Mr. BUCKMAN. For the ongoing child welfare program?
Senator MELCHER. Yes.
Mr. BUCKMAN. $40,630.
We have two staff people and approximately one-eighth of the budget goes to juvenile prevention activities. About $1,500 goes to the tribal courts.
Senator MELCHER. Obviously, with only $16,000 through the grant——
Mr. BUCKMAN. We have only $16,000 to carry on the program.
Senator MELCHER. And it is a $40,000 program?
Mr. BUCKMAN. Yes, sir. I do not see how we are even going to begin to implement the act without adequate funding.
Senator MELCHER. I do not either. It is very pertinent that we are able to provide adequate funding so we can have the act implemented.
Thank you very much, Rudy.
Mr. BUCKMAN. Thank you.
[The prepared statement follows. Testimony resumes on p. 117.]

PREPARED STATEMENT OF RUDY BUCKMAN, FORT BELKNAP INDIAN COMMUNITY COUNCIL

The Fort Belknap Indian Community is pleased to have this opportunity to testify on the oversight hearings on problems encountered in implementing the Indian Child Welfare Act of 1978.

The basic purpose of the Act is to protect Indian children from arbitrary removal from their homes and families. Indian children are the most important asset to the future of Indian stability. The Indian Child Welfare Act recognizes tribal sovereignty by recognizing Tribal Courts as forums for the determination of Indian child custody proceedings.

Furthermore, the Act will further strengthen the integrity of the Indian extended family custom by eliminating certain child welfare practices which cause immediate and unwarranted Indian parent-child separations, and ameliorating of any discriminatory practices which have prevented Indian parents from qualifying as adoptive family or foster parents. The Act requires federal and state governments to respect the rights and traditional strengths of Indian children, families and tribes.

It appears to be the feeling of many state and local governments that the Child Welfare Act is applicable only to tribal governments and not to themselves. It must be emphasized that the Indian Child Welfare Act does not place any restrictions upon a Tribal Government to enact legislation in Indian child welfare matters, but places those restrictions and obligations contained in the Act upon the states.

Although the Act is important, it does have several problems which must be addressed in order to adequately implement the Congressional policy contained in 25 U.S.C. § 1912. The following are some of the concerns which must be addressed in order to protect our Indian children:

1. FUNDING APPROPRIATIONS AND ALLOCATIONS

Congress must appropriate more money than it has to implement the Act. Nationwide during fiscal year 1980 funding requests approved amounted to $11,631,121. Urban organizations received forty three (43) grants or twenty six percent (26%) of the total and rural or reservations received one-hundred and twenty-two (122) grants or seventy-four percent (74%) of the total. Eighty five (85) grant applications were not funded. Those tribes funded were not appropriated adequate funds to prepare their judicial and administrative capabilities to handle the increased case load which the Indian Child Welfare Act has stimulated.

Presently, there is no department or agency at Fort Belknap which is equipped to handle the cases referred of Tribal Court by states and other administrative agencies. Certainly with the $16,903 dollars allocated in FY 1980 not much progress can be made. With three times as many cases and no additional staff or

financial resources it is difficult to devote adequate time to adjudicate, place and follow up on individual clients.

The Act has also increased the case load of our Tribal Court at a time when our court system is facing extreme financial constraints. The case load at Fort Belknap Tribal Court, in child custody matters has increased by 300% since the passage of the Indian Child Welfare Act. These cases are referred to our court not only from the State of Montana but have come from the states of Washington, Utah, Idaho, Iowa, Illinois, Minnesota and Virginia. There appears to be no end in sight and that additional funding for the court system is necessary in order to fully resolve child custody cases. The Tribal Government of the Fort Belknap Indian Community realize the importance and significance of the Act and have taken appropriate steps such as redrafting their Children's Code, designated the On Going Child Welfare office to handle referrals from the state and have attempted to seek out funding to further strengthen our child welfare program.

2. STATE INVOLVEMENT

The Fort Belknap Indian Community has had numerous meeting's with the Social and Rehabilitative Services of the State of Montana to discuss the state's position concerning the implementation of the Indian Child Welfare Act. It appears that we have had little success because the state wants little to do with Indian children after the passage of the Act. The state appears reluctant to pay for foster care or provide services after a child has been referred to Indian Court. As we indicated earlier the state is eager to transfer cases to our tribe's jurisdiction but little or nothing is done after that. The basic problem seems to be the lack of services. These include the certification of foster homes, foster parents and payment for temporary shelter. For example, Fort Belknap has received funding and is completing a Group Home facility which will be able to shelter twenty-two (22) youths in need of care and houseparents. If the home is not certified by the state no payment can be made for clients placed there by the Fort Belknap Court. Even homes that are certified as foster home shelter units are having problems receiving foster care payment from the state.

3. B.I.A. INVOLVEMENT

The Bureau of Indian Affairs does not have the organization or funding to assist the Tribes or perform the necessary functions as required under the Indian Child Welfare Act. As we indicated earlier the Tribal Government of the Fort Belknap Indian Community submitted a proposal for Indian Child Welfare Act funds and were told that the funds would be competitive based upon the proposals submitted by the Tribes. However, the funds were not distributed upon a competitive basis but were allocated to be pro-rated out to the Tribes. We received $16,903. The proposal submitted to the Bureau by the Fort Belknap Indian Community received the highest grading in the Billings Area but got less than ⅓ of their request which will jeopardize the progress made in the area of child welfare. Furthermore, these funds are to be utilized before the end of fiscal 1980 and then grant application for fiscal 1981 are to be submitted by December 31 of 1980 but the funds for fiscal 1980 will not be activated until April 1, 1981 which leaves approximately a six-month gap in the funding period which will have a detrimental effect upon the continuity and progress which the Tribes have obtained up to that point.

4. Other Tribes Involvement

The Tribal judicial system and the child welfare program of the Fort Belknap Indian Community have had cases which have involved other tribes within and without the state of Montana. There seems to be a further need for clarification and understanding of the Act in order to resolve jurisdictional disputes which may arise. We have not encountered any disputes which we have not been able to resolve on an amicable basis but there is room for serious problems that must be addressed before they reach proportions that require litigation.

These are only a few of the major areas which concern the Tribal Government of the Fort Belknap Indian Community. We are pleased with the passage of the Indian Child Welfare Act and feel that it is a step in the right direction in re-affirming and re-emphasizing tribal sovereignty and self-government of Indian Tribes. We are attaching some documents and correspondence which pertain to the Act and our concerns with funding allocations. Thank you.

69-083 O - 80 - 7

Fort Belknap Community Council

(406) 353-2205
P.O. Box 249
Fort Belknap Agency
Harlem, Montana 59526

Fort Belknap Indian Community
(Tribal Govt.)
Fort Belknap Indian Community
(Elected to administer the affairs of the community and to represent the Assiniboine and the Gros Ventre Tribes of the Fort Belknap Indian Reservation)

June 19, 1980
DATE

John Melcher, Senator
United States Senate
6313 Dirksen Senate Office Building
Washington, D.C. 20510

Senator Melcher:

Enclosed please find a copy of a letter I recently sent to the American Indian Lawyer Training Program, Inc. expressing my concern and disappointment in the manner in which the Bureau of Indian Affairs allocated the funds to implement the Indian Child Welfare Act.

As Chairman of the Senate Select Committee on Indian Affairs you have probably already heard some concern expressed regarding the administration of funds allocated to implement the Act. We realize that there can be no action which will satisfy all tribes, but to purposely mislead tribes by saying monies would be competitive and then given pro rata does not make sense. I believe I once wrote you that this type of funding formula merely maintains the status quo of tribes in relation to each other. It soon leads to low morale and motivation among tribal leaders in various stages of development. For example, some do not need as much economic development aid or technical assistance as others. Another tribe might need more social development program monies. In otherwards tribal priorities must be viewed as guidelines for the Bureau of Indian Affairs to follow.

Sincerely Yours,

Chas "Jack" Plumage

Charles "Jack" Plumage, President
Fort Belknap Community Council

Fort Belknap Community Council

(406) 353-2205
P.O. Box 249
Fort Belknap Agency
Harlem, Montana 59526

Fort Belknap Indian Community
(Tribal Govt.)
Fort Belknap Indian Community
(Elected to administer the affairs of the community and to represent the Assiniboine and the Gros Ventre Tribes of the Fort Belknap Indian Reservation)

June 10, 1980
DATE

American Indian Lawyer Training Program, Inc.
319 MacArthur Blvd.
Oakland, California 94610

Dear Sirs:

We would like to express some of our concerns regarding the Indian Child Welfare Act of 1978 (P.L. 95-608) and the Bureau of Indian Affairs inept and inconsistent attempts to implement the law.

In a news release of the Department of Interior on July 27, 1979 the basic purpose of the Act was to restrict the placement of Indian children by non-Indian social agencies in non-Indian homes and environments.

> "The policy of the Act and of these regulations is to protect Indian children from arbitrary removal from their families and tribal affiliations by establishing procedures to insure that measures to prevent the breakup of Indian families are followed in child custody proceedings. This will insure protection of the best interests of Indian children and Indian families by providing assistance and funding to Indian tribes and Indian organizations in the operation of child and family service programs which reflect the unique values of Indian culture and promote the stability and security of Indian families. In administering the grant authority for Indian Child and Family Programs it shall be Bureau policy to emphasize the design and funding of programs to promote the stability of Indian families."

Please note that responsibility for "design and funding" was placed within the Bureau of Indian Affairs. In FY 1980 the Bureau of Indian Affairs received 250 grant applications requesting a total of $20,180.530 but could only approve $11,631.121. We have no basic argument with the inadequate funding levels, but we do have grave concerns over the administration of the funds on the part of the Bureau of Indian Affairs.

pg.2/letter to American Indian Lawyer Training Program, Inc.

In order to view our complaint in the proper perspective a review of what actually happened to Fort Belknap is in order. (See attachment I) I attended hearings on the implication's and ramifications of implementing the Act in Denver, Colorado in April. In January 1980 some of the Tribal staff from Fort Belknap attended an "urgent" meeting in which the Social Service Director of the Bureau of Indian Affairs in the Billings Area Office requested proposals from each tribe in the Area. The staff were informed that all grants to implement the Act would be competitive, and no tribe with a "poor" proposal would be likely to receive grant monies to implement the Act. As you see (attachment II) Fort Belknap ranked the highest in the Area with a score of ninety-four (94) to staff and care for those children referred to Fort Belknap under the Act. Fort Belknap was constructing a Group Home with a capacity of eleven girls (11) and eleven (11) boys and house parents with funds from LEAA. As stated earlier we had already enacted and adopted a Children's Code with specific references to the Indian Child Welfare Act. Much to our surprise every tribe in the Area was funded at approximately $16,000.-$17,000.00. As indicated in Attachment II Fort Belknap requested $55,740.00 and received $16,903.00 or just under one-third (1/3) of our request. At the same time the Shoshone Tribe and Arapahoe Tribe who occupy one reservation but have two councils each received $16,384. each or about one-half (1/2) of their requests with ratings lower than Fort Belknap's. We do not consider this method ethical or equitable on the part of the Bureau of Indian Affairs. In regard to this matter the Bureau of Indian Affairs has reached the heights of mediocrity. To say proposals will be ranked according to priority and competitiveness and to allocate funds pro-rata does not make sense. We object to this type of treatment by the Bureau of Indian Affairs. Moreover, priorities can only be set by tribes and not the Bureau of Indian Affairs.

Only last week former Secretary of State Cyrus Vance said in the Harvard commencement address that the United States should give funds to countries (allies) in the Western Hemisphere so that they may become friends and develop their own military power with our dollars. He was referring to billions and billions of dollars. Yet Indian Tribes, Indian Nations, and Indian people to whom the United States Government has a special relationship cannot receive adequate funding for a law in which Congress passed. The funds allocated were grossly inadequate and even these inadequate funds were poorly distributed by the Bureau of Indian Affairs.

Sincerely,

Charles "Jack" Plumage
President

Attachment I

STATEMENT OF THE FORT BELKNAP INDIAN COMMUNITY

(Gros Ventre and Assiniboine Tribes)

ON THE INDIAN CHILD WELFARE ACT OF 1978

My name is Charles "Jack" Plumage, and I am here in behalf of the Tribal Government of the Fort Belknap Indian Community (Gros Ventre and Assiniboine Tribes) of the Fort Belknap Indian Reservation, Montana. The Tribal Government is pleased to have this opportunity to testify on the implementation and ramifications of the Indian Child Welfare Act.

It goes without saying that our Indian children are the most critical resource of Indian tribes. At a time when Indian tribes are being challenged from all fronts, the Indian Child Welfare Act of 1978 reaffirms tribal sovereignty in the area of child welfare matters.

Futhermore, the Act will further strengthen the integrity of the Indian extended family custom by eliminating certain child welfare practices which cause immediate and unwarranted Indian parent-child separations, and ameliorating any discriminatory practices which have prevented Indian parents from qualifying as adoptive family or foster parents. The Act requires Federal and State Governments to respect the rights and traditional strengths of Indian children, families and tribes.

It appears to be the feelings of many state and local governments that the Child Welfare Act is equally applicable to tribal governments. It must be emphasized that the Indian Child Welfare Act does not place any restrictions upon a Tribal Government in enacting legislation in Indian Child Welfare matters, but places those restrictions contained in the Act upon the states.

Although the Act is important, it does have several ramifications which must be addressed in order to adequately implement the Congressional policy contained in 25 U.S.C. § 1912. The following are some of the concerns which must be addressed in order to protect our Indian children:

1. Funding: The Congress must appropriate adequate funds which must be made available to Indian tribes for the purpose of preparing their judicial system and increasing their administrative capability in order to handle the increased case load which the Indian Child Welfare Act has stimulated. At the present time, Indian tribes do not have an Indian child welfare agency or department within which to adequately handle the administrative case load and referrals referred to Tribes by the state. At Fort Belknap we are receiving approximately 50% referrals from states which must be handled in a confidential and professional fashion. But without adequate financial resources and staffing, it is extremely difficult to handle these matters.

The Act has also increased the case load of our Tribal Court at a time when our court system is facing extreme financial restraints. The case load in child custody matters has increased by 75% percent since the passage of the Indian Child Welfare Act. These cases are referred to our court not only from the State of Montana but have come from the states of Washington, Utah, Iowa, Illinois, and Minnesota. There appears to be no end in sight and that additional funding for the court system is necessary in order to fully resolve child custody cases and protect the rights of all parties. The Tribal Government of the Fort Belknap Indian Community realizes the importance and significance of the Act and have taken appropriate steps such as redrafting their Children's Code, designated an office to handle referrals from the state, and have attempted to seek our funding to further strengthen our child welfare program.

which leaves approximately a six-month gap in the funding period that will have an enormous effect upon the continuity and progress which the Tribes have obtained up to this point.

4. Other Tribes Involvement: The tribal judicial system and the child welfare program of the Fort Belknap Indian Community have had cases which have involved other tribes within and without the state of Montana. There seems to be a further need for clarification and understanding of the Act in order to resolve jurisdictional disputes which may arise. We have not encountered any disputes which we have not been able to resolve on an amicable basis but there is room for serious problems that must be addressed before they reach proportions that require litigation.

These are only a few of the major areas which concern the Tribal Government of the Fort Belknap Indian Community and we would like to leave the record open in order to provide you with further data in support of this statement. Again, we would like to emphasize that we are pleased with the passage of the Indian Child Welfare Act and feel that it is a step in the right direction in re-affirming and re-emphasizing tribal sovereignty and self-government of Indian Tribes.

2. State Involvement: The Fort Belknap Indian Community has had numerous meetings with the Social and Rehabilitative Services of the State of Montana to discuss the state's position concerning the implementation of the Indian Child Welfare Act. It appears to us that the state of Montana wants little to do with Indian children after passage of the Indian Child Welfare Act. The state appears to have no difficulty in transferring those cases to the Tribes' jurisdiction but relinquish and deny any responsibility beyond the borders of the Reservation. In a time when the State and Federal government are cutting back budgets drastically the whole matter boils down to not wanting to spend any money upon Indian reservations.

3. BIA Involvement: The Bureau of Indian Affairs per se does not have the organization or funding to assist the Tribes or perform the necessary functions as required under the Indian Child Welfare Act. The Tribal Government of the Fort Belknap Indian Community submitted a proposal for Indian Child Welfare Act funds and were told that the funds would be competitive based upon the proposals submitted by the Tribes. However, it has just come to our attention that the funds were not distributed upon a competitive basis but are going to be pro-rated out to the Tribes. The proposal submitted to the Bureau by the Fort Belknap Indian Community received the highest grading in the Billings Area but yet will get less that 1/3 of their request which will extremely jeopardize the progress made in the area of child welfare. The funds were to be activated on April 1, 1980 but still have not been due to a hold placed upon them by the Navajo Nation.

Furthermore, these funds are to be utilized before the end of fiscal 1980 and then grant application for fiscal 1981 are to be submitted by December 31 of 1980 but the funds for fiscal 1981 will not be activated until April 1, 1981

APPROVED GRANT APPLICATION REPORTING FORM

Attachment II

Instructions: This form is to be completed by Area Offices after all applications have been received. Only those approved grant applications should be listed and sent to the Central Offices in order to allocate funds, using the grant formula enclosed in this material.

Area Office: Billings

For Central Office Use:

Submitted by: Billings Area Director

Reviewed by:

Date Submitted: February 29, 1980

Date:

Ranked according to Priority Grantee	Rating Score in ( ) Name of Project	Location or Address	Estimated Client Population	% or Total Indian Population	Funding Requested	Formula Allocation	Actual Funding
#1 Ft. Belknap Community Council	Ft. Belknap Group Home (94)	Ft. Belknap Agency Harlem, MT	180	.0011	$ 55,740	16,903	16,903
#2 Arapahoe Tribe	Indian Child Welfare Program (92)	Wind River Agency Ft. Washakie, WY	130	.0008	31,233	16,384	16,384
#3 Assiniboine and Sioux Tribes	Family Oriented Services to Children (89)	Ft. Peck Tribes P. O. Box 1027 Poplar, MT	200	.0012	84,965	17,076	17,076
#4 Montana United Indian Association	Prevention of Child Abuse in Urban Indian Families (88)	MUIA P. O. Box 5988 Helena, MT	160	.0010	50,444	16,730	16,730
#5 Blackfeet Tribe	Implementation of Child Welfare Act (84)	P. O. Box 850 Browning, MT	150	.0009	34,450	16,557	16,557
#6 Shoshone Tribe	Shoshone Indian Child Welfare (81)	Wind River Agency Ft. Washakie, WY	130	.0008	31,177	16,384	16,384
#7 Salish and Kootenai Tribes	Component #1 Children's Legal Code (77)	Flathead Agency Box 278 Pablo, MT	180	.0011	56,360	16,903	16,903
#8 Crow Tribe	Child and Family Service (75)	Crow Agency Crow Agency, MT	170	.0010	53,380	16,730	16,730
				.0079			133,667

Billings

16,903.0000+
16,384.0000+
17,076.0000+
16,730.0000+
16,557.0000+
16,384.0000+
16,903.0000+
16,730.0000+
133,667.0000*

0.0011+
0.0008+
0.0012+
0.0010+
0.0009+
0.0008+
0.0011+
0.0010+
0.0079*

APR 15 1980
UNITED STATES GOVERNMENT

memorandum

DATE: APR 07 1980

REPLY TO ATTN OF: Acting Deputy Commissioner of Indian Affairs

SUBJECT: Allocation of Indian Child Welfare Act II Grant Funds

TO: All Area Directors
Attention: Social Services

RECEIVED APR 14 1980 Billings Area Office (BAO)

Attached you will find the listing of approved grants, which you submitted for funding under Title II of the Indian Child Welfare Act. This includes the client population and the percentage of the total client population for each grant application, the formula allocation per grant, and the actual available funding for each grant.

The formula allocation method was utilized at the 80 percentile level for each area. This was done for the purpose of increasing the size of the remainder in the funding formula in order to more effectively fund a large portion of grant applications (refer to 23.27 (c)(1)). The funds remaining after the formula allocation process were distributed across the areas to the remaining prioritized grant applicants until there were no remaining funds. If this method had not been utilized the majority of proposals would have received a grant of only $15,000.

This procedure left only three possible areas where all approved grants could not be funded. It also resulted in approximately 35% of the approved grant applicants receiving funding at the level they requested. Twenty-six percent of the total approved applications requested $16,000 or less. Only 7 approved applications did not receive funding due to the availability of funds (refer to 25 CFR 23.27 (c)).

As background, the Bureau received 250 grant applications for funding under Title II of the Indian Child Welfare Act requesting a total of $20,180,530. Funding requests for all approved grants totaled $11,631,121. Attached you will also find a brief summary sheet concerning the Title II grant program developed for budget purposes. This information should further explain the Bureau's inability to fund all approved grant applications, and to the amount of the grant request.

With the enclosed information you may proceed with the notification of applicants of funding, realigning or structuring of grants relative to funding level as necessary, and processing of other grant material as needed to initiate the grants. Financial management will be informing you of the formal financial allotments.

RECEIVED APR 15 1980 INDIAN SERVICES

OPTIONAL FORM NO. 10 (REV. 7-76) GSA FPMR (41 CFR) 101-11 5010-112
GPO : 1978 O - 251-465 (352)

Other grant program information that should be kept in mind is:

1) Appeals can only be filed with the Central Office up to thirty days after the decision by the Area Office. According to regulations, area should have informed:

a) All urban groups by February 18, 1980 of their decision.

b) All tribes should have been informed no later than March 18, 1980.

2) Tribes can apply for only one grant. Where it appears a tribe or organization has applied as a single grantee and in a consortium, Area Offices may redistribute the funding in the overlapping grant proposals to any applications that have remained unfunded in their area.

3) The recommended grant period for this initial funding period is from April 1, 1980 through March 31, 1981, or less if the grant proposal is for less than 12 months.

4) Grants should be reviewed a minimum of twice a year. The first review should be completed by area or agency staff no later than the end of September. A random quality control review will be undertaken during October 1980.

5) The next grant application period is tentatively planned for December 1980 and January 1981.

If any questions arise concerning this information, please contact Louise Zokan, Central Office Social Services.

Indian Child Welfare Act, Title II Grant Program

I. First grant application period ended January 18, 1980

II. Total number of grant applications received = 250
Number of grant applications approved = 165 or 66%
Number of grant applications disapproved = 85 or 34%

III. Total funding requested (including both approved and disapproved grant applications) = $20,180,503

Funding requested in all approved grant applications = $11,631,121
Funding requested in disapproved applications = $8,549,384

IV. Number of consortiums which were approved for funding = 17, composed of 150 tribes, or organizations. (Each consortium is considered one grant application in the total grant application figure).

V. Approximate % breakdown on approved applications:
26% Urban organizations (43)
74% Rural or reservation (122)

VI. Funding Alternatives: If all approved grantees (single applications and consortiums) would receive the base, figure of $15,000 as published in the Federal Register, the costs would equal $4,680,000. This would leave only $770,000 for distribution relative to % of client population.

Therefore alternative methods of allocating funds using the funding formula are being considered. The primary alternative is ranking the listing of approved grants in order of priority and then breaking down the client populations in each area by percentile, and funding programs using the formula down to a certain percentile. This would more adequately meet the requirements in 25 CFR 23.27 that each approved applicant "receive a proportionately equitable share sufficient to fund an effective program," and yet meet the requirement that grant approvals "shall be subject to the availability of funds."

VII. Major Concerns in FY 81:

1. The On-Going Child Welfare Program is being incorporated into the Title II program in FY 81. It will be highly improbable that these projects will be able to continue to operate with Bureau funding when their fiscal year ends September 1980, and the next grant application period will most likely not occur until December 1980 and January 1981 and funds will not be allocated before April 1, 1981. A six month gap will occur between possible funding periods.

2. The extreme limitation in funding requires that the grant program take on more structure, and become more highly competitive in order to maximize utilization of funds in the most "realistic" programs with tribes and Indian organizations.

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
BILLINGS AREA OFFICE
316 North 26th St.
BILLINGS, MONTANA 59101

IN REPLY REFER TO:
Social Services

JUN 03 1980

RECEIVED
Date 6-4-80
Fort Belknap
Community Council

Mr. Charles D. Plumage
President, Ft. Belknap Community Council
Ft. Belknap Agency
Harlem, Montana 59526

Dear Mr. Plumage:

We are transmitting another copy of information which you requested by telephone on June 3.

This same information was provided to you by the Area Director prior to your giving testimony in Denver. If you need additional information, please let me know.

Sincerely yours,

John N. Burkhart
Area Social Worker

Social Services

APR 2 2 1980

Memorandum

To: Superintendent, Ft. Belknap Agency

From: BAO Social Services

Subject: Funding for Ft. Belknap Child Welfare Act

We are submitting this information as per our telecon of this date. Mr. Charles Plumage, Chairman, Ft. Belknap Community Council, made a direct request for the amount of funding for the Ft. Belknap Indian Child Welfare Act Grants. These amounts are Ft. Belknap $16,903 and Area Wide $133,667. We advised him about the "appeals situation" and that although we had a memorandum from the Commissioner's Office outlining the tentative amounts to the tribes in this area, we had also received a verbal request from Central Office advising us not to dispense this information yet.

This was due to the statement that an appeal had been received in the meantime and that no allocation of funds were to be made until such time as the appeal period had passed and appeals had been resolved. The outcome of appeals would have a definite effect upon the amounts of allocations made to the other tribes. We have request, but have not received, written verification of the above mentioned telephone request. Therefore, these amounts are definitely tentative and will not be final until we received a formal notice of allocation of funds.

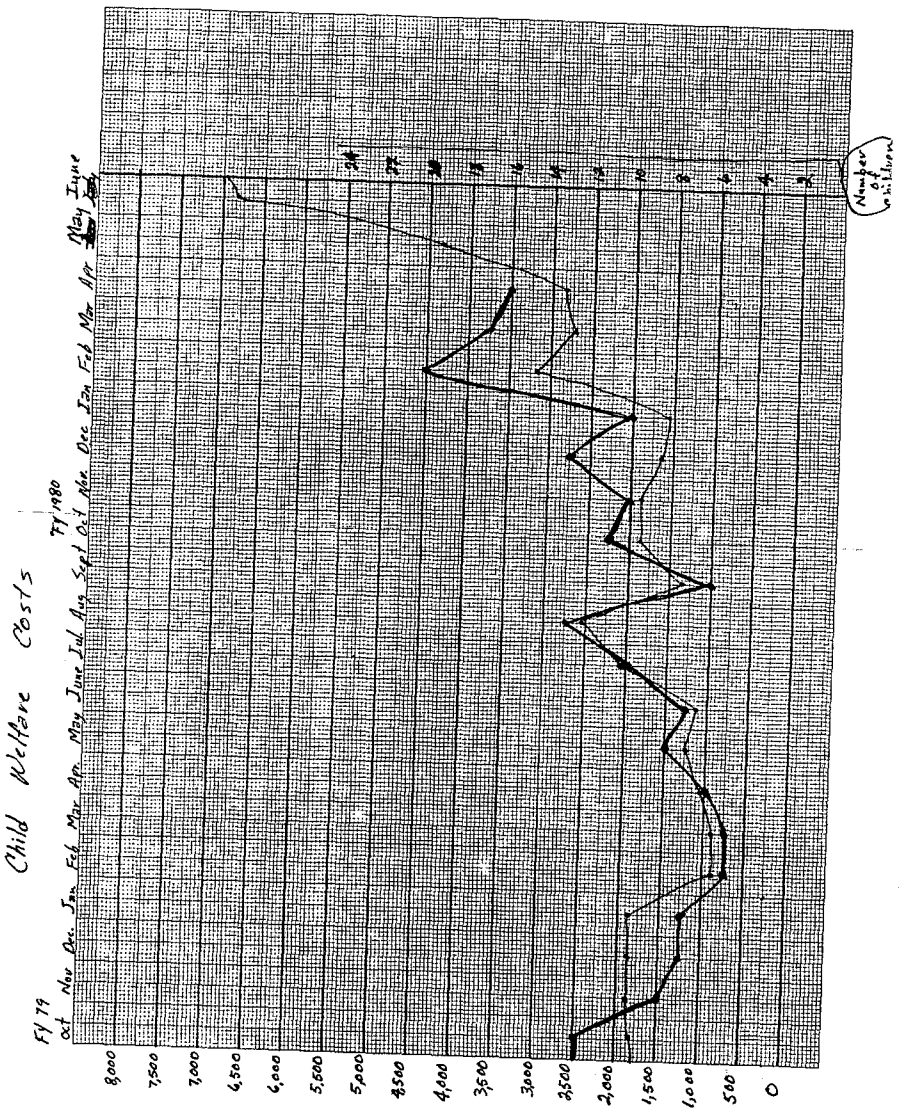
Since Mr. Plumage intends to raise this issue at the time of the hearings next week in Denver on the Indian Child Welfare Act, it is our opinion that he should have the information about the formula and distribution method used by Central Office in arriving at the amount of the grant.

/s/John N. Burkhart

John N. Burkhart
Area Social Worker

Enclosure

cc: Chief, Indian Services



Senator MELCHER. Our next witness is Bert Hirsch, Association on American Indian Affairs, New York. He is accompanied by Steven Unger.

STATEMENT OF BERTRAM E. HIRSCH, COUNSEL, ASSOCIATION ON AMERICAN INDIAN AFFAIRS, INC., NEW YORK, N.Y., ACCOMPANIED BY STEVEN UNGER, EXECUTIVE DIRECTOR

Mr. HIRSCH. We are going to do this the other way around, if you do not mind. Steven Unger is going to give the testimony.

Senator MELCHER. Yes; we have it. You may summarize it if you wish.

Mr. UNGER. Thank you, Mr. Chairman.

My name is Steven Unger. I am the executive director of the Association on American Indian Affairs. With me is Bert Hirsch who often provides counsel to us on Indian child welfare matters.

With your permission, we would like to submit our prepared testimony for the record and just very quickly summarize it now.

Senator MELCHER. Without objection, the entire statement will be made a part of the record at the end of your testimony.

Mr. UNGER. The two matters I would like to concentrate on are as follows. First, we welcome the BIA's recognition this morning that $15 million would be a more realistic figure to meet the 1981 needs of the tribe under the Indian Child Welfare Act and would urge increased appropriations.

Second, in regard to appropriations, we feel that the BIA's distribution formula undermines the ability of the tribes to successfully perform their Child Welfare Act grants and would urge that appropriations under the act be made not on the per capita basis that the BIA has used but on a comparative assessment of need.

The other matter I would like to highlight is that we wholeheartedly endorse the Navajo Nation's call for tribal involvement in the boarding school study mandated by title IV which we believe is an essential part of the act.

I might recall that this committee in its report on the act said that it expected the Department of the Interior to work closely with it in the development and implementation of the boarding school study. We feel that as long as children are forced to attend boarding schools, the commitment of the act to protect the integrity of Indian families will not be fulfilled.

We would also urge the committee to consider holding oversight hearings on the boarding school situation early in the 97th Congress after the report is received.

Thank you.

[The prepared statement follows. Testimony resumes on p. 121.]

PREPARED STATEMENT OF STEVEN UNGER, EXECUTIVE DIRECTOR, ASSOCIATION ON AMERICAN INDIAN AFFAIRS, INC., AND BERTRAM E. HIRSCH, COUNSEL, ASSOCIATION ON AMERICAN INDIAN AFFAIRS, INC.

Mr. Chairman and members of the Select Committee, My name is Steven Unger. I am Executive Director of the Association on American Indian Affairs. The Association is a national, nonprofit organization founded in 1923 to assist American Indian and Alaska Native communities in their efforts to achieve full civil, social, and economic equality. It is governed by a Board of Directors, the majority of whom are Native Americans.

With me is Bertram E. Hirsch, an attorney who provides counsel to and frequently represents the Association in Indian child welfare matters.

We would first like to thank the Select Committee for calling these hearings and for permitting the Association to testify.

The Congress and the Committee deserve congratulations on the commitment made through the Indian Child Welfare Act to protect the most critical resource of American Indian tribes—the children. As testimony before the Congress for the last six years has abundantly demonstrated, the child welfare crisis caused by the unwarranted separation of Indian children from their families has been of massive proportions and nationwide in scope. Assaults on Indian family life by state and federal agencies have undermined the right of Indian tribes to govern themselves and have helped cause the conditions where large numbers of people feel hopeless, powerless, and unworthy. Perhaps nothing has so weakened the incentive of parents to struggle against the conditions under which they live as the removal of their children.

Enactment of the Indian Child Welfare Act has been responsible for new hope among Indian parents and tribes that they will be able to raise their children in an atmosphere free from unjust governmental interference and coercion. It has changed the basis upon which state and federal agencies make decisions affecting the custody of Indian children to one with a more conscientious regard for the rights of Indian tribes, parents and children. Tribes are creatively and dynamically developing programs to halt and reverse the removal of children and to assure that they are well cared for within the tribal community. State courts and agencies have generally been receptive to working with the tribes to see that the purposes of the Indian Child Welfare Act are fulfilled.

We share the Committee's concern in holding these oversight hearings to help assure effective implementation of the Act. Our testimony today will concentrate on four areas:

(1) Implementation of Title I;
(2) Funding of Title II;
(3) The boarding school study mandated by Title IV;
(4) The need for technical amendments to the Act.

TITLE I IMPLEMENTATION

The Indian Child Welfare Act has been generally well received throughout the United States by state courts and agencies and by the Indian tribes. Tribal court orders have been granted full faith and credit by states. State courts and agencies and their tribal counterparts in a number of states have made informal agreements regarding transfers of jurisdiction and the delivery of social services, and many transfers have been accomplished without difficulty. Involuntary and voluntary placements of Indian children have taken place in accordance with the provisions of the Act. Many tribes are enhancing the ability of their courts to adjudicate child-custody proceedings; developing sophisticated children's codes; and establishing comprehensive social service delivery systems. A number of Indian children who were adopted prior to the Act have now been able to acquire information regarding their tribe and the background of their natural parents.

In sum, the Act has been of substantial benefit to the best interests of Indian children, families and tribes, and has brought about greater cooperation and understanding between tribal and state courts and agencies.

A further indication of the success of the Act is that it has withstood constitutional challenges.

In a South Dakota case, *Guffin* v. *R.L.*, a non-Indian foster family who, with the consent of the parents, had obtained custody of several Indian children (all residents and domiciliaries of the reservation) through an order of the Lower Brule Sioux Tribal Court, sought guardianship in a South Dakota court after ignoring the order of the tribal court to return the children to their parents. The South Dakota court ruled that it did not have jurisdiction and dismissed the guardianship petition. The foster family appealed, arguing that the Indian Child Welfare Act was unconstitutional. South Dakota's Supreme Court unanimously dismissed the appeal on April 9, 1980, affirming that the Indian Child Welfare Act is within the constitutional power of Congress to legislate concerning Indian affairs, and that legislation defining the jurisdiction of Indian tribes is premised on the political status of the tribe and not on a racial classification.

In an Oklahoma District Court case, *In the Matter of Melinda Twobabies* the court upheld the jurisdiction of the Southern Cheyenne Tribe and rejected

the argument of the state that the Indian Child Welfare Act violated the Tenth Amendment.

In Alaska, in November 1979, the Supreme Court dismissed the state's petition for a ruling that Alaska Native children born after the close of enrollment in the corporations created by the Alaska Native Claims Settlement Act in 1971 are not covered by the Indian Child Welfare Act.

The State of Alaska, in particular, has since then taken noteworthy steps to assure the effective implementation of the Child Welfare Act. In a resolution adopted on April 29, 1980 the Alaska State Legislature proclaimed that;

(1) the legislature endorses and supports the concept and policy of the Indian Child Welfare Act of 1978 (Public Law 95–608);

(2) the governor is urgently requested to direct the Department of Health and Social Services to promptly take the steps necessary to implement the Act in Alaska and to provide the financing necessary for implementation;

(3) the chief justice of the Alaska supreme court is requested to direct the court system to promptly take steps necessary to cooperate in the implementation of the Act in Alaska.

TITLE II FUNDING

Ultimately, responsibility for correcting the child welfare crisis rests properly with the Indian communities themselves. Congress recognized this in providing child and family service program grants to tribes and Indian organizations under Title II of the Act. The objective of such programs is to prevent the breakup of Indian families and, in particular, to insure that the permanent removal of an Indian child from the custody of his parents should be a last resort.

In allocating Title II appropriations the BIA provided approved grantees with a base amount of $15,000. After each grantee was allocated the base amount, remaining funds were to be allocated equal to the percentage of the "total national Indian client population" to be served by the grantee. A number of tribes, for example in the Billings area, were advised by the Bureau that $15,000 would be the maximum grant, and as a result applied only for that amount.

Under the appropriations made by the BIA, we are informed that two of the BIA areas of the country will each receive approximately 20 percent of the funds. None of the other areas will receive more than 10 percent of the funds, and five areas will each receive less than 5 percent of the funds. Among the areas receiving limited funding are tribes in the Great Plains and Southwest, areas where Congressional studies and our own experience reveal tremendous unmet child-welfare needs.

The BIA's distribution formula undermines the successful implementation of the Act and the performance of Title II grants by Indian tribes and organizations because it is based on a per capita basis and not on an assessment of their relative needs. The purpose of Title II grants—to prevent the break-up of Indian families—necessitates allocations based on an assessment of the needs of the applicants.

We note that the Bureau's budget request of $5.5 million for the Indian Child Welfare Act was the same for fiscal year 1981 as for fiscal year 1980. These amounts are inadequate to meet the urgent child and family-service needs of Indian communities and should be increased.

We would also like to point out that, in addition to authorizing direct appropriations to the Department of the Interior, the Act authorizes the Secretary of the Interior to enter into agreements with the Secretary of Health and Human Services to use funds appropriated to that Department for the establishment and operation of Indian child and family services both on and off reservation. Implementation of this feature could provide additional funding to Indian tribes for child and family service programs. Yet, to the best of our knowledge, the Secretary has not attempted to enter into such agreements nor has there been any effort to request that the Congress expressly appropriate funds for the purpose of fulfilling such an agreement.

TITLE IV BOARDING SCHOOL STUDY

Progress already made possible by the Act in eliminating the unwarranted placement of Indian children in adoption and foster care, throws into even sharper relief the destruction of Indian family and community life caused by the federal boarding school and dormitory programs. More than 20,000 Indian children (thousands as young as 5 to 10 years old) are placed in U.S. Bureau of Indian Affairs' boarding schools. Enrollment in BIA boarding schools and dormitorie

is not based necessarily on the educational needs of the children; it is chiefly a means of providing substitute care. The standards for taking children from their homes for boarding school placement are as vague and as arbitrarily applied as are standards for foster-care placements.

In Title IV of the Indian Child Welfare Act Congress declared that "the absence of locally convenient day schools may contribute to the breakup of Indian families." Congress directed the Secretary of the Interior to submit a report on the feasibility of providing Indian children with schools located near their homes within two years from the date of the Act; that is, by November of this year. In its report on the Indian Child Welfare Act, this Committee stated:

> It is the expectation of the committee that the Secretary of the Interior or his representative will work directly with the staffs of the appropriate Senate and House committees to determine the particulars of said plan and its report form.

In the House, the report of the Committee on Interior and Insular Affairs, stated:

> The committee was informed of the devastating impact of the Federal boarding school system on Indian family life and on Indian children, particularly those children in the elementary grades and considers that it is in the best interests of Indian children that they be afforded the opportunity to live at home while attending school. It is noted that more than 10,000 Navajo children in grades 1 to 8 are boarded.

The Title IV report is potentially one of the most significant parts of the Act. Until Indian children are no longer forced to attend federal boarding schools, the commitment made by Congress "to promote the stability and security of Indian tribes and families" will not be fulfilled. We urge the Committee to consider holding oversight hearings on the boarding school situation early in the next Congress, after the report is received.

We would also like to point out that there are Indian children for whom there are local day schools, but who are placed in boarding schools for so-called social reasons. In making these placements, is the BIA following good child-welfare practice as mandated by the Act that placement out of the family will only be a last resort? On this aspect of the boarding school issue, there is no need to wait for the Title IV boarding school study—and the Committee may want to investigate immediately.

TECHNICAL AMENDMENTS

Since the enactment of the Child Welfare Act the Association has identified provisions of the law which require technical amendments to eliminate conflicting provisions, clarify ambiguities, and/or more clearly express Congressional intent.

For example, the Title I provisions regarding voluntary consents to foster care placements or termination of parental rights do not expressly limit the application of the provisions to state court proceedings, as we believe was clearly the intent of Congress. Questions have been raised as to whether these provisions were intended to apply to tribal court proceedings as well. All other Title I sections are made applicable to state court proceedings only. We recommend a technical amendment that clarifies the provisions.

In the section of the Act pertaining to involuntary placements, it is possible for a child-custody proceeding to be held on the 11th day after notice of the proceeding is received by the Secretary of the Interior. However, the same section provides that the Secretary shall have 15 days after receipt of notice to notify the parents, Indian custodians, and the tribe of the proceeding. As the section is currently drafted, a child-custody proceeding can be held in a state court prior to the statutory date within which the Secretary must attempt to notify potential parties. This anomaly, which obviously results from a drafting error, should be corrected.

The need for other technical amendments exists. The Association would welcome the opportunity to present to the Committee a list of these other amendments early in the Ninety-Seventh Congress.

CONCLUSION

Ongoing Congressional interest and further oversight hearings can play a vital role in assuring successful implementation of the Indian Child Welfare Act.

We hope this presentation of the Association's views will be useful to the Committee.

Senator MELCHER. Is Patty Marks still here?

Patty, it is my impression that the Navajo Nation is interested more, not in boarding schools, but in a program of schools close enough to the family unit where the children are not removed from the family for education purposes to a boarding school but remain in the family home and go to school each day—close enough so that they get on a bus and somehow get there and return home every evening. Is that correct?

Ms. MARKS. Mr. Chairman, again I am speaking from my personal knowledge because I have not recently discussed this in detail with the tribe. But recalling the hearings that Mr. Taylor and I had when we were on the staff for this bill, the Nation has never really taken a position pro or con on boarding schools for the simple reason that the Navajo Nation is so large and situations are unique.

There will be intances, I would assume, not just on Navajo but on other reservations, where boarding schools are a workable and acceptable alternative. However, Navajo is concerned with the lack of availability of day schools.

So I guess my answer to your question is twofold: There may be situations—and I use the word, "may"—where a boarding school is acceptable to the local people, but in the majority of instances I believe the position has always been as you have said—for locally convenient day schools.

Senator MELCHER. Is Anslem Roanhorse here also?

Would you return to the witness table?

It is my understanding that part of your request for this study, if we get on with it, is to identify the fact that for the Navajo Nation they do not want to set up this program in conjunction with boarding schools just to have boarding schools for social needs. Is that correct?

Mr. ROANHORSE. To reiterate what Patty Marks said, I think there has to be a study, and then based on the study we need to determine the best possible way of setting up the day schools.

Senator MELCHER. That is the point. The Navajos are looking more to the point of day schools rather than boarding schools. Is that correct?

Mr. ROANHORSE. Yes, sir. I think the underlying thing is that the Indian families should be kept together and every effort should be made to prevent Indian family breakups.

However, there is also the point that we need to have some other resources, and I think this is where we need to consider the mixed feelings as to what the benefits we can get from the Bureau are, on boarding schools. This is why there is a need to do a study to determine what alternatives we are able to take.

Senator MELCHER. It is my understanding from Chairman MacDonald that it is the intent of the Navajo Nation, as much as is possible, to have the schools located close enough to the families so that the child remains part of the family unit every day.

Mr. ROANHORSE. Yes, sir.

Senator MELCHER. Mr. Butler, we are picking up the pieces a little out of order here, but could you tell us, on behalf of the Bureau, that the study will be coordinated with the tribe? We do not want the study just to come in as a sterile object which then has to be reviewed by the tribe. We prefer that the study be in cooperation with tribal input during the study.

Mr. BUTLER. Mr. Chairman, I am not directly, personally involved in that study. It is being conducted under the direction of Dr. Earl Barlow, the Director of the Office of Indian Education.

It is my understanding, however, that the study is being conducted under a contract with an Indian educational consulting firm in Phoenix, and my area social worker in Phoenix was privileged to be at one of their briefings in March in which it was my understanding that they had just finished the study on the demographic data, that the field work had actually not started at that point in time.

But certainly, in my personal judgment, it should be conducted in full consultation with the tribe.

Senator MELCHER. The committee will send a letter to Earl Barlow and cite our interest. It will be a much better study if the tribe is involved in it rather than the tribe reviewing it after the study is completed.

Patty?

Ms. MARKS. I have one point of suggestion, Mr. Chairman. I have spoken personally with a number of tribal social workers in the past few weeks as we were preparing for this oversight, and I believe that many of them—including myself—were unaware that this study is taking place or is even being contracted out.

Perhaps one of the best ways of obtaining Indian input would be if the Bureau, or some mechanism, would send notification in the form of a press release—something that simple would do—simply notifying the tribes and the appropriate officials that this is taking place and who the contact person is if they have specific information which might be acceptable and needed in this study.

Senator MELCHER. It sounds to us, Patty, that mainly the study will center on the Navajos. Is that correct, Mr. Butler?

Mr. BUTLER. Mr. Chairman, there is no question about this because the Navajo Nation has roughly 50 percent of all of the Indian children in boarding school care, that is, in boarding school care by the Bureau of Indian Affairs. A large number of these—and the gentleman from the Navajo can correct me if I am wrong—are in what are referred to as 5-day boarding schools where the children do go home on weekends. Is that correct?

Mr. ROANHORSE. Before I go to that question, I would also like to say for the record that we were not aware of the study that is being made in the Phoenix area or the contractor that has been agreed upon.

On this study, I think there are some schools that still exist on the Navajo Reservation that encompass not only the 5-day boarding schools, but the 9-month boarding school setup.

Senator MELCHER. Getting back to your point, Patty, we would encourage the Bureau to communicate with the tribes, however it can, that the study has been contracted for, and that input from the tribes is sought. Since at least half of the youngsters are from the Navajo Nation, obviously, a great part of this study will zero in on the Navajo, but we would like to have the input, observations, and recommendations from other tribes as well.

The act is fairly new, but what is your experience so far in working in cases with the States and the tribes? Does it look like it is going to work out? Are States and tribes going to cooperate with each other?

Mr. HIRSCH. I think so. I had an interesting experience which I think is indicative of what is happening across the country with this law. Shortly after it was enacted, I was invited by the South Dakota supreme court to address all of the justices of that supreme court plus most of the other trial court judges from around South Dakota on what the law does.

At the outset of the couple of days that I spent with the judges in South Dakota, there was a fair amount of hostility and lack of understanding about the law. But as time went on in that meeting, the chief justice of the supreme court of South Dakota expressed his very strong support for the law, and all the other judges fell in line. The attorney general's office there, which had originally been contemplating some kind of constitutional challenge to the law, has apparently dropped any thought of pursuing that approach.

That has been my experience across the country—an initial period of trying to understand what the Congress was doing and why, and then an approach which is basically one of cooperation with the tribes. Pretty much, the law has been working; it has been working well; the tribes have been pleased with it; the States have been working with it; and I do not think that there has been any major problems.

There have been a couple of court challenges to different aspects of the law. In each case, the law has sucessfully withstood those challenges. I think that will be the trend as time goes on.

Senator MELCHER. Thank you very much; I am glad to hear that.

Thank you, Steve and Patty, for your testimony.

We have a number of witnesses who do not seem to be here. I do not see Mickey Old Coyote. Nor do I see David Rudolph or Donna Loring. Oh, they are here; they just came in.

Would you please approach the witness table now? I am under a time constraint which I cannot avoid. I want to complete my remarks now.

Testimony from the Crow Indian Tribe representatives who are not here will be made a part of the record when it is submitted, without objection.

[The following letter and memorandum were subsequently received.]

Crow Tribal Court

P.O. Box 489 Crow Agency, Montana 59022 Phone 406-638-2630 638-2996

July 8, 1980

REC'D JUL 14 1980

Senator John Melcher
Select Committee on Indian Affairs
United States Senator
Washington, D.C. 20510

ATTENTION: Pete Taylor

Dear Mr. Taylor

As Director of the On-Going-Child Welfare Program I am writing to you on behalf of the Crow Tribe to express my concern regarding the handling of Title II funds by the Bureau of Indian Affairs.

I want you to know that the Crow Tribe like other Indian Tribes viewed the enactment of the Indian Child Welfare Act as critical legislation and it was prepared to carry on a child welfare program under Title II. Incidently, since the enactment of the Indian Child Welfare Act the Crow Tribal Court has handled a number of child custody proceedings recently however, the Crow Tribe have not been notified of token funding under Title II of this same act.

I certainly do not want to intimidate that the Crow Tribe reject or is any way ungrateful for the approximately $16,000.00 it is to receive however, I am concerned about the procedure utilized by the Bureau of Indian Affairs and the continuing difficulties in contracting such a small program. In handling the funding of various Tribes here in the Billings Area the Bureau of Indian Affairs lead all of us to believe that we should take time and effort in preparing proposals and submitting same for funding. The Bureau did say that all Tribes would probably receive no less then the minimum which was approximately 15 to 16 thousand however, the proposal submitted based upon merit after proper evaluation could definitely receive more. It is a sad commentary to note that the B.I.A. put Tribes through time and effort regarding preparation of proposals opted for the easy way out in funding Indian Tribes the minimum.

Of course, we realize that the money situation is tight however, we at Crow raise the question whether or not the understanding as handled by the B.I.A. will do anyone any good. I am sure the Bureau will make the argument that this was the most equitable and fair way (i.e. funding each Tribe just a little) but this certainly would be questionable furthermore, we at Crow were never asked how the funds should be distributed and therefore, could not offer our input.

We have requested a meeting with the proper officials here at the Billings Area Office however, in the hopes that this will not happen again. Also, we would appreciate your comments.

Mickey Old/Coyote

CROW TRIBAL COUNCIL

OFFICE OF THE SECRETARY
CROW AGENCY, MONTANA 59022

Crow Country

June 19, 1980

MEMORANDUM

TO: AREA DIRECTOR, BILLINGS, MONTANA

FROM: TRIBAL CHAIRMAN, CROW TRIBE

SUBJECT: CHILD WELFARE ACT FUNDING FY 81

We have recieved notification that we have been funded $16,730.00 for our proposal of $77,946.00. It is our feeling that token funding of this program is grossly inadequate and does not recognize nor address our problems.

Therefore, we request a one day meeting this month with the BIA Staff from whatever level necessary to provide answers and funding during the course of the meeting.

Those recommended for attendance are: Raymond Butler from the Community Services Central Office Washington, D.C., the Directors of each On-Going Child Welfare Program of each tribe in Montana; Tom Whiteford, Director, Montana Inter-tribal Policy Board, Merle Lucas, Director, Montana Indian Service Division, and Representative form Senator Melcher's office, The Chief judges from each of the Reservations, and any other official that well be beneficial.

Please, advise as to when this meeting can take place.

Senator MELCHER. Any other comments can be made part of the record also, by anyone wishing to submit them in writing. The hearing record will remain open for 10 days.

Our next witnesses are David Rudolph and Donna Loring. David, please proceed.

STATEMENT OF DAVID RUDOLPH, ADMINISTRATIVE ASSISTANT, CENTRAL MAINE INDIAN ASSOCIATION, PRINCETON, MAINE, AND DONNA M. LORING, EXECUTIVE DIRECTOR

Mr. RUDOLPH. Good morning, Mr. Chairman.

Donna Loring is the executive director of the Central Maine Indian Association, and she has our statement.

Senator MELCHER. Ms. Loring?

I have a time constraint; it is afternoon now; I should have left here about 10 minutes ago. Do you have a really short statement?

Ms. LORING. It is not really that short.

Mr. RUDOLPH. Briefly, the statement that we were going to present is quite a lengthy statement with several additions to it. But we have tried to abbreviate it into a two page presentation, if that will be all right, sir.

Senator MELCHER. Certainly; that will be fine.

Ms. LORING. I am Donna Loring, and I am a Penobscot and the executive director of the Central Maine Indian Association. The purpose of my presence is to express concern about the way the Bureau of Indian Affairs is handling the Indian Child Welfare Act title II grants program. As I am limited as to my time, I wish to express my feelings by showing a few examples of the Bureau's inadequate handling of this situation.

I feel the Bureau was not prepared to handle a grant application program. They were not prepared to give us a receipt when we delivered our application to the central office of the Bureau in Arlington, Va. They discussed, in our presence, the review process and made some off-the-cuff decisions.

I feel the Bureau did not follow its own regulations. They did not have application kits available; they did not provide technical assistance before turning us down; they required of us community support letters in violation of section 23.25(b(3); and they certainly violated section 23.27(c)(1) in the development of their funding formula.

This was not proportionately equitable for off-reservation native American programs which got only 26 percent of the funds while trying to serve 65 percent of the native American people. Thus the $15,000 was not in any sense an effective program funding level. At the same time, we were turned down because we applied for $93,000 as advised to do so by a high ranking Bureau official.

I feel that the Bureau's review was not adequately performed.

Our program application was severely criticized because it resembled, too closely, our current continuing research and demonstration grant from the Administration for Public Services. We were hoping to continue our demonstration efforts chiefly.

Our goals were not those of the act—prevention and outreach—yet 65 percent of the activities related to those efforts. Other efforts

included in our application were code development, foster home licensing efforts, and so on.

Our appeal material was not reviewed during that procedure. Again, only our initial application seems to have been criticized.

I could go on, but Central Maine Indian Association's administrative assistant, David Rudolph, has prepared extensive and more detailed comments which you can read.

Briefly, I would like to make a few recommendations: That the Bureau be required to follow its own regulations; propose an appropriate funding formula which will support effective programs, available on a competitive basis; and establish appropriate program announcements, application kits, review criteria, and technical assistance procedures.

If you have any other questions, especially relating to details of our problems, Mr. Rudolph and I will be happy to answer them.

We had planned to hand deliver some testimony from Mr. Wayne Newell, but we did not quite make connections, so we do not have that testimony.

Senator MELCHER. We have this material submitted by you. Without objection, it will be included in the record at the end of your testimony.

I think you both came in during the last few minutes. We have been going over these same pertinent points that you have made. We have been going over them with the Bureau, and we hope that your recommendations, which have been pretty much the recommendations that we have been trying to stress with the Bureau, will be carried out from now on. Granted, they had a very short period of time to get this in motion. We are not completely satisfied with their efforts so far; nor are they. So I think we are all talking the same language.

The Bureau is requesting $150,000 in the budget this year to establish two new courts in Maine.

Mr. RUDOLPH. Is that child welfare courts, or is that just general tribal courts?

Senator MELCHER. They are tribal courts to handle child welfare.

Mr. RUDOLPH. Yes; but as far as I know, in the propositions for those—I have been following the Federal Register—they did not have any child welfare aspects in those tribal courts at the time. Now, whether they are adding them or not I do not know.

Of course, we represent off-reservation Indians.

Senator MELCHER. We can only go on their testimony, and that is, that part of their justification is the Indian Child Welfare Act, as part of their testimony for the justification of the two new courts. It involves a total of 14 new courts, 2 of which are in Maine.

Mr. RUDOLPH. I see.

We are not under their jurisdiction, unfortunately. We are an off-reservation entity, so that does not benefit the people who live off reservation primarily.

Senator MELCHER. Wait a minute; let us get clear on that. Are you representing the Penobscot?

Mr. RUDOLPH. Donna is a Penobscot. The Central Maine Indian Association represents off-reservation native Americans in the southern 15 counties of Maine.

Senator MELCHER. I see.

Mr. RUDOLPH. Essentially, that will not affect us. And as we have analyzed our study under the research and demonstration program, the interesting factor is that the State intervenes in cases on a 4-to-1 ratio, off to on reservation native American families. This is of great concern to us since they are more accessible to the State and do not have all of the supports that the tribal situation can offer on the reservation. Our population is more easily affected and does not have the supports.

Senator MELCHER. We will try to cooperate with you. That does seem to be very much a problem that will not be addressed by these two new courts. We will try to cooperate with you and see whether we can work out something that fits within the budget requests that will be of help to you in this coming fiscal year.

Mr. RUDOLPH. We will be very happy to keep in touch with you sir.

Senator MELCHER. All right. Thank you very much.

[The prepared statement follows:]

CENTRAL MAINE INDIAN ASSOCIATION INC.,
Orono, Maine, June 30, 1980.

Re Testimony before Oversight Hearings on the Indian Child Welfare Act.

Senator JOHN MELCHER, *Chairman,*
Select Committee on Indian Affairs,
Washington, D.C.

GENTLEMEN: I am Donna Loring and I am a Penobscot and the Executive Director of Central Maine Indian Association. The purpose of my presence is to express concern about the way the Bureau of Indian Affairs is handling the Indian Child Welfare Act Title II Grants program. As I am limited as to my time I wish to express my feelings by showing a few examples of the Bureau's inadequate handling of this situation.

I feel the Bureau was not prepared to handle a grant application program. They were not prepared to give us a receipt when we delivered our application to the Central Office of the Bureau in Arlington, Virginia. They discussed, in our presence, the review process and made some off-the-cuff decisions.

I feel the Bureau did not follow its own regulations. They did not have application kits available—23.23. They did not provide technical assistance before turning us down—23.29(b)(2–4). They required of us community support letters in violation of 23.25(b)(3).

They certainly violated 23.27 (c)(1) in the development of their funding formula. This was not proportionately equitable for off-reservation Native American programs which got only 26 percent of the funds while trying to serve 65 percent of the Native American People. Thus, the $15,000, was not in any sense an effective program funding level. At the same time we were turned down because we applied for $93,000 as advised to do so by a high ranking Bureau official.

I feel that the Bureau's review was not adequately performed.

Our program application was severely criticized because it resembled too closely our current continuing research and demonstration grant from Administration for Public Services. We were hoping to continue our demonstration efforts, chiefly.

Our goals were not those of the ACT—"prevention and outreach"—yet 65 percent of the activities related to those efforts. Other efforts included in our application were code development, foster home licensing efforts, etc.

Our appeal material was not reviewed during that procedure. Only our initial application seems to have been again criticized.

I could go on, but Central Maine Indian Association's Administrative Assistant, David Rudolph, has prepared extensive and more detailed comments which you can read.

Briefly I would like to make a few recommendations. That the Bureau be required to follow its own regulations; propose an appropriate funding formula which will support effective programs, available on a competitive basis; and establish appropriate program announcements, application kits, review criteria and technical assistance procedures.

If you have other questions, especially relating to details of our problems, Mr. Rudolph and I will be happy to answer them.

We also are hand delivering testimony of a similar nature on behalf of Wayne Newell, Director of Health and Social Services of the Indian Township Reservation of the Passamaquoddy Tribe.

Thank you for your time and your concern.

PREPARED STATEMENT OF DONNA M. LORING OF THE CENTRAL MAINE INDIAN ASSOCIATION INC., PREPARED BY DAVID L. RUDOLPH, ADMINISTRATIVE ASSISTANT

Gentlemen: It is with concern that I, Donna Loring, a Penobscot and Executive Director of Central Maine Indian Association, come here today. Concern that has become alarm as I hear other testimony and recall our experiences in regard to problems around the administration of the Indian Child Welfare Act by the Bureau of Indian Affairs.

To put it bluntly, Central Main Indian Association staff, who have been involved in the development of this Act and the development of the regulations, and who have been involved in the operation of a child and family support research and demonstration program for the past two and a half years, have had nothing but problems with their attempt to secure a continuing program grant under the Indian Child Welfare Act. I emphasize continuing for reasons which will be apparent later.

As you can see, we have been involved in the Indian Child Welfare Act right from the start. In fact our planner, who doubles as our legislative and administrative agency "watch dog," has had to spend innumerable hours preparing comments regarding to the regulations. He has had to point out on three occassions where off-reservation Native American organizations were virtually being cut out of access to these funds as authorized under Title II, Sec. 202 of the Act.

Definitions were incomplete in regard to this population until we checked with legislative committee staff to secure an interpretation of the Legislative intent.

Formula for the distribution of funds in the regulations still are weighted to federally recognized tribes in that "actual or estimated Indian child placements outside the home" based on data from tribal and public court records, etc. are to be counted. (23.25(a)(1))

Our study shows that over the two and a half years of our continuing grant, Maine's Human Services system intervened in Indian families on a ratio of 4–1, off- to on-reservation Indian families. But, upon examining the public records, department records, only 19 of the 34 records reviewed clearly identified the family or the child as Native American.

But let me pass on to our grant application problems. Again, right from the start we had troubles. We feel that the Bureau was not, or at best ill, prepared to handle a grant program; did not follow its own regulations in a seemingly arbitrary manner; and mishandled the review process.

The following "events" illustrate the grounds of these feelings:

Our Planner was unable to secure from the "nearest" Bureau office—the Eastern Regional Office here in D.C., or from the Central Office application kits which were supposed to exist per the regulations, 23.23, and as referred to in the Program Announcement—Federal Register, 4 December 1979, page 69732. It was agreed we could use our Administration for Native Americans format.

Our Planner was unable to determine from the Program Announcement, cited above, the program priorities which would have precedence for this grant cycle.

Having read and re-read the Grant Fund Distribution Formula, our Planner, in desperation, called the Bureau with questions regarding it. He was told by a ranking official that the formula should be interpreted in such and such a fashion. The final figure jointly agreed to totalled $95,000.

Regardless, he forged ahead and prepared what we all thought was an appropriate application.

Then came the delivery of the Grant package. Not knowing how many packages we had to deliver, our Planner and I hand delivered 15 copies to the Bureau's office in Arlington on the morning of 15 January 1980 for the deadline of 18 January. Also, we were told by the Eastern Regional Office to deliver these to the Central office.

We were asked to leave only five (5) copies, and when we asked for a receipt the reaction was "For What?" This constitutes another violation of their own regulations—23.29(b)(1).

Not knowing the make-up of the reviewing team for the Eastern Area applications we indicated we were going to drop some copies off to various H.E.W. personnel. We were told that those we named—our Administration for Public Assistance research and demonstration project officer and our Indian Child Welfare Act contact in Administration for Native Americans, would be reviewing grant applications. It was decided, off-the-cuff, to have reservation personnel review off-reservation applications and vice-versa.

The review was promptly done, but!! The reviewer's comments indicated:

Our program needed to be "recast to reflect current goals and objectives" under Title II for a "strong concentration on prevention and outreach." 65 percent of our activities planned pertained thereto, and the balance targeted code development, preparation of Native American homes for licensing as foster homes, foster home parent training, staff training, etc.

Our travel allowances were not appropriate. Under our secured research and demonstration grant, yes; but not under this grant action. How were we to know that? We have witnessed constant travel to the Bureau on the part of nearby tribal staffs for training, board staffs for introduction to Board responsibilities, etc. Again, how were we to know? Certainly there were no program guidelines in the Program Announcement.

From the review comments we feel we definitely were prejudicially reviewed by someone who had a thorough knowledge of our A.P.S. research and demonstration grant, but did not know of our continuing problems.

The commentor evidenced a lack of understanding of the Bureau's own regulations: "There was not sufficient evidence of support from the community," etc. However, Regulation 23.25(b)(3) seems to exempt an off-reservation Indian organization from "the demonstrated ability has operated and *continues* to operate an Indian child welfare or family assistance program." We also feel that statement should have given Central Maine Indian Association somewhat of an edge over other programs which had never dealt with such problems.

Finally, in violation of another regulation 23.29, (b)(2–4), and our request, the Bureau *did not* offer technical assistance to clear up any application gaffs before the final review and issuance of denial of the grant. In fact we feel they did not carry out their *three* level review process (23.29, 23.31, 23.33). But we don't find that appropriate either as it is too long a process.

Needless to say, we appealed. In that appeal our Planner addressed application deficiencies mentioned, pared down the budget request, etc. In other words, we accepted the comments as technical assistance. What happened? From a review of the comments on our appeal we feel the reviewer did not review the materials submitted, but instead picked more severely, and incorrectly, at our initial application.

More woes could be recounted, but I would like to proceed to what we feel should be done to correct this situation for another go-around:

We feel the funding formula is a mockery of even common sense and certainly of the Bureau's own regulations that "insofar as possible all approved applicants (will) receive a proportionately equitable share sufficient to fund an effective program." (23.27(c)(1)). (Emphases ours.)

Twenty-six percent of the funding was given to off-reservation Native American agencies and is not proportionately equitable since 65 percent of all Native Americans live off-reservation according to A.N.A.

Fifteen thousand dollar grants cannot be termed sufficient for an effective program.

We do wish to inform the Committee that we have considered proceeding with an injunction to stop the entire funding until these problems could be addressed. We have deferred on that for the present.

We do have some recommendations. Let us describe them:

1. If the funds have not been given out yet, we ask this committee to freeze them until the Bureau can appropriately distribute them. Otherwise, for the next program year the grants should not be give-away, "be all things to all people," types, but a competitive grant application approach for the establishment of effective programs with a base of at least $60,000. This should include demonstration funds at 80 percent, planning funds at 15 percent, and research funds at 5 percent. Also, this year's grant programs ought not be counted as part of a "continuing" base and that that base should grandfather programs operative prior to 1979–1980.

2. If, as we hear there may be, there is an attempt by the Bureau to merge other social service funding sources with the Indian Child Welfare Act program resources, we wish to go on record—

Opposing such a move as we feel the Bureau has an obligation to increase the proportion of funding to off-reservation Native Americans, now only 26 percent, to at least 65 percent of the Indian Child Welfare Act related funds.

Opposing such a move as we feel the Bureau has a very poor record of advocacy for Native Americans in general, and probably will have less of a commitment to off-reservation Native Americans as they have never had to deal with any entities except federally recognized tribes.

3. Mandate that the Bureau follow its own regulations.

We wish to acknowledge that the Bureau—

Was under the gun time-wise as to the drafting of regulations and the start-up as set by Congress. However, there were internal delays and we see in the regulations many areas of delay—the three tier review–and experienced them—the review of our appeal was to have been in our hands in April; we heard in May another violation of their own regulations.

Had no experience with competitive grant processes or off-reservation entities. However, we recommended in writing that they get in touch with agencies in H.E.W. – A.P.S. or A.N.A., and use their procedures. Certainly the poor program announcement and the lack of the availability of application packets indicates the Bureau did little to prepare adequately.

Had problems securing from O.M.B. an approval of its funding formula; this the Bureau staff indicated was mostly a time delay. We know O.M.B. is famous for that and they should be criticized severely. However, if this funding formula is an example of what the Bureau was giving O.M.B., we can understand O.M.B.'s reluctance to approve it, especially since it is virtually a give-away of $5.5 millions which will in no way improve the tragic conditions cited in the ACT. We feel this Committee should view this with alarm especially now because of the demand for fiscal accountability.

Needless to say, there is more on my mind, but time does not permit. I do thank the Committee for allowing Central Maine Indian Association to represent that one-quarter of the grantees—the off-reservation Native American grantees, but feel sad to have to speak for 65 percent of all Native Americans. We humbly request that the above cited problems be addressed quickly to prevent another tragedy for our People.

Thank you.

Attachments.

proposing that the color additive regulations be amended to provide for the safe use of grape color extract in food and drugs exempt from certification.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 26, 1979.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 79-36660 Filed 12-3-79; 8:45 am]

BILLING CODE 4110-03-M

Public Health Service

Home Health Services; Delegations of Authority

Notice is hereby given that there have been made the following delegation and redelegations of authority regarding home health services under section 339 of the Public Health Service Act (42 U.S.C. 255), as amended:

1. Delegation by the Secretary of Health, Education, and Welfare to the Assistant Secretary for Health, with authority to redelegate, of all the authorities, excluding the authority to issue regulations, vested in the Secretary under section 339 of the Public Health Service Act, as amended.

2. Redelegation by the Assistant Secretary for Health to the Administrator, Health Services Administration, with authority to redelegate, of all the authorities delegated by the Secretary to the Assistant Secretary for Health under section 339 of the Public Health Service Act, as amended.

3. Redelegation by the Administrator, Health Services Administration, to the Regional Health Administrators, Public Health Service Regional Offices, with authority to redelegate, of authority to make grants, other than grants that are national or multiregional in scope, to public and nonprofit private entities within their respective regions (a) to meet the initial costs of establishing and operating home health agencies and to expand the services available through existing agencies; (b) to meet the cost of compensating professional and paraprofessional personnel during the initial operation of such agencies or the expansion of service of existing agencies; and (c) to demonstrate the training of professional and paraprofessional personnel to provide home health services, as defined in section 1861(m) of the Social Security Act.

4. Redelegation by the Administrator, Health Services Administration, to the Director, Bureau of Community Health Services, Health Services Administration, with authority to redelegate, of all the authorities delegated by the Assistant Secretary for Health to the Administrator, Health Services Administration, under section 339 of the Public Health Service Act, as amended, excluding the authorities specifically delegated to the Regional Health Administrators.

The above delegation and redelegations were effective on November 13, 1979.

Dated: November 26, 1979.

Frederick M. Bohen,

Assistant Secretary for Management and Budget.

[FR Doc. 79-37251 Filed 12-3-79; 8:45 am]

BILLING CODE 4110-84-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Child Welfare Act; Grant Fund Distribution Formula

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary, Indian Affairs by 209 DM 8.

Title II of the Indian Child Welfare Act of 1978 authorizes the Secretary of the Interior to make grants to Indian tribes and Indian organizations for establishment and operation of Indian child and family service programs.

In order to ensure insofar as possible that all approved applicants receive a proportionately equitable share of available grant funds the distribution of these funds will be accomplished in accordance with the following formula: Each grant applicant approved under the provisions of 25 CFR 23 ranking and related criteria established by the Bureau of Indian Affairs will receive (a) a base amount equal to .2% of total grant funds available, or $15,000 whichever is greater. (b) The maximum amount of grant award cannot exceed an additional amount equal to the product resulting when the estimated clientele percentage of the total national Indian client population to be served by the grant applicant is multiplied by the total amount of grant funds remaining after (a) above is accomplished for all approved grant applicants. In this computation, the total national Indian client population figure will be based upon the best information available from the U.S. Bureau of the Census and the Bureau of Indian Affairs, and other identifiable statistical resources.

If the grant applicant has requested less grant funds than would be provided under the above formula the approved applicant will be funded at the level specifically requested in the application.

Forrest J. Gerard,

Assistant Secretary, Indian Affairs.

November 27, 1979.

[FR Doc. 79-37119 Filed 12-3-79; 8:45 am]

BILLING CODE 4310-02-M

Indian Child Welfare Act; Title II Grant Applications

This notice is published in excercise of authority delegated by the Secretary of the Interior to the Assistant Secretary, Indian Affairs by 209 DM 8.

Title II of the Indian Child Welfare Act of 1978 authorizes the Secretary of the Interior to make grants to Indian tribes and Indian organizations for establishment and operation of Indian child and family service programs.

The initial period for submitting grant applications is effective this date and will end January 16, 1980. Additional periods for submission of grant applications will be announced at a later date if funds remain available after the first grant application period. In this regard it is necessary that specific timeframes be established for submission of applications so that all approved applicants can receive a proportionately equitable share of available grant funds.

Application materials and related information may be obtained from Bureau of Indian Affairs offices nearest the applicant. Applications for this initial application period will be accepted in anticipation of appropriated funds for Title II purposes. All grant application approvals will be subject to availability of funds.

Forrest J. Gerard,

Assistant Secretary, Indian Affairs.

[FR Doc. 79-37120 Filed 12-3-79; 8:45 am]

BILLING CODE 4310-02-M

Cabazon Band of Mission Indians, California; Ordinance Regulating and Taxing the Introduction and Distribution of Intoxicating Beverages

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, Pub. L. 277, 83rd

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

IN REPLY REFER TO:

1-15-80

THIS IS TO VERIFY THE FIVE (5) COPIES OF THE MAINE INDIAN FAMILY SUPPORT SYSTEM FOR INDIAN CHILD WELFARE TITLE II GRANTS WERE SUBMITTED TO THE BIA SOCIAL SERVICES OFFICE (CENTRAL OFFICE) ON 15 JANUARY 1980. DEADLINE FOR SUBMISSION OF GRANT PROPOSALS IS 18 JANUARY 1980.

Joseph W. Holmes
Acting Chief.
Division of Social Services

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
EASTERN AREA OFFICE
1951 Constitution Avenue NW.
Washington, D.C. 20245

IN REPLY REFER TO:

RECEIVED FEB 2 5 1980
FEB 15 1980

Donna Loring, President
Central Maine Indian Association, Inc.
95 Main Street
Orono, Maine 04473

Dear Ms. Loring:

We regret to inform you that your grant application for funding under Title II of the Indian Child Welfare Act, entitled "Maine Indian Family Support System", has been disapproved.

Attached you will find the review comments which were the primary basis for our decision concerning your grant. Please review the comments and the questions concerning your application for future reference. Our staff will be available to answer any questions you may have. This does not prevent you from submitting an application during subsequent grant application periods.

You do have a right to appeal this decision (refer to 25 CFR 23, Subpart F for further information).

Sincerely,

Harry Rainbolt

Harry Rainbolt

It is the consensus of the application review panel that the grant proposal submitted by the Central Maine Indian Association does not meet the minimum standards for funding as imposed by Title II of the Indian Child Welfare Act. In rendering its decision, the panel identified the following areas of concern:

1. Strictly speaking, the grant application submitted to the Bureau of Indian Affairs is not an up-to-date assessment of conditions in the proposed service area; essentially, therefore, the reviewers were asked to assume that all data and documentation in the application package remained pertinent to the current situation. Apparently, the proposal was prepared some time ago for submission to the Department of Health, Education, and Welfare, and successfully competed in that agency for Title XX funding.

2. Certain items in the application, such as the research component and allowances for staff travel to Albuquerque, were justifiable in the original Title XX Research and Demonstration application, but have no revelance to the activity presently being proposed for funding under Title II of the Indian Child Welfare Act.

3. There was not sufficient evidence of support from the community, public agencies or other local service providers.

4. The proposal does not adequately discuss the extent to which the program duplicates existing services.

5. The program is somewhat weak in regard to staff qualifications.

The review panel noted that the general attitudes and philosophy conveyed in the writing of this proposal are commendable. Also acknowledged was the Association's good record as a provider of services. It is the panel's recommendation that this proposal be recast to reflect current goals and objectives that are specific to Title II of the Indian Child Welfare Act, and that the proposed budget be altered accordingly. A strong concentration on prevention and outreach is suggested.

Central Maine Indian Association Inc.

CENTRAL OFFICE
95 Main Street
Orono, Maine 04473
(207) 866-5587 / 5588

BRANCH OFFICE
615 Congress Street
Portland, Maine 04101
(207) 775-1872

Reply to Orono

March 5, 1980

Louise Zokan, Director
Indian Child Welfare Act Program
Bureau of Indian Affairs
Division of Social Services
1951 Constitution Avenue, N.W.
Washington, DC 20245

Dear Louise:

According to our right to appeal the decision of the Bureau to not fund our application, 25 CFR 23, Subpart F, we do now make that appeal.

Several of our reasons have to do with various aspects of the regulatory language (lack of clarity), program announcements, application review, etc.

- In the first place, the funding formula was variously interpreted by Bureau personnel. On two occasions Ray Butler variously interpreted to others in my hearing, and to me personally, what would constitute base funding to provide an adequate program:

  To the Penobscot planners the figure given was $165,000+;
  To me, two weeks prior to our filing our application, and in direct response to my asking for an interpretation of the formula announcement, he stated it would be $80,000 plus the .2 percent or $15,000, whichever is greater for an $95,000 sum. Now I am told that actually the project budget should not have exceeded $15,000 plus the .2 percent or $15,000 for a maximum of $30,000. Now you may understand why we put in for what we felt is an adequate program level of $95,000+. We suggest 100 programs @ $52,000 would be a more appropriate level of funding.

We even requested, in our cover letter, communications from your office if there were any questions which would influence "approval" or "disapproval." This was not done.

- Application review and program announcement problems can best be addressed by our responding to the issues cited in the letter of Harry Rainbolt's, February 15, 1980.

1. Current assessment of conditions: Apparently the reader is under the impression things have changed in the proposed service area. Our feeling and experience is that this is not strictly so. Officially no changes have taken place; in only a few isolated instances, and only since we filed our application, have our outreach specialists been called upon to impact cases involving Native American Child Welfare cases. Research was carefully cited showing that most state personnel attitudes are unfavorable in that they feel there is no cultural difference - "we treat all our clients the same" - between Indians and non-Indians; that there is no need to understand those differences. In fact, only 5 percent of the respondents seemed eager to understand, to learn about differences, or to work with Native Americans. Also, 0 percent suggested in-house hiring of Native Americans to state program. This amounts to a prejudiced reading.

2. Research and Travel items in the application seemed to have weighed heavily against the application and had no "relevance to the activity being proposed for funding" - the need for a "strong concentration on prevention and outreach." In point of fact:

   - whatever research was proposed was basically to stem from the evaluative process and comprised less than 3.7 percent of the program time. Our feeling is that any grant application which does not address evaluation/accountability in some way is truly not worth considering.

   - conference travel - "to Albuquerque" - amounted to a total of $3,000; an item which, upon consultation, could have been deleted. It was included as there were no specific program guidelines in the program annoucement.

Should the reader have adequately read the proposal he/she would have seen very clearly that all the Goals and Objectives spoke to prevention and outreach. In point of fact:

   - the program annoucement did not specify a program priority. (See attached).

   - program methods 2, 3, 4, 6 & 7 (leaving only 1, 5 & 8), accounting for 89.2 percent of the programmatic time, speak to prevention and outreach. (See other comments under 4).

Again a prejudiced, or at best poor, reading.

3. Support of the Community: We wish to apologize for the lack in this area, but feel it is not a significant cause for disapproval. We did file constituent and legislative letters of support. We had asked several agencies for letters of support, also. These responses were not delivered obviously. In two cases agency representatives asked passed the ball on to another person. In one of these cases the person responsible has been hampered in any communications with us due to orders from the State Attorney General's office to hold all efforts until the Land Claims case is settled. In another case -- letters were asked and have been delayed. We are making every effort to correct this. We do have one question:

*** How many letters of support constitute community support?

4. Duplication of Services: No direct discussion was made. However, the implications that can be gained from the case management guide (Three Phased Process, 4.3.3) indicates every attempt is to be made to utilize existing services. (See also point 1. above). Attached is our APPLICATION NARRATIVE AMENDMENT dealing with this subject: prevention and outreach. (See attached).

5. Staff Qualifications: Central Maine Indian Association has made every effort to secure as outreach specialists, the area in which we seem to be weakest as far as qualifications are concerned, Native Americans.

   First, the reason for doing so is obvious: we need a Native American:

   - who may know something about the "system" having used it him/herself.
   - who knows his/her People.
   - who has gained some training/experience in similar areas.

   Second, if we raised our qualifications, we would be unable to employ Native Americans:

   - Just over 10 percent of our People have attended or are attending post-secondary schools.
   - None, to our knowledge, have studied in the area of social services.

   Third,

   - With a 47 percent unemployment rate;
   - With a conviction that an "aware," "ready to learn" Native American is better at working with Indians than a non-Indians; we have chosen to hire and train our own para-professional personnel. If there is a weakness among our People, it is not in case work effectiveness, but in record keeping; and this is being changed by better reporting forms (more simplified) requiring less writing.

Now to the last paragraph of the letter. We thank the reviewers for their observations regarding

- the writing.
- the Association's good record.

We are concerned:

- How were we to know the "current" (underlining not ours) goals and objectives that are specific to Title II of the Indian Child Welfare Act?
- Who set them as prevention and outreach only?
- Where was this published?

Our reading of the "regulations" lists several appropriate objectives, from

- facilities for counseling and treatment of Indian families, temporary custody of Indian children to
- preparation of codes. (See attached).

We are, and would have been very happy to "recast" our application's funding levels.

We are pleased, Louise, you found the proposal "well integrated" and that "every component supported another." That is as it should be. Codes are essential to a program; foster homes are a must to underwrite emergency placement, etc. But if outreach of a preventive nature is the goal/objective, so be it! As to the finding of that piece to be funded, let us provide it. It is just a budgetary exercise as the majority of the program was already outreach/prevention. We would CUT:

- Numbers of personnel;
- Foster home recruitment and parent training;
- Code development;
- Staff development/training;
- Out-of-state travel (The Bureau better not require alot of grant compliance, etc., training unless it will provide travel costs - something we are not used to).
- Administrative allowances;
- Some evaluative responsibilities; and

*** • Concentrate on supervisory and outreach personnel and their immediate supports.

(SEE BUDGET CHART ATTACHED)

It is our understanding that with these suggested changes, and if an approval is given for funding our application will be placed last on the approved list. We object strenuously to being placed behind an application we know to be approved

- whose work program was cited as weak; we might add also, whose record of accountability for the delivery of its services is also notoriously poor.

These elements of a program are the heart/meat of a program, not peripheral elements to be criticized - research, conference budget items, (both so insignificant as to time and value of the program), duplication of services, staff qualifications, etc. We feel we carefully detailed our "work" and "evaluation" (accountability) efforts. / We also notice no mention of them was made./ Again, we feel this is evidence of a prejudiced reading of the application.

If the above is a true understanding, such a penalization is uncalled for, especially in the light of the Bureau's failure to

- publish their program priorities clearly.
- make extremely clear the funding formula.

  in the light of the Bureau's review process which made

- "peripheral" items more essential to the review ranking.
- no consultation with this applicant, but did so with others to make needed changes.
- the definition of an adequate program impossible.

  in the light of the Bureau's not demanding

- the disqualification of a reviewer who obviously was familiar with our earlier R & D application; something we were promised would be done.

We are sorry for the extent of this letter, but as we are making an appeal we are "putting our cards on the table." At the same time we are trying to address those deficiences that need change, and providing you with a revised financial application outline.

Please, when you receive this and if you have any further questions, we ask you to call.

Sincerely,

David L. Rudolph

David L. Rudolph
Administrative Assistant

DLR/bjc

Enclosures

3.4. Methods: Duplicative -

By experience, and by the revelations of our research under the NORTH-EAST INDIAN FAMILY SUPPORT grant, Central Maine Indian Association is convinced client advocacy is the activity of choice for our outreach specialists. In no sense of the word can Central Maine Indian Association develop a duplicate service system for our constituency:

- Many viable services exist already.
- Cost of such an effort is prohibitive.

However, if any duplication can be said to exist, it would be solely in the area of an outreach case work effort. Nevertheless, the agency does not see this effort as duplicative for the following reasons:

- Case advocacy is a must for our People:
  - Discrimination is strong against Indians in Maine (home of the landmark Land Claims Case).
  - Functional illiteracy in dealing with non-Indian bureaucratic "white-tape" is a major barrier to services.
  - Low level communication skills and a parallel unwillingness to understand our Peoples' culture differences is another major barrier to successful case resolutions.
- The lack of the readiness of "child welfare" services to hire Native Americans to deal with Native Americans is obvious.
  - The hiring of middle-class raised and trained college graduates is the rule.
  - In Maine just over 10 percent of our People have attended or are attending post-secondary schools. To our knowledge none have taken work in the field of social work.
  - Therefore, the lack of understanding and the resulting communications gap.
- Emotional supports to this culturally different People are lacking:
  - Many have moved to find economic security only to find few who "understand" them around them.
  - Although in many instances enclaves of other Indians exist, there are not as many of the close ties of the "extended" family present.

Thus, our basic service methodology will not be direct, or duplicative, services; but advocacy, or liaison, services of a preventive/outreach nature. In this effort Native Americans will work with the social services, "child/family" welfare service, personnel on behalf of Native American clients to:

- Assure clients do follow-up agency referrals as required.
- Assure appropriate communications.
- Provide "emotional" supports in stressful experiences --
  - when seeking help.
  - when appearing in court.
  - when faced with other family troubles -- loss of work, hunger, alcoholism, loss of shelter, etc. all of which can be interpreted as neglect.

CENTRAL MAINE INDIAN ASSOCIATION

95 Main Street
Orono, Maine 04473

MAINE INDIAN FAMILY SUPPORT SYSTEM

FY '80 BUDGET

ITEM	AMOUNT
PERSONNEL	
Program Director	$13,000
Outreach Specialist	9,360
TOTAL SALARIES	22,360
Fringe - 16%	3,578
TOTAL PERSONNEL COSTS	$25,938
EXPENSES	
In-State Travel - 393 ms/mo/worker at 18.5¢/m	$ 1,747
Telephone - $75/mo/worker	1,800
Training - $250/worker/year	500
TOTAL EXPENSE COSTS	$ 4,047
TOTAL PROGRAM COSTS	$29,985

5 March 1980

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

RECEIVED MAY 0 5

MAY 1 1980

Ms. Donna Loring
President, Central Maine Indian
Association, Inc.
95 Main Street
Orono, Maine 04473

Dear Ms. Loring:

This letter will serve to acknowledge your correspondence of March 5 in which you appeal the decision of the Eastern Area Director to disapprove your grant application to receive funds under the Indian Child Welfare Act of 1978.

It has been determined this proposal, as written, does not best promote the purposes of Title II of the Act, as defined in 25 CFR 23.22. Examples of non-compliance with the regulations and/or the Application Selection Criteria as stated in 25 CFR 23.25 are as follows:

1. While the grant application appears to meet the basic intent of the Act, there is little quantitative or qualitative narrative which clearly states the scope of work to be performed or the goals to be accomplished.

Moreover, the basic intent of the proposal does not convey the policy of the Act as stated in 25 CFR 23.3 which is "to protect Indian children from arbitrary removal from their families and tribal affiliations by establishing procedures to insure that measures to prevent the breakup of Indian families are followed in child custody proceedings", in order "to insure the protection of the best interest of Indian children and Indian families."

2. Too often, the application refers to the term "support"; yet, while some methodology can be tracked within the framework of the GANTT chart process, little narrative can be found within the proposal which develops the techniques or methods of "support."

3. The statement of need appears fragmented, and while some data is reflected at points within the proposal, no salient conclusions can be drawn concerning the actual population(s) to be served.

4. The application does not discuss proposed facilities and resources in detail. For example, it is not clear how $7,500 will be spent in the line budget item "housing assistance" support.

A second area of concern is the distribution of time for the Director of Program's, in that, it would appear that less than 100% of time will be spent in directing the Indian Child Welfare Act Program.

5. The proposal presents minimal narrative as to the applicant's in-depth understanding of social service and child welfare issues, and culturally relevant methods of working toward the resolution of issues which will prevent the breakup of Indian families.

6. The proposal contains budget items which are not reasonable considering the anticipated results. For example, $4,125 for travel to out of area conferences which are not germane to the Indian Child Welfare Act; housing assistance in the amount of $7,500 needs justification, and travel for Director, Planner, and Board Members to Washington, D.C. in the amount of $2,625 seems extravagant.

We find the proposal does not meet the minimum criteria for funding under Title II of the Indian Child Welfare Act. Therefore, the disapproval decision of the Eastern Area Director is upheld. Under redelegated authority from the Secretary of the Interior, this decision is final for the Department.

Sincerely,

Deputy Assistant Secretary - Indian Affairs

MEMO: Re Federal Injunction Effort

TO: Donna Loring, Executive Director
Board of Directors

FROM: David L. Rudolph, Administrative Assistant

DATE: 14 May 1980

- -

Per instructions from Donna I followed up on a contact she had discovered regarding a Federal Injunction effort.

The Contact was Allen Parker at the Indian Lawyers Training Program
Washington, D.C.
202 466 4085

The contact was made today.

In coversation the following points were made, following a brief description of our situation and relationship with Bureau of Indian Affairs, specifically in regard to our M.I.F.F.S. application.

First: we must decide under what authority - reasons - an injunction was to be made.

It would be an Administrative Law Suit.
It would not be because of civil rights violations.
It would be lodged against the Secretary of the Interior.

Second: we must show that we have exhausted all other remedies.

We have made an appeal and been turned down. That has happened.

we must allege mismanagement of the allocation of accounts.

With that we may have a problem because they will show that the management was left to the discretion of the agency.
We would have a problem showing that the agency acted with complete disregard for reasonable considerations.

Allen was not encouraging and even suggested that a greater potential for action lies in the political process; for instance, and appeal to Congressman Yeates, Chairman of the House Appropriation Committee.

We would have to contact a local lawyer to handle; costs were asked, but no response was given.

I asked if there were others who had complained, He said, yes; often that there was no meaningful guidance in the application effort, which is the same complaint we have.

RECOMMENDATION: Forget such an effort and appeal to Congressman Yeates and our Federal legislators. The latter is done, we shall accomplish the former immediately.

DLR

Senator MELCHER. The hearing is adjourned. The record will remain open for 10 days.

[Whereupon, at 12:10 p.m., the hearing was adjourned.]

[Subsequent to the hearing the following letters were received for the record.]

INTERNATIONAL CHILDREN'S PROGRAM,
Holton, Kans. July 3, 1980.

Senator JOHN MELCHER,
Chairman, Select Committee on Indian Affairs,
U.S. Senate,
Washington, D.C.

Dear SENATOR MELCHER: This letter is in response to the committee hearing on implementation of the Indian Child Welfare Act, Public Law 95-608.

The Inter-Tribal Children's Program serves the four federally recognized tribes in the state of Kansas. The Iowa Tribe of Kansas and Nebraska, the Sac & Fox of Missouri, the Kickapoo in Kansas and the Prairie Band of Potawatomi Tribe of Kansas.

The program was initially funded under Indian Self-Determination Act, Public Law 93-638. In addition, we were funded with ongoing child welfare funds from the Area Office of the Bureau of Indian Affairs in Anadarko, Oklahoma. This funding provided for program operation from July 1, 1979, through February 1980. Funding for March 1980 through September 1980 was projected in our grant application for Title II of Public Law 95-608.

Our program has a unique relationship with the state of Kansas. We are currently licensing our own Indian foster homes statewide serving all Indians in the state of Kansas. The state funds our foster homes. We are working closely with the various courts located in the counties within the state. We are actively working toward full implementation of the Indian Child Welfare Act. The Indian Child Welfare Act has resulted in a professional inter-tribal program. It is imperative that for continued existence, funding be available.

The following is a list of possible barriers to implementation of the Indian Child Welfare Act and the Inter-Tribal Children's Program:

1. Funding for the Inter-Tribal Children's Program, under Title II, was budgeted for the remainder of FY-80 (March 1 through September 30, 1980). We were informed that we have to adjust our budget for the months of June through May 1980. We borrowed funding to carry us through March 1, 1980 to July 1, 1980, total cost of $17,000.00. This is to be reimbursed from Title II monies. Our Title II grant was approved for $60,000.00—$15,000.00 for each tribe participating in our program. This leaves us a remainder of $40,000.00 to fund program activities for eleven months. Funding is the number one barrier.

2. Population definition—We were advised by the Area Office to use Public Law 93-638 population definitions, which is using only those numbers within reservation boundaries. We are actully serving all Indian youth within the state. There needs to be a clarification of population included in Public Law 95-608 funding.

3. There needs to be a network established to coordinate various federal agencies so alternative funding can be identified—so total program activities are not dependent upon Bureau of Indian Affairs funding.

4. Technical assistance in direct service activities is needed for implementation of the Act (Public Law 95-608)—various programs are in waiting (residential treatment facility, group home for adoptive and foster children, family services recreational activities, etc.). Funding needs to be appropriated to support tribes in program development, technical assistance from federal agencies and or both.

5. The states need funding to develop legislation in support of implementing the Act (Public Law 95-608). Federal dollars could support these activities or federal pressure directing states to cooperate with the tribes.

These are but a few of the concerns that we wanted to share. It is our position that if Public Law 95-608 is indeed going to succeed and serve the tribes and Indian communities, strengthen the Indian families and especially our Indian youth, then some legislative action is necessary.

Thank you.

Sincerely,

JAN CHARLES GOSLIN, L.M.S.W.,
Director, Inter-Tribal Children's Program.

SISSETON-WAHPETON-SIOUX TRIBE OF THE
LAKE TRAVERSE RESERVATION,
SISSETON, S. DAK., *August 8, 1980.*

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

DEAR SENATOR MELCHER: This letter is a follow up to the recent hearing held by the Select Committee on Indian Affairs. We wish to present the following issues for the Committee's consideration:

1. The impact of the Indian Child Welfare Act.
2. The role of the Bureau of Indian Affairs in funding and providing technical assistance under the Act.
3. The appropriation of funds under Title II of the Act.
4. The allocation process for funding under the Act.

The Indian Child Welfare Act is the single most important piece of federal legislation affecting Indian families and children. For the first time the federal government has taken a positive view of the rights and the responsibilities of Indian people over Indian children.

The impact of the law on the Sisseton-Wahpeton Sioux Tribe has been positive. The Tribe has developed an excellent working relationship with the state court on child custody matters (this has been in spite of conflicts on other matters). This cooperation has existed at both the local and state levels.

This law has provided the Tribe with the responsibility for the destiny of all Tribal members. This responsibility (on inherent right) is taken very seriously. In every case involving the possible transfer of a child back to the Tribe every effort is made to determine what action will be in the best interest of the child.

The biggest problem faced by the Tribe in implementing the law has been the lack of funds for program development. The lack of funds has hindered the development of programs at Sisseton. On other reservations where some type of Tribal social service system hasn't existed; it has been a much greater detriment to full implementation of the law.

The working relationship between the Tribal social services staff and Bureau social services staff at the Agency, area and central office levels has been very positive. The Bureau social services employees have usually been cooperative and helpful. A problem always associated in working with the Bureau is that of funding. Nobody ever seems to know what the money situation is.

The problems we've encountered with the Bureau relate primarily to problems of funding. One of the most significant moves by Congress in relation to this law would be the funding of Title II of the Act. Without a commitment to funding, Congress is setting Indian people up for a repeated cycle of unmet expectations and broken promises. The changes which the law calls for requires a commitment of funds and time. The development and and full implementation of these programs requires a minimum of ten years. As yet Congress has never appropriated any funds to carry out the law.

The allocation process for funding under the law was very confusing. The confusion on this matter stemmed from not knowing how much money would be available or how many applications would be made for the difficult funds. If Congress would appropriate a definite figure it would make it much easier for the Bureau of Indian Affairs to establish its allocation guidelines. Writing proposals under this program was very difficult because there was no way that the Bureau could indicate exactly how much money would be available.

It seems that funds should be somewhat competitive, but given the nature of this Act; all Tribes wishing to submit an application should be funded unless the proposal is so incomplete that it makes absolutely no sense. Although we have been very satisfied with the cooperation we have received from the Bureau; the Bureau should consider more aggressive offerings of technical assistance to those Tribes who have not yet had the opportunity to develop programs.

I thank you, Senator and hope that some positive value comes of the hearings.

Sincerely,

DOROTHY GILL,
Director, Human Services Department.

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