child Welfare Act that your Committee is presently soliciting.

This testimony will address three areas of concern:

1. Provisions of the Indian Child Welfare Act
 2. State of Alaska jurisdiction
 3. Funding
1. PROVISIONS of the Indian Child Welfare Act

This Act does not apply to placement of custody of children in divorce proceedings. One major problem we face in this region (encompassing 19 villages) is that the State court has interpreted this exception clause as applying also in custody disputes between parents who are not married. This interpretation by the State court has presented a serious obstacle in the ability of tribal governments to intervene in this type of case.

This Act applies in involuntary proceedings where the legal custodian of the Indian child does not consent to the child being removed from his/her care. The State courts have therefore concluded that the Act does not apply in cases where the parent(s) have voluntarily terminated their parental rights. The State Social Services therefore encourage voluntary termination of parental rights. In this way, they assert that such cases are not subject to the provisions of the Act. This is a serious problem that concerns all of the tribal governments of this region because the effect of this action is that our Alaska Native children

are often then placed in non-Native homes which according to State law, they assert, is legal. This is a violation of the spirit of the Act which is intended to keep Indian children in Indian homes.

2. JURISDICTION of the State of Alaska

In the absence of tribal courts, the State of Alaska court system claims jurisdiction to hear custody cases involving Alaska Native children pursuant to P.L. 280. A multitude of problems exist within this judicial arrangement. One is the difficulty of securing cooperative agreements between tribes and State courts to define jurisdiction that is acceptable to both entities. The State generally interprets P.L. 280 as having granted the State civil and criminal jurisdiction over Alaska Natives forever. Tribal governments assert their right to claim concurrent jurisdiction over any matters that affect their membership. Therefore, at this point the relationship between tribes and the State is more adversarial than cooperative in the area of child welfare.

In addition, even in P.L. 280 states, tribal laws and customs are to be given full force and effect in determining child welfare and other civil cases involving Alaska Natives. It is the position of the tribal governments that P.L. 280 in no way diminished or terminated their governing powers. Tribal jurisdictional powers are derived from the inherent sovereignty of American Indian and Alaska Native tribes. State officials and judges, as well as Secretary of Interior Clark, clearly need to be oriented to this basic fact of tribal political status. Full recognition of this political status would result in a more sincere effort to carry out the intent of the Indian Child Welfare Act.

3. FUNDING

Insufficient funding for ICWA Title II grant applicants continues to be a problem for Alaska Native tribes. There are over 200 Alaskan villages that are federally recognized, compared to the 280 federally recognized tribal groups in the Lower 48. However, of the \$8.7 million appropriated for FY 1984 for this program, only \$736,000 was allocated to Alaska or 8.8% of available funding for all tribes. Of this amount, 10% was held back by the Juneau Area Office for "appeals", so in reality only 7.6% (\$662,000) was available for Alaskan tribal groups. Of approximately 200 tribal groups, only eight (8) were awarded grants for this program for FY 1984. Clearly, therefore, there is a funding problem. Sufficient appropriation of funds for the Act is absolutely essential for honoring a promise written into law.

Alaska Native tribes cannot achieve true self-determination by continuing to rely on other governments to make decisions affecting their membership. Hence, there is a growing interest statewide in establishing more tribal courts and Indian Child Welfare programs to help build tribal capacity in the child welfare and other areas.

The Department of Interior must actively execute its responsibilities under the Indian Child Welfare Act and under the Indian Reorganization Act. Funds must be released as needed to pay for counsel for indigent parents and for tribes where such assistance is not available elsewhere. In addition, the Secretary should act promptly when petitioned by tribes to reassume jurisdiction in P.L. 280 states. Finally, the Secretary should research the political status of Indian tribes and immediately cease the dangerous practice of allowing the state of Alaska to interfere in activities that involve only the tribes and the federal government. The incident with the Eagle constitution speaks to the current policy of the Department of Interior towards Alaska Native tribes. We respectfully request a change in this policy to re-establish the government to government political relationship between the federal government and tribes. This would strengthen the ability of tribes to utilize the protections of the Indian Child Welfare Act.

The state of Alaska must work with the tribes in a good faith effort to implement the Act. The state must comply with its obligation to notify the tribes of all proceedings involving Alaska Native children. Tribal/state agreements must be developed in more areas of the state.

The tribal governments must continue to strive to establish judicial systems which are capable of accommodating child welfare matters and to develop codes and organizational structures which enable them to exercise their authority under the Act. In order to accomplish these ambitious goals, tribes need funding to implement the provisions of the Act. Congress, in passing this Act, expressed its clear preference for "keeping Indian children with their families, deferring to tribal judgment on matters concerning the custody of tribal children, and placing Indian children who must be removed from their homes within their own families or Indian tribes." Tribal governments wholeheartedly endorse this policy but once again, we respectfully request that the Department of Interior take whatever action is necessary to carry out this policy, rather than hindering it with poor funding levels and regulations that minimize rather than maximize tribal involvement. In addition, Congress should amend the Act to place stricter mandates on the state to carry out this Act in the courts until more

tribal courts are established.

Our tribes consider our children to be our most precious resource. We are striving to protect and preserve that resource by keeping our children in their own homelands to grow up with a strong tribal identity. Ideally, this Indian Child Welfare Act provides statutory support for our effort. We take this Act seriously and we suggest that the authors of the Indian Child Welfare Act endorse our efforts through supportive regulations and funding levels.

Respectfully,

KAWERAK, INC.

Mary Miller

Mary Miller
Tribal Operations &
Rights Protection
Officer

cc: IRA and Traditional Councils:

Unalakleet
Stebbins
Gambell
Savoonga
Elim
Golovin
Shishmaref
Elim
Wales
White Mountain
St. Michael
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Alaska Congressional Delegation
Association on American Indian Affairs, Inc.
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Alaska Federation of Natives

POSTAL BOX 369 • CARNEGIE OKLAHOMA 73015 • 405/654-2300

RECEIVED MAY 30 1984

May 24, 1984



Kiowa Tribe of Oklahoma

Senator Mark Andrews, Chairman
Select Committee on Indian Affairs
United States Senate
Washington, D.C. 20510

Re: Testimony Regarding Experience with the ICWA.

Attention: Pete Taylor

Dear Mr. Andrews:

In the ICWA Title II BIA Grant, I see no problem with the ICWA. All active cases in Southwest Oklahoma are usually handled by Kiowa Child Welfare Protective Services. At times, we are offered cases the state cannot handle. Usually, if we cannot handle the cases, the child welfare services dispose of the case and it is sent back to the state because they have all the resources.

In the Title VI-(b) direct funding grant, the people of the state match federal funding and the tribes get what's left over and then the federal region VI request match funding. In the long run, the tribes match twice, because we live within the state.

Other than these two problems, the problems may be ironed out when the Kiowa Tribe negotiate agreement with the state. If you have any questions, please notify and contact this number at (405)654-2300, extension 232.

Sincerely,

Julia Roubideaux

Julia Roubideaux,
Kiowa Child Welfare Program Specialist

JR/jr

STATEMENT OF THE LAC COURTE OREILLES BAND OF LAKE SUPERIOR CHIPPEWA INDIANS CONCERNING IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT OF 1978, AT A HEARING OF THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

The reservation of the Lac Courte Oreilles Band is located in north-western Wisconsin, a State subject to the provisions of P.L. 83-280. The Tribe was the first to avail itself of the opportunity provided by section 108 of the Indian Child Welfare Act to reassume jurisdiction over child custody proceedings. As of February 20, 1981, the Tribe has exercised exclusive jurisdiction over such proceedings concerning Indian children found on its Reservation. Since that date, the Tribe's experience with the provisions of the ICWA are more similar to those of Tribes in non-280 States, but have been complicated by the special burdens borne by Tribes in 280 States. This statement will address initially the result of reassumption of jurisdiction, and then will discuss the matters of ICWA implementation shared with all other Tribes.

P.L. 280

The effect of P.L. 280 on the Tribe subject to its provisions is the atrophy of tribal institutions, especially tribal courts. By reassuming exclusive jurisdiction over child custody proceedings, the Lac Courte Oreilles Band found itself with a court system which was not eligible for funding by the Bureau of Indian Affairs. (BIA law and order funds are limited to non-280 tribes, and Title I of the ICWA has never been funded by Congress) It is clear to the Tribe that other Tribes will not be able to reassume exclusive jurisdiction under section 108 unless there exists funding for the functioning of tribal courts; very few tribes have the financial ability to fund tribal courts without assistance. It is also clear that ability of a tribal court to function effectively is an absolute predicate to implementation of tribal control of its children through Title I of the ICWA. Funding for tribal courts in P.L. 280 States should be made available by the Congress.

Title I

The difficulties with full implementation of the ICWA, in terms of adequate funding of tribal courts, is not limited to P.L. 280 situations. Transfer of proceedings from State to Tribal Courts, under section 101(b) of the Act, is more often than not predicated upon the willingness of the Tribal Court to hear the case in the area of the transferring State Court. The ability of a Tribal Court to hear such cases is limited by available finances; for the Lac Courte Oreilles Tribal Court, this means that only one of the five cases for which transfer was requested by the Tribe was actually transferred, for the Court had funds only for one such case. There must be a recognition that transferred cases may require transportation, lodging, and per diem expenses for the tribal judge and clerk. Without such a provision, cases will not be transferred by State Court judges, who are concerned about the inconvenience of witness and social service department staff travel to a remote reservation for a child custody proceeding; this situation results in a finding of forum non conveniens for Indian child custody proceedings .

It is the further experience of the Lac Courte Oreilles Band that most State Court judges are unwilling to grant the Tribe's request for transfer of proceedings under section 101(b) of the Act, upon the Tribe's written petition solely. The judges deny the petitions unless a personal appearance is made in their courtroom by the Tribe. Again, no funding is available to assist Tribes in covering the costs of travel, lodging, and per diem for tribal representatives who appear in State Courts. The result is that the Lac Courte Oreilles Band has the financial wherewithal to personally appear at a transfer hearing in one case each fiscal year. It necessitates picking one case which the Tribe will pursue, to the detriment of other Indian children's cases.

In all fairness, personal appearance before a State Court by the Tribe would not guarantee transfer of the proceedings to the Tribal court, even without the objection of the child's parents. This is due to the interpretation accorded the "good cause" exception to transfer by State Courts. Good cause has been found not to transfer the proceedings in one case in Illinois due to the fact that the Tribe did not request transfer in person earlier.

If Tribes are only able to exercise their right to intervene in State Court proceedings under section 101(c) of the Act, the financial costs of intervention are not an allowable cost from any BIA funding source. Again, the Tribe must carefully assess its case-load in order to determine which cases, if any, it can afford to become involved in the proceedings. Intervention, even if granted, has proven not to be adequate to ensure State Court compliance with the Act, particularly in adoptive placements. Two State Courts have followed Illinois placement preferences, rather than those contained in section 105(a) of the ICWA, through interpretation of the "good cause" exception of that section. In their view, good cause not to follow the placement preferences exists when an Indian child is the subject of a petition for adoption brought by the foster parents who have had the child in their care for more than one year.

In summary, Title I of the Indian Child Welfare Act requires an annual appropriation by Congress in order to ensure that tribal protection of its children is more than a promise, but a reality. Changes in the legislation are also in order to ensure that State Courts do more than honor the letter of the legislation.

Title II

The funding level for Title II is totally inadequate. Tribes must compete with each other and with Indian organizations for available funds, with the result that not all Tribes receive any financial support for the social service obligations mandated by Title I of the Act. The Tribes which do receive funding, such as Lac Courte Oreilles, have barely enough to do more than crisis intervention with one social worker/ child welfare advocate. There exists no funds for the following:

* Foster care placement--all placements by Tribal Court must be with the understanding that the custodian is eligible for some financial assistance; the only one available is AFDC. The

lack of foster care funds also is a factor that the Tribe must take into account in determining whether to request transfer of the child custody proceedings to Tribal Court--i.e., whether or not the child has family members with whom he/she can be placed by the Tribal Court.

* Residential treatment care--no funding exists for the care of minors with special needs which cannot be met by foster care level placements. Those minors eligible for medical assistance are the only ones for whom the Tribal Court can place with the assurance that funding exists for the needed care.

* Preventive programs--day care, drop-in centers, chemical dependency counseling, family planning and counseling services are simply not available, other than to the extent that such programs are provided by other agencies. The Tribe has not received funds from other programs, such as IHS, which cover the range of services needed by an effective Child Welfare Program.

In summary, Title II now serves as a wish list for Tribes, but will never be more than that unless or until Congress sees fit to provide the financial means for Tribes to do more than ensure adequate emergency care for its minor children.

DARRELL WADENA, PRESIDENT
 NORMAN DESCHAMPE, VICE PRESIDENT

GEORGE V. GOODWIN, EXECUTIVE DIRECTOR
 KENT P. TUPPER, LEGAL COUNSEL

DANIEL MORRISON, SECRETARY
 HARTLEY WHITE, TREASURER



The Minnesota Chippewa Tribe

P.O. BOX 217 — CASS LAKE, MINNESOTA 56633 335-2252

RECEIVED MAY 30 1984

May 22, 1984

Senator Mark Andrews, Chairman
 Select Committee on Indian Affairs
 U.S. Senate
 Washington, D.C. 20510

Attention: Pete Taylor

Dear Senator Andrews:

Please consider this testimony for your oversight hearings on the Indian Child Welfare Act of 1978.

The Minnesota Chippewa Tribe is comprised of six (6) member reservations, White Earth, Leech Lake, Bois Forte (Nett Lake), Grand Portage, Mille Lacs and Fond du Lac. Our enrollment is approximately 34,000 members.

We have been involved with the Indian Child Welfare Act since 1977. We presented testimony in March, 1978. We have worked closely with Minnesota in its implementation throughout the state.

Social Services was being delivered by our tribal government prior to the enactment of the ICWA. We developed foster home standards late in 1978. In January 1980, the Minnesota Chippewa Tribe became the first tribe in the nation to sign an agreement with a state under the ICWA. The agreement permits state courts to handle Indian child welfare matters until we develop a court system. Each reservation has its own Social Service Division that delivers direct services. We handle cases such as abuse (all kinds), neglect, foster placements and adoptions. The tribal staff work with county staff on the cases mentioned above. Foster homes are licensed by the reservations. The Minnesota Chippewa Tribe has recently employed a worker in the metropolitan area to provide assistance for families in that area.

Our experience with the ICWA for the most part has been positive. It has created a mechanism for tribes to become involved with their people at a critical moment, when they are about to lose their children.

There are parts to the Act that need further attention:

- 1) Voluntary placements;
- 2) Final decrees for adoption; and
- 3) Title II, the funding process.

We have had many of our members ask for assistance to get their children back from the county. The majority of the time, the cases are from the large metropolitan areas in Minnesota and are voluntary placements. We advise the client to "demand" their children back. Usually they have already tried that only to be taken into court and to have the placement of their children made involuntary. We can become involved then, but the point is some county Social Workers are intimidating Indian people into voluntary placements, so they do not have to go to court and notify the Tribe. By the time we get involved, (if it is administratively possible) and build a case for the return of the children, the children will have been out of the home 1 - 3 years. Voluntary placements need a clearer definition or perhaps, notice sent to the Tribes.

The ICWA requires state courts entering a final adoption decree to send a copy to the Secretary, Section 301 (a). This serves no real purpose. An Indian child could go through the entire process of adoption, without the involvement or knowledge of the Tribe. Although the adoption would not be legal, who would know? Even if the state court sends a copy of the final decree to the Secretary it would make no difference. A simple process of sending a copy of the final decree to Tribes would insure a back checking system. We would be able to check our records for compliance under Section 101, 102, and 105.

The funding process under the Bureau of Indian Affairs is unnecessary, clumsy, and frankly, ill conceived. From the very beginning the Department of the Interior has made terrible attempts to fund the Act. Rather than going to Congress and justifying monies for the ICWA, the BIA merely shifted contract monies from tribal Social Services to the ICWA budget line item. That didn't make a great deal of sense, especially when 30% of the ICWA monies went to urban programs with no tribal affiliations. At this point there is nothing Congress can do to correct that problem, except be aware of the inappropriate beginning the BIA gave the ICWA funding.

As far as the process, you can do something about that, and if anything changes from your oversight hearings we ardently hope it is this. Tribes are going to be here for a long time to come, the ICWA will be here for a long time to come, we hope the

funding will be too, WHY is the funding process competitive and from year to year?!?! The ICWA monies should flow to tribes the same as contract monies do each year. Social Services are a necessary part of any government and should be funded continuously. There would be a minimum of paper work and more long range planning could be accomplished. For tribal government to submit a full blown proposal every year, to be submitted through an unnecessary evaluation process, undermines the credibility of tribal government and their desires for self-determination. Needless to say, it takes countless hours of tribal staff's time to prepare a "competitive" proposal. It further takes many hours of BIA employees to handle the proposals, read them, evaluate them, and then to fund the "good ones". We all know a good proposal does not necessarily constitute a good program. The BIA should spend their time determining a good program from a bad one.

The funding of Urban Programs further complicates the monies of the ICWA. The competitive process encourages antagonism between urban organizations and tribes. It seems as though the BIA has done that deliberately. Urban organizations have come to us requesting letters of support for their programs. Somehow, the BIA does not feel the support of a tribal government is significant, because they have consistently funded urban organizations that do not have tribal support. In FY 1984, the BIA funded an urban organization that is located within the service area of one of our reservations. That reservation also has an ICWA program, the urban program was funded without the support or knowledge of the reservation.

It has never made sense that urban organizations receive funding under the ICWA when they have absolutely no power under the Act.

If urban organizations are to receive funds under the ICWA, there needs to be much more involvement from tribal government in determining which organization gets funded. Perhaps, it could go as far as to give the money to the tribes and let them decide whether or not they even need an urban organization to help them. There is no reason why a tribe cannot set up its own office in urban areas to implement the ICWA if the funds were provided to do that.

Please do not take this part of the testimony as an attack on the urban organizations, but instead it is directed at the funding process. There are many urban organizations that have impeccable reputations.

If you have any questions, please do not hesitate to contact myself, George V. Goodwin, Executive Director or Bob Aitken, Director, Human Services Division.

Sincerely,

THE MINNESOTA CHIPPEWA TRIBE

Darrell Wadena
Darrell Wadena
President



**NATIVE AMERICAN
COALITION OF TULSA, INC.**

P.O. Box 2646 Tulsa, Oklahoma 74101
1740 West 41 Street Tulsa, Oklahoma 74107
March 20, 1984

RECEIVED MAR 26 1984

RECEIVED MAR 28 1984

Senator Mark Andrews
724 Hart Senate Office Bldg.
Washington, D.C. 20510

Dear Senator Andrews

This letter is to urge your support for an additional appropriation level for the Indian Child Welfare Act funding of at least \$2 million dollars for fiscal year 1985 for Title II funding over that requested by the current Administration.

The Indian Child Welfare Act was passed by Congress to prevent the removal of Indian children from their families and cultural environment. In the past, one in five children were removed from their families and were placed in the non-Indian environment. The Indian Child Welfare Act allows the tribe to establish a welfare system for their minor tribal members. The Act further provides for funds to the tribes to assist with the establishing of court systems; development of children's codes; provided vital and necessary social services such as counseling, parenting skills, foster care standards, adoption and recruitment of foster care families; and many, many other needed services for tribal members.

The Bureau of Indian Affairs is proposing to eliminate the funding of off-reservation Indian organization programs for fiscal year 1985 appropriations in Title II of the Indian Child Welfare Act. The budget proposed is \$7.7 million dollars. This reflects a decrease of \$1 million dollars from fiscal year 1984. The \$1 million dollar reduction assumes termination of off-reservation Indian Child Welfare Act Programs.

The Act does not limit authority to funding to reservation status Indians. The Urban Indian organizations act on behalf of tribes on child custody matters when their tribal members move to urban areas. Mere location should not determine if the Indian tribal member is to be granted the protection and legal rights which the law was established to provide. In addition, the urban programs offer services to assist the Indian family to meet court requirements to get legal custody of their children returned to them.

Please provide your continued support for the Indian Child Welfare Act and support the \$1 million dollar increase for fiscal year 1985 funds and in addition please continue to support off reservation Indian Child Welfare Act programs.

Sincerely,


Ethel C. Krepps
ICWA Attorney/Project Manager

"To Unite and Achieve"
"TRADITIONAL INDIANS WORKING FOR PROGRESS"

May 23, 1984

WRITTEN TESTIMONY

COMMENTS AND RECOMMENDATIONS

Submitted By

THE NATIVE AMERICAN REHABILITATION ASSOCIATION

To

THE CONGRESSIONAL OVERSIGHT COMMITTEE
On the Indian Child Welfare Act of 1978

Honorable Senator Mark Andrews and Members of the Oversight Committee:

This written document is respectfully submitted by Sidney Ann Brown, Blackfeet, Executive Director of the Native American Rehabilitation Association of Portland, Oregon, representing the concerns of the Urban Indian People and the Native American Rehabilitation Association Board of Directors. We want an increase in appropriations for the Indian Child Welfare Act Programs currently administered by the Department of Interior, Bureau of Indian Affairs.

The Native American Rehabilitation Association recognizes that there are many important concerns with the Act, some of which have been expressed. However, the emphasis of our testimony must be on the critical issue of funding. Without an adequate and reliable funding base, other changes and/or amendments to the Act will not help tribes and urban organizations provide the services that are necessary to meet the intent of the Act.

The Native American Rehabilitation Association is asking that Congress:

- Establish a funding authorization separate from the Bureau of Indian Affairs;
- Establish an authorization level of \$29.5 million as recommended by the Association of American Indians and Alaskan Native Social Workers;
- Provide funding for tribes and urban programs on an entitlement basis rather than a competitive basis;
- Mandate funding to be consistent and on a three year cycle;
- Establish a method for monitoring and compliance of states and private agencies including enforcement by penalty for non-compliance;
- Establish a consistent reporting system for research, information, and entitlement purposes.

As Indian people, united on this issue of Indian Child Welfare, we present our case. We maintain that our cause was presented with overwhelming evidence and justification six years ago. This Act, without proper appropriations, is now adding to the problems evidenced six years ago, by causing manifold complications resulting from Tribes and urban programs trying to handle cases when there are not adequate social services and trained judicial systems to ensure proper care and due process for Indian children.

Our most valuable resource is our human resource...our children. Traditionally, Indian People consider our children our primary resource for providing the link between generations, the carriers of tradition and culture and for ensuring that The People continue to exist.

The Native American Rehabilitation Association is a urban private non-profit Indian-managed social service agency, incorporated under the laws of the State of Oregon, that has received national recognition as a culturally relevant Indian Alcohol Program. In the past 13 years of operation the need to attend to the problems of families at risk of losing custody of their children was identified.

The award of \$50,000 from the Bureau of Indian Affairs for a Native American Rehabilitation Association Indian Child Welfare component has allowed the agency to become totally involved in the dynamics of a family eligible for Indian Child Welfare services. In FY 83-84 the Native American Rehabilitation Association was charged with serving fifteen (15) primary families (parent and children). Prior to the Indian Child Welfare award these families were always referred to outside agencies and other social service providers. When funded the Native American Rehabilitation Association restricted intake to clients identified as alcoholics with deficiencies in parenting skills and inability to assure safe environments for their affected children as the presenting problems causing the parental rights at risk.

Over a ten month period (July, 1983 - April, 1984) the Native American Rehabilitation Association served 34 parents and 64 youth utilizing Indian Child Welfare funds; 14 children were court involved, and seven of these 14 were court dependent. 47 were 8 years or less and 18 were youth (9 to 18 years of age). Referral sources included self, other Indian Child Welfare programs, Children's Services Division, family courts and tribal social services. The Native American Rehabilitation Association's unique and innovative treatment program has been identified by the Bureau of Indian Affairs as a model Indian Child Welfare program. The Native mother and children are placed in a residential treatment setting and the Native father and adolescent boys reside in the Totem Lodge residential treatment program. The entire family is treated.

Referrals began to pour in from the surrounding states, beyond the Indian Child Welfare Programs staff's ability to serve. Residential clients' waiting lists were established and the Outpatient Treatment Services were devised to meet the needs of local clientele.

Nineteen of these families were court dependence involved. Sixteen of these families served made good progress within their first 90 residential treatment days. Initially it was necessary to place four of the children in foster care. A total of twenty-one children were returned to the parent(s) as a result of treatment at NARA. An additional twenty-three children were not yet court involved and further deterioration of the family was prevented as a result of treatment. Four of the youth who entered treatment as a family member were identified as already abusing alcohol and were provided primary early intervention treatment. The other 60 children of the alcoholic received prevention education services, thus disrupting the cycle of alcoholism and child abuse/neglect in the coming generation.

The Native American Rehabilitation Association's primary approach follows the holistic treatment mode. This approach has allowed NARA to enjoy an extremely low rate of repeat treatment (6%) and has induced many families to reunite in a healthy positive family environment. These same families many times become Native foster families and resources for others facing the same difficulties.

At the American Indian National Conference on Child Abuse and Neglect, Tulsa, Oklahoma on May 9-11, 1984, it was reported that approximately 90% of all ICW families define alcohol abuse as the primary cause of family breakup and of outside intervention and referral. Removal of Indian children from their families and culture; does not occur just on or near the reservation but in the cities also.

The Native American Rehabilitation Association has encountered several difficulties in operating under the Act and in implementation activities. They are as follows:

PROBLEM

-The Single State Agency in charge of Children's Services is not thoroughly aware of the intent of the law and some caseworkers do not know and have not followed the procedures set forth in the Act.
-Currently the Indian client must know about the law and establish that their children are enrolled or eligible for enrollment before it is assured that the Oregon State caseworkers involved observe the steps required to assure that Indian Children are removed and placed appropriately.
-There appears to be passive resistance to change on the part of the courts although there has been introductory training initiated. Their failure to follow through and carry out the intent of the law has resulted in many caseworkers and judges being unfamiliar with the law and therefore, unable to carry out the procedures set forth by the law.

RECOMMENDATION

....The recommended solution might be to stipulate that state agencies and the courts must provide information and training on the Indian Child Welfare Act in order to be in contract compliance and receive any Health and Human Service Block Grant Revenue.

PROBLEM

....The level of funding for each Indian Child Welfare project is inappropriate and inadequate for the scope of work. Under Subchapter 11, Section 1931, a minimum of eight types of child and family service programs are listed. It should be obvious to any administrator that a basic funding level is needed to operate every component of social services whether it is two or eight.

....Tribes and urban programs are being funded at a level that will cover one component of services under the Act, but due to grant competition, need and other factors, are actually being required to provide services from four or more components.

Example: One person alone may be required to run an Indian Child Welfare program which encompasses counseling, child protective services, para-legal services, administrative and foster home recruiting and placement, etc. Thus what occurs is the creation of an illusion that the programs have been ineffective, when actually the expected scope of work is such that only a complex service delivery system could address it.

RECOMMENDATION

....The recommended solution would be to provide adequate funding, at an appropriate level, based on entitlement rather than size, location of the program, or competitive methods.

Is a child from a small tribe or urban area any less important or less deserving of services than a child from a large reservation?

Since the enactment of P.L. 95-608 the primary problem has been a lack of a congressional appropriation. Without adequate funding to implement and carry out its purpose the law becomes moot. Indian Child Welfare needs were gravely illustrated and overwhelming evidence was presented to Congress six year ago, hence the Act. The needs haven't changed and neither has the struggle for funds. The process for allocation of ICWA funds is based on a competitive process causing inconsistency of program continuity and lack of services for many Indian children on and off reservations. Stop-gap, band-aid levels of funding reallocated from other programs within the Bureau of Indian Affairs cannot provide enough help to the American Indian Children.



Oneida bringing several hundred bags of corn to Washington's starving army of Valley Forge, after the soldiers had consistently refused to aid them.

Oneida Tribe of Indians of Wisconsin

Post Office Box 365

Phone: 869-2771

Oneida, WI 54155



OJEWIA OJEWIA TATEH
Because of the help of this Oneida Chief in securing a friendship between the oneida and the state of Pennsylvania, a new nation, the United States was made possible.

May 23, 1984

Senator Mark Andrews, Chairman
Select Committee on Indian Affairs
U.S. Senate
Washington, D.C. 20510

ATTENTION: Pete Taylor

Dear Senator Andrews;

The administration of the Indian Child Welfare Act has been difficult from the beginning. Appropriations for the implementation of the Act have been far from sufficient and the funding levels have been decreasing regularly. The number of Indian children in the system is increasing steadily and the Indian Child Welfare Program cannot perform the service to the individuals that is required to implement the Act.

Due to insufficient funding, there is only one staff person in our program who is just overburdened by the ever increasing caseload.

The purpose of the Indian Child Welfare Act must be supported financially and an increase in the allocation would provide the opportunity to properly administer the Act to the extent that it was intended.

Thank you for the opportunity to present this testimony.

Sincerely,

ONEIDA TRIBE OF INDIANS OF WISCONSIN

Tony Benson
Tony Benson, Council Member
Oneida Business Committee

TB/lf



Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

ONEIDA COMMUNITY HEALTH CENTER



Post Office Box 368
Oneida, WI 54155

RECEIVED MAY 25 1984
May 23, 1984

Senator Mark Andrews, Chairman
Select Committee on Indian Affairs
U.S. Senate
Washington, D.C. 20510

Attention: Pete Taylor

Dear Senator Andrews:

I am writing this letter with regards to the Indian Child Welfare Act (P.L. 95-608).

Presently I am the Coordinator for the Indian Child Welfare Program for the Oneida Tribe of Indians of Wisconsin. First of all I would like to acknowledge the primary purpose and intent of the Indian Child Welfare Act. Many people know of the existence of the ICWA but few (besides the Tribes themselves) are able to conceive the intent. The ICWA was originally brought forth due to the number of Indian children being arbitrarily removed from their families and communities. The ICWA surfaced due to the experiences and consequences of the experiences of those children who were removed from their families. Consequences being alcoholism, family dysfunction, domestic violence, emotional, psychological, and physical damage, behaviors of child abuse and child neglect, incest, early teenage pregnancies, confusion, identity problems and suicide. Most important the ICWA protects what is considered to be the most prized possession, the Indian family unit and Indian children.

After the many years of ego, cultural and self-esteem destruction which has been placed on Indian people by the dominant society, the ICWA is only one step of re-establishing and building families, and the pride of being Indian.

Oneida Tribe of Indians of Wisconsin



BECAUSE OF THE...
Because of the...
of this Oneida...
in coming to...
ship between...
and the...
of Pennsylvania...
and the...
of the United...
States was...
possible.

414-869-2711

Patterns of Indian families can be very strong and positive. The influence and interactions of the elderly, of aunts, uncles, other extended family and community is beneficial in terms of support, guidance, confidence and role models. Through the years of cultural deprivation many Indian people have lost sight of the positive effects of extended family. Although sight has been lost Indian people can once again start using these basic family tools.

As a Coordinator of the Indian Child Welfare Act in my community I still see attempts to place Indian children in non-Indian foster homes. I see state and county people talking of the act as a problem rather than in a positive nature. I see Indian children still being adopted into non-Indian homes. I see no centralized recordkeeping for Indian adoptions. I also talk with and see the social problems, the confusion and the sense of no-identity of adults who as children were adopted out to non-Indian homes. These people search for some identity of what being Indian means; an answer they may never come to understand or find. One learns cultural values as he is being raised by extended family members and living within the community. There are non-Indian families who have adopted Indian children and have treated them as non-equals, who have never allowed them to explore their culture and who know nothing of Indian people. Yes, these situations still exist.

With the ICWA they do not occur quite as often as before. Our tribe does not license our own foster homes, but the counties have licensed some Indian homes for the use of placing Indian children. You see the ICWA needs to grow and become stronger rather than diminish. With the ultimate goal of preventing as well as stopping arbitrary removal of Indian children from their homes, establishing strong family ties and to prevent the major social problems that occur as a result of removal from one's culture. It took generations and generations to breakdown the family structures of Indian families and it is impossible to rebuild those years of oppression in six (6) years.

One of the main problems we are faced with at this point is the cutbacks in funding. At present the population of Oneida is 4,393 (1983 population estimate) with 1,577 children under 18 (1983 population estimate). I have a caseload at present of 75 children and families. There exists one Indian Child Welfare worker, which is myself. The caseload of 75 includes cases of which are presently being worked on and cases which are in need of follow-up.

With such a large caseload and the responsibilities; one must question the quality of time allocated for clients and the quality of follow-up.

It has always been, and still is, considered that the children are the most prized existence of an Indian community. I feel that the Indian Child Welfare Act is at this time beginning to make the positive impact on Indian families and Indian communities, that seems so natural for Indian people.

Indian Tribes are still in the process of developing systems for foster homes, adoptions and developing a system (once again) to have Indian people help themselves. Rather than considering defunding the programs, I ask that with your hearts look at our requests to increase if not maintain present funding. I could continue on with more testimony but I have a number of investigations to complete and home visits to make. But I ask that as you read or hear this you listen for the words that are between the lines.

Respectfully submitted,

Kathleen E. King

Kathleen E. King, Coordinator
Oneida Indian Child Welfare Program
ONEIDA COMMUNITY HEALTH CENTER

KEK/dct

*Oneida Tribe of Indians of Wisconsin
P.O. Box 365
Oneida, WI 54155*



Oneida brings several hundred years of experience to Washington's law-making process. After the colonists had consistently refused to aid them.

Oneida Tribe of Indians of Wisconsin



Phone: 869-2771

Oneida, WI 54155



DEBRA POWLESS TAIPE
Because of the help of this Oneida Chief in cementing a friendship between the nations and the Colony of Pennsylvania, a new nation, the United States was made possible.

RECEIVED MAY 30 1984

May 21, 1984

Senator Mark Andrews, Chairman
Select Committee on Indian Affairs
U.S. Senate
Washington, D.C. 20510
Att: Pete Taylor

Dear Mr. Andrews/Taylor:

I am writing this letter in behalf of the Indian Child Welfare Act. for testimony.

I presently sit on the Indian Child Welfare Act Board in Oneida Wisconsin. I am presently in charge of a Indian foster child. I have an adopted son who is half Winnebago and half Oneida. I am an enrolled Oneida member of the Oneida Tribe of Indians of Wisconsin.

The act has given Indian people the opportunity to step in and determine the future of their own. The act gives Indian people an initiative to appeal and a standing stone to fight decisions they may not have before had they not the feeling someone was backing them and their children up.

Finally, our Indian children belong to us and no non-Indian has the right to make those decision for us.

Sincerely,

Debra Powless
Debra Powless,
Oneida Child Protective Board

Pyramid Lake Paiute Tribal Council

Post Office Box 256
Nixon, Nevada 89424
Telephone: (702) Nixon No. 3

May 15, 1984
RECEIVED MAY 21 1984

Senator Mark Andrews, Chairman
Select Committee on Indian Affairs
United States Senate
Washington, D.C. 20510

Attention: Pete Taylor

Dear Senator Andrews,

As an Indian Tribe that has been in receipt of a grant under P.L. 95-608, the Indian Child Welfare Act, since 1980, I wish to address my personal experience with the benefits received, as Tribal Chairman.

The Pyramid Lake Paiute Tribe has utilized their Indian Child Welfare Grant to establish a much needed Day Care Center on the Reservation. This Center is providing care to children ages birth through twelve years who are considered to be at risk in their home situation. These are usually children from a single parent family.

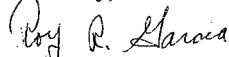
The Day Care Services enable the parent to continue education, accept full or part-time employment or receive a much needed break from the very demanding schedule of raising small children.

The Services provided to our children and families through the Indian Child Welfare Grant have had a very positive impact upon the stabilization and maintenance of children within their immediate family setting.

I would implore you to weigh carefully all evidence presented to you as an investigative committee and feel certain you will find the appropriations for the Indian Child Welfare Grants to be well worth continued funding.

Thank you for your consideration.

Sincerely,



Roy R. Garcia
Tribal Chairman
Pyramid Lake Tribal Council

RG/sh

c c: Association on American Indian Affairs, Inc.

PYRAMID LAKE PAIUTE TRIBE
SOCIAL SERVICES PROGRAM
P.O. Box 256
Nixon, Nevada 89424

(702) 476-0188 (702) 476-0182



May 15, 1984

Senator Mark Andrews, Chairman
Select Committee on Indian Affairs
United States Senate
Washington, D.C. 20510

Attention: Pete Taylor

Dear Senator Andrews,

As an Indian Tribal Social Worker, I have had much experience with the Indian Child Welfare Act itself, as well as the programs established through the Grant portion of the Act.

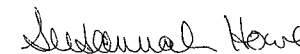
I have worked with Tribes within the isolated areas of Nevada for the past four and one-half years. I can testify to the fact that without the grant funds appropriated through the Indian Child Welfare Act, many, many Indian Children would be in foster care today. Instead, programs funded through the Act have intervened successfully and provided the guidance and assistance necessary to stabilize the family, enabling the children to remain.

One very important aspect of the Act is that all funds are used for on-Reservation programs. There are no administrative funds which are used to fund Bureau of Indian Affairs personnel or other governmental agency costs. All funds are used to directly benefit the Indian children and families. This is very unique, as well you know, among government programs.

I feel it would be a grave mistake as well as a miscarriage of justice to diminish the funds appropriated through the Indian Child Welfare Act. It was an Act established through need and necessity to promote and safeguard the Indian Family as a viable, healthy unit capable of rearing children with a sense of pride, dignity and self-worth. Please do not deny the Indian Family the opportunity to survive.

Your consideration is greatly appreciated.

Sincerely,



Susannah Howe
Director/Social Worker
Pyramid Lake Tribe



The Saginaw Chippewa Indian Tribe

7070 EAST BROADWAY MT. PLEASANT, MICHIGAN 48858 (517) 772-5700

May 16, 1984

RECEIVED MAY 21 1984

The Honorable Mark Andrews
Chairman
Select Committee on Indian Affairs
United States Senate
Washington, D.C. 20510

RE: Oversight Hearings on Implementation of the Indian Child
Welfare Act of 1978

Dear Senator Andrews:

The Saginaw Chippewa Indian Tribe of Michigan is a federally recognized Indian Tribe in the State of Michigan, operating under a tribal constitution adopted March 8, 1937 and approved on May 6, 1937. Our tribe has a community court that operates under a tribal code with six separate titles.

In 1979 the tribe implemented the Indian Child Welfare Act, by appointing a child welfare committee, which now has five members and five alternates. This child welfare committee is a wholly voluntary group, because there are not adequate funds available to pay for their services. The members of the child welfare committee are often undertaking tiring and thankless jobs, because of this the turn-over rate is higher, because the incentive is low. Members of the child welfare committee fully realizes how important their task is, but it is hard to maintain self-esteem in such a position where the return is often negative.

In spite of those negative factors involved, our child welfare committee has cooperated with our community court and Inter-Tribal Council of Michigan, Inc., in forming an excellent child welfare program. We are very proud of being one of the leading states in child welfare activity.

The main problem as we see it is that it appears that the present administration is not committed to the spirit of the Indian child welfare act of 1978. In fiscal year 1984 the urban and reservation Indians in Michigan have taken a 38% cut in funding, of that 38% the Inter-Tribal Council of Michigan has taken 48% cut. Michigan took a 53.29% cut of the total amount allocated to Minneapolis Area Office.

It seems that we are now being rewarded for supplying some of the finest services in the nation, by having our programs emaciated. This is almost unconscionable when you consider how important the task of our child welfare programs are.

The Honorable Mark Andrews
Chairman
Select Committee on Indian Affairs
Page 2
May 16, 1984

Up to this fiscal year we have been able to provide the following services to implement the child welfare program in Michigan:

1. Legal services;
2. Placement services;
3. Training of committees and workers;
4. Social services; and
5. Technical assistance to State courts.

In addition to the services provided the Michigan tribes have implemented Title I to the child welfare act, through the following:

1. Providing exclusive jurisdiction to tribal or community courts by implementing procedures and adopting a children's court.
2. Provided liaison with those State probate courts that have the heaviest volume of Indian child welfare cases.
3. Adopted procedures for intervention in State court proceedings where Indian children are involved.
4. Provided the State with alternative for placing Indian children, when jurisdiction is not actually transferred to tribal courts.
5. Provided procedures for transfer of jurisdiction from State to tribal courts.
6. The Inter-Tribal Council of Michigan, through its child welfare attorney, Michael C. Parish, has been conducting negotiations to develop State-Tribal Agreements as provided in Section 109 of the act.

The basic problem the tribes have had is lack of alternatives in dealing with child welfare cases. This is because we do not have all the resources available to us that the States do in dealing with children's problems. For this reason we sometimes, merely intervene and do not ask for transfer of jurisdiction, especially when we know that our courts do not have the resources available to handle the wide variety of child welfare cases that come out. Some of the children's problems, are just too much for our Pre-1984 resources.

Given our lack of resources to assist in the handling of children problems it is unconscionable for the administration to propose cuts that will further reduce our ability to provide services at a critical time when more is needed not less. We believe that our children are our most important asset and we should be doing more not less. Thank you.

Sincerely,

Arnold J. Sowmick, Sr.
Arnold J. Sowmick, Sr.
Tribal Chairman

PREPARED STATEMENT OF SAVE THE CHILDREN
 SUBMITTED BY DR. HELEN M. SCHEIRBECK, DIRECTOR
 AMERICAN INDIAN NATIONS PROGRAM

On behalf of Save the Children Foundation (SCF), I would like to submit for the hearing record of the Senate Select Committee on Indian Affairs the following statement on the Indian Child Welfare Act. As you may know, Save the Children Foundation is a private, nonprofit organization. During the past five years it has sponsored the National Indian Child Conference -- an important forum for the exchange of information on current developments in areas of community development and child welfare unique to the Indian population.

At the present time, the American Indian Nations Program of Save the Children operates in eight field offices which serve sixty Indian tribes and communities. The experience of these field offices confirms the need to give continued high priority to administration of the Indian Child Welfare Act. For, adoptions and foster care placements remain a critical problem in the area of Indian Child Welfare. Recent statistics indicate that despite the efforts on behalf of Indian children under the Indian Child Welfare Act that much work remains to be done. To be more specific,

- * The rate of Indian to non-Indian placements is up to 27 times higher in at least one state.
- * Overall, the rate of Indian to non-Indian placements is four times higher.
- * Twenty-five to thirty-five percent of all Indian children are separated from their homes and placed in adoptive homes, foster homes, or institutions. Many of these children are placed in non-Indian homes and face serious social and cultural adjustments as a consequence.

We feel that there are two aspects of the Indian Child Welfare Act that warrant the attention of this Committee: (i) the substantive and administrative provisions of the law which require clarification; and (ii) the adequacy and accessibility of federal funds to carry out the objectives of the law. With regard to the first, we note that many of the witnesses that testified at the April 25, 1984 hearing have already detailed technical amendments to more clearly delineate the scope of state and tribal authority and to clarify specific provisions of the Act. Thus, our comments will focus on the second aspect: funding.

During the years that the American Indian Nations Program of SCF has worked at the community level, it has found that the area of services demanding the largest allocation of its program budget is social welfare. (Among the areas of program activity covered by this program division are welfare, education, public works, housing, health and nutrition, and agriculture. Of the program's total budget for these activities, social welfare accounts for almost 50% of its expenditures). Funds budgeted for social welfare are allocated for both direct services and developing community-based institutions to ensure such services are available on an on-going basis.

On the basis of our experience at the community level, we feel that if the goals of the Indian Child Welfare Act are to be attained then additional funds must be made available to undertake activities that facilitate the maintenance of the family unit in addition to the crisis intervention activities currently carried out under the Act, (i.e. foster placement, adoption, and adjudication of alleged child neglect and/or abuse).

Within most Indian tribes and communities today there are numerous factors contributing to the disintegration of the family unit. At the head of the list is epidemic unemployment. Despite this, as the testimony of witnesses appearing before this Committee on April 25, 1984 confirms, the services central to reducing the likelihood that an Indian child will have to be removed