INDIAN CHILD WELFARE ACT OF 1977

HEARING

BEFORE THE

UNITED STATES SENATE
SELECT COMMITTEE ON INDIAN AFFAIRS

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

S. 1214

TO ESTABLISH STANDARDS FOR THE PLACEMENT OF INDIAN CHILDREN IN FOSTER OR ADOPTIVE HOMES, TO PREVENT THE BREAKUP OF INDIAN FAMILIES, AND FOR OTHER PURPOSES

AUGUST 4, 1977

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INDIAN CHILD WELFARE ACT OF 1977

THURSDAY, AUGUST 4, 1977

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, D.C.

The committee met, pursuant to notice, at 9:30 a.m., in room 457, Russell Senate Office Building, Senator James Abourezk (chairman of the committee) presiding.

Present: Senators Abourezk and Hatfield.

Staff present: Alan Parker, chief counsel, Michael Cox, minority counsel, Patricia Marks, professional staff member, and Tony Strong, professional staff member.

Chairman ABOUREZK. The hearing will come to order.

We will now take testimony on S. 1214, a bill to establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families.

The purpose of this hearing is to take testimony on a bill which would set minimum placement standards for the placement of Indian children in foster or adoptive homes and to authorize expenditures for the setting up of family development programs in Indian communities.

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

Because of poverty and discrimination Indian families face many difficulties, but there is no reason or justification for believing that these problems make Indian parents unfit to raise their children; nor is there any reason to believe that the Indian community itself cannot, within its own confines, deal with problems of child neglect when they do arise. Up to now, however, public and private welfare agencies seem to have operated on the premise that most Indian children would really be better off growing up non-Indian. The result of such policies has been unchecked: Abusive child removal practices, the lack of viable, practical rehabilitation and prevention programs for Indian

families facing severe problems, and a practice of ignoring the all-important demands of Indian tribes to have a say in how their children and families are dealt with.

Officials seemingly would rather place Indian children in non-Indian settings where their Indian culture, their Indian traditions and, in general, their entire Indian way of life is smothered. The Federal Government for its part has been conspicuous by its lack of action. It has chosen to allow these agencies to strike at the heart of Indian communities by literally stealing Indian children. This course can only weaken rather than strengthen the Indian child, the family, and the community. This, at a time when the Federal Government purports to be working to help strengthen Indian communities. It has been called cultural genocide.

I now place in the record a copy of S. 1214, the Indian Child Welfare Act of 1977.

[The bill referred to follows:]

Calendar No. 550

95TH CONGRESS
1ST SESSION

S. 1214

[Report No. 95–597]

IN THE SENATE OF THE UNITED STATES

APRIL 1 (legislative day, FEBRUARY 21), 1977

Mr. ABOUREZK (for himself, Mr. HUMPHREY, Mr. MCGOVERN, Mr. HASKELL, and Mr. BURDICK) introduced the following bill; which was read twice and referred to the Select Committee on Indian Affairs

NOVEMBER 3 (legislative day, NOVEMBER 1), 1977

Reported by Mr. ABOUREZK, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

~~That this Act may be cited as the "Indian Child Welfare Act of 1977".~~

~~FINDINGS~~

~~SEC. 2. Recognising the special relations of the United States with the Indian and Indian tribes and the Federal responsibility for the care of the Indian people, the Congress finds that:~~

(a) An alarmingly high percentage of Indian children, living within both urban communities and Indian reservations, are separated from their natural parents through the actions of nontribal government agencies or private individuals or private agencies and are placed in institutions (including boarding schools), or in foster or adoptive homes, usually with non-Indian families.

(b) The separation of Indian children from their biological families frequently occurs in situations where one or more of the following circumstances exist: (1) the natural parent does not understand the nature of the documents or proceedings involved; (2) neither the child nor the natural parents are represented by counsel or otherwise advised of their rights; (3) the Government officials involved are unfamiliar with, and often disdainful of, Indian culture and society; (4) the conditions which led to the separation are not demonstrably harmful or are remediable or transitory in character; and (5) responsible tribal authorities are not consulted about or even informed of the nontribal government actions.

(c) The separation of Indian children from their natural parents, including especially their placement in institutions or homes which do not meet their special needs, is socially and culturally undesirable. For the child, such separation can cause a loss of identity and self esteem, and contributes directly to the unreasonably high rates among

Indian children for dropouts, alcoholism and drug abuse, suicides, and crime. For the parents, such separation can cause a similar loss of self-esteem, aggravates the conditions which initially gave rise to the family breakup, and leads to a continuing cycle of poverty and despair. For Indians generally, the child placement activities of nontribal government agencies undercut the continued existence of tribes as self-governing communities and, in particular, subvert tribal jurisdiction in the sensitive field of domestic and family relations.

DECLARATION OF POLICY

SEC. 3. The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligations to the American Indian people, to establish standards for the placement of Indian children in foster or adoptive homes which will reflect the unique values of Indian culture, to discourage unnecessary placement of Indian children in boarding schools for social rather than educational reasons, to assist Indian tribes in the operation of tribal family development programs, and generally to promote the stability and security of Indian family life.

DEFINITIONS

SEC. 4. For purposes of this Act:

(a) "Secretary", unless otherwise designated, means the Secretary of the Interior.

(b) "Indian" means any person who is a member of, or who is eligible for membership in, a federally recognized Indian tribe, as defined in subsection (c) hereof.

(c) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native region, village, or group as defined in the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) "Indian organization" means any group, association, partnership, corporation, or other legal entity owned and controlled by Indians, or a majority of whose members are Indians.

(e) "Tribal court" means the Court of Indian Offenses, any court operated and maintained by an Indian tribe, and any other tribunal which performs judicial functions in the name of an Indian tribe within an Indian reservation.

(f) "Nontribal government agency" means any Federal, State or local government department, bureau, agency, or other office, including any court, and any private agency licensed by a State or local government, which has jurisdiction or which performs functions and exercises responsibilities in the fields of social services, welfare, and domestic relations, including child placement.

(g) "Child placement" means any proceedings, judicial, quasi-judicial, or administrative, voluntary or involuntary, and public or private, under which an Indian child is removed from the custody of his natural parent or parents, his Indian adoptive parent or parents, or the custody of any blood relative in whose care he has been left by his natural parent or parents, or his Indian adoptive parent or parents, and is either offered for adoption or is placed in a foster home or other institution.

(h) "Natural parent" means the biological parent of a child and also any Indian who has adopted a child.

(i) "Blood relative" means any grandparent, aunt or uncle (whether by blood or marriage), brother or sister, brother or sister in-law, niece or nephew, or stepparent, whether by blood, marriage, or adoption, over the age of eighteen or otherwise emancipated, or as defined by tribal law or custom.

TITLE I—CHILD PLACEMENT STANDARDS

SEC. 101. (a) In the case of any Indian child who resides within an Indian reservation, no child placement shall be valid or given any legal force and effect, except temporary placements after emergency removal under circumstances where the physical or emotional well-being of the child is immediately threatened, unless made pursuant to an order of the tribal court, where a tribal court exists

within such reservation which exercises jurisdiction over child welfare matters and domestic relations.

(b) In the case of any Indian child who is domiciled within an Indian reservation, or who resides within an Indian reservation which does not have a tribal court, no child placement shall be valid or given any legal force and effect, except temporary placements under circumstances where the physical or emotional well-being of the child is immediately threatened, unless the Indian tribe occupying such reservation has been accorded thirty days' written notice of, and a right to intervene as an interested party in, the child placement proceedings. For the purposes of this Act, an Indian child shall be deemed to be domiciled where his natural parent or parents, or the blood relative in whose care he may have been left by his natural parent or parents, is domiciled.

(c) In the case of any Indian child who is not a resident or domiciliary of an Indian reservation, no child placement shall be valid or given any legal force and effect, except temporary placements under circumstances where the physical or emotional well-being of the child is immediately threatened, unless the Indian tribe of which the child is a member, or is eligible for membership, has been accorded thirty days' written notice of, and a right to intervene as an interested party in, the child placement proceedings.

(d) No Indian child shall be removed from the custody of his natural parent or parents, Indian adoptive parent or parents, or blood relative in whose custody the child has been placed by the private actions of any private individual, corporation, group, or institution for a period of more than thirty days without written notice served upon the tribe of which the child is a member or is eligible for membership in or upon whose reservation the child resides or is domiciled. The notice shall be in writing signed or acknowledged by the child's natural parent or parents, Indian adoptive parent or parents, or blood relative, and the child's temporary guardian, notarized or signed by two witnesses, stating the names of all the parties, their addresses, the expected length of removal, the purpose of removal, and the extent to which custody over the child is transferred to the temporary guardian. This section shall not apply if the tribe has enacted or enacts its own law governing private placements. No placement shall be valid or given any legal force and effect if made in violation of this section.

(e) It shall be the duty of the party seeking a change of the custody of an Indian child to notify the revelant tribal governing body by mailing written notice to the chief executive officer or such other person as the tribe may designate: *Provided further*, That the judge or hearing officer at any child placement proceeding shall make a good faith deter-

mination of whether the child involved is Indian and, if so, which tribe must be notified.

Sec. 102. (a) No placement of an Indian child, except as provided in section 101(d) of this Act, shall be valid or given any legal force and effect, except temporary placements under circumstances where the physical or emotional well-being of the child is immediately threatened, unless (1) his natural parent or parents, or the blood relative in whose care the child may have been left by his natural parent or parents, has been accorded thirty days' written notice of the child placement proceedings and a right (A) to intervene in the proceedings as an interested party through counsel or, alternatively, in a tribal court, through a lay advocate, (B) to submit evidence and present witnesses on his or her own behalf, and (C) to examine all reports or other documents and files upon which any decision with respect to child placement may be based; and (2) the nontribal government agency seeking to effect the child placement affirmatively shows that alternative remedial services and rehabilitative programs designed to prevent the break-up of the Indian family have been made available and proved unsuccessful.

(b) Where the natural parent or parents of an Indian child, who falls within any of three classes mentioned in section 101 of this Act, or the blood relative in whose care the child may have been left by his natural parent or parents,

opposes the loss of custody, no child placement shall be valid or given any legal force and effect in the absence of a determination, supported by an overwhelming weight of the evidence, including testimony by qualified professional witnesses, that the continued custody of the child by his natural parent or parents, or the blood relative in whose care the child has been left, will result in serious emotional damage, or in the absence of a determination, supported by clear and convincing evidence, including testimony by a qualified physician, that the continued custody of the child by his natural parent or parents, or the blood relative in whose care the child has been left, will result in serious physical damage. In making such determinations, poverty, including inadequate or crowded housing, misconduct, and alcohol abuse on the part of either natural parent, or the blood relative, shall not be deemed prima facie evidence that serious physical or emotional damage to the child has occurred or will occur. The standard to be applied in any proceeding covered by this Act shall be the standards of the Indian community in which the natural parent or parents, Indian adoptive parent or parents, or blood relatives reside.

(c) In the event that the natural parent or parents or Indian adoptive parent or parents of an Indian child consent to the loss of custody, whether temporary or permanent, no child placement shall be valid or given any legal force and

effect, unless such consent is voluntary, in writing, executed before a judge of a court having jurisdiction over child placements, and accompanied by the witnessing judge's certificate that the consent was explained in detail, was translated into the natural parent's native language, and was fully understood by him or her. If the consent is to a nonadoptive child placement, the natural parent or parents or Indian adoptive parent or parents may withdraw the consent at any time for any reason, and the consent shall be deemed for all purposes, except temporary custody, as having never been given. If the consent is to an adoptive child placement, and the child is over the age of two, the natural parent or parents or Indian adoptive parent or parents may withdraw the consent for any reason at any time before the final decree of adoption: *Provided further*, That no final decree of adoption may be entered within ninety days after the natural parent or parents, Indian adoptive parent or parents, or blood relative has given consent to the adoption. A final decree of adoption may be set aside only upon a showing that the child is again being placed for adoption, that the adoption did not comply with the requirements of this Act or was otherwise unlawful, or that the consent to the adoption was not voluntary. Consent by the natural parent or parents of an Indian child given within ninety days of the birth of the child shall be presumed to be involuntary.

(d) No placement of an Indian child, except as provided by section 101(d) of this Act, shall be valid or given any legal force and effect, except temporary placements under circumstances where the physical or emotional well-being of the child is immediately threatened, unless the child has been represented in the placement proceedings by counsel or, alternatively, in a tribal court, by a lay advocate, and unless his natural parent or parents, Indian adoptive parent or parents, or the blood relative in whose care the child may have been left by his natural parent or parents, or Indian adoptive parent or parents, has been represented by separate counsel or lay advocate.

SEC. 103. (a) In offering for adoption an Indian child, every nontribal government agency shall grant a preference to members of the child's extended Indian family, which shall be defined by tribal law or custom.

(b) In otherwise placing an Indian child, every nontribal government agency, in the absence of good cause shown to the contrary, shall grant preferences in the following order: (1) to the child's extended Indian family, (2) to a foster home, if any, licensed or otherwise designated by the Indian tribe occupying the reservation of which the child is a resident or domiciliary; (3) to a foster home, if any, licensed by the Indian tribe of which the child is a member or is eligible for membership; (4) to any other

foster home within an Indian reservation which is recommended by the Indian tribe of which the child is a member or is eligible for membership; (5) to any foster home run by an Indian family; and (6) to a custodial institution for children operated by an Indian tribe, a tribal organization or nonprofit Indian organization: *Provided, however*, That each Indian tribe may modify or amend the foregoing order of preferences, and may add or delete preference categories, by resolution of its government body. Every nontribal government agency shall maintain a record evidencing its efforts to comply with the order of preferences provided under this subsection in each case of an Indian child placement.

(c) Where an Indian child is placed in a foster or adoptive home, or in an institution, outside the reservation of which the child is a resident, pursuant to an order of a tribal court, the tribal court shall retain continuing jurisdiction over such child placement until the child attains the age of eighteen.

SEC. 104. After an Indian adoptive child attains the age of eighteen, upon his or her application to the court which entered the final adoption decree, and in the absence of good cause shown to the contrary, the child shall have a right to learn the names and last known address of his natural parent or parents and siblings who also have attained the age of

eighteen, their tribal affiliation and the grounds for the severance of their family relations.

SEC. 105. In any proceeding within the jurisdiction of this Act the United States, any Indian Reservation, State, Commonwealth, territory, or possession thereof shall give full faith and credit to the laws of any Indian tribe involved in a proceeding under the Act and any Tribal Court orders issued in such proceeding.

TITLE II—INDIAN FAMILY DEVELOPMENT

SEC. 201. (a) The Secretary is hereby authorized, under such rules and regulations as he may prescribe, to make grants to, or enter into contracts with, Indian tribes for the purpose of assisting such tribes in the establishment and operation of Indian family development programs, as described in section 202, and in the preparation and implementation of child welfare codes.

(b) The Secretary is further authorized, under such rules and regulations as he may prescribe, to carry out, or to make grants to or contracts with Indian tribes to carry out, a special home improvement program to upgrade: (1) the housing conditions of Indian foster and adoptive parents, if such housing conditions are substandard; (2) the housing conditions of Indians who seek Indian foster or adoptive children, where improved housing would enable such In-

dians to qualify as foster or adoptive parents under tribal law or regulations; and (3) the housing conditions of Indian families facing disintegration, where improved housing would contribute significantly to family stability.

(c) The Secretary is also authorized, under such rules and regulations as he may prescribe to carry out, or to make grants to or contracts with Indian organizations to carry out, off-reservation Indian family development programs, as described in section 203. In the establishment, operation, and funding of off-reservation Indian family development programs, the Secretary may enter into agreements or other cooperative arrangements with the Secretary of Health, Education, and Welfare, and the latter Secretary is hereby authorized for such purposes to use funds appropriated for similar programs of the Department of Health, Education, and Welfare.

(d) There are authorized to be appropriated $21,792,000 during fiscal year 1978, $23,700,000 during fiscal year 1979, $25,120,000 during fiscal year 1980, and such sums as may be necessary during each subsequent fiscal year in order to carry out the purposes of this section.

SEC. 202. (a) Every Indian tribe is hereby authorized to establish and operate an Indian family development program, which program may include some or all of the following features:

(1) a system for licensing or otherwise regulating Indian foster and adoptive homes;

(2) the construction, operation, and maintenance of family development centers, as defined in subsection (c) (2) hereof;

(3) family assistance, including homemakers and home counselors, day care, after-school care and employment, recreational activities, and respite services;

(4) provision for counseling Indian families and Indian children;

(5) a special home improvement program, as defined in section 201 (b);

(6) the employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters;

(7) education and training of Indians, including tribal court judges and staff, in skills relating to child welfare and family assistance programs, and the granting of scholarships for such education and training; and

(8) a subsidy program under which Indian adoptive children are provided the same support as Indian foster children.

(b) Where an Indian tribe has implemented a licensing or other regulatory system pursuant to subsection 202 (a) (1), any Indian foster or adoptive home so

licensed or designated (1) may accept Indian child placements by a nontribal government agency and State funds in support of Indian children, (2) shall have a first preference in the placement of an Indian child who is a resident or domiciliary of such tribe's reservation in accordance with subsection 103(b)(1) of this Act, and (3) shall have a second preference in the placement of an Indian child who is a member of, or eligible for membership in, such tribe in accordance with subsection 103(b)(2) of this Act.

(c)(1) The objective of every Indian family development program shall be 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 natural parent or parents, or the custody of any blood relative in whose care he has been left by his natural parent or parents, by a tribal court or nontribal government agency shall be effected only as a last resort.

(2) In furtherance of this objective, every Indian tribe is authorized to construct, operate, and maintain a family development center which may contain, among other features:

(A) facilities for counseling Indian families which face disintegration and, where appropriate, for the treatment of individual family members;

(B) facilities for the temporary custody of Indian

children whose natural parent o
unable or unwilling to car
are left temporarily with
by a blood relative; and

(C) facilities for the temporar
parents, where so ordered by a tribal co
incarceration for public intoxication or the co
of any other minor offense.

SEC. 203. Off-reservation Indian family development programs, operated either directly by the Secretary or through grants and contracts with local Indian organizations, may include, but shall not be limited to, the following features:

(a) a system for regulating, maintaining, and supporting Indian foster and adoptive homes, including a subsidy program under which Indian adoptive children are provided the same support as Indian foster children;

(b) the construction, operation, and maintenance of family development centers providing the facilities and services set forth in paragraphs (2)(A) and (B) of section 202(c) of this Act;

(c) family assistance, including homemakers and home counselors, day care, after-school care and employment, recreational activities, and respite services;

(d) provision for counseling and treatment both of

Indian families which face disintegration and, where appropriate, of Indian foster and adoptive children;

(c) an Indian child defense program, as defined in section 204(b), and other representation of Indian children before the courts; and

(f) furnishing guidance, representation, and advice to Indian families involved in child placement proceedings before nontribal government agencies.

SEC. 204. (a) The Secretary is hereby authorized and directed, under such rules and regulations as he may prescribe, to undertake a study of the circumstances surrounding all child placements which have occurred during the sixteen years preceding the effective date of this Act, where the Indian child so placed still is under the age of eighteen on such date. If the Secretary has good cause to believe, on the basis of this study, that a child placement was or may be invalid or otherwise legally defective, and if either natural parent, Indian adoptive parent or the blood relative previously having custody of the Indian child so requests, the Secretary is authorized, in his discretion, to institute a habeas corpus action or other appropriate legal proceeding in the name of the United States on behalf of such parent, Indian adoptive parent or blood relative in the United States district court for the district in which the child resides for the purpose of challenging the child placement and, if it is found

invalid or legally defective, of restoring custody of the Indian child to its natural parent or parents, Indian adoptive parent or parents, or to the blood relative in whose care the child had been left.

(b) The Secretary is further authorized and directed, under such rules and regulations as he may prescribe, to operate, or to make grants or contracts with Indian tribes or Indian organizations to operate, an Indian family defense program which shall provide representation by an attorney or, alternatively, in a tribal court, by a lay advocate for any Indian child who is the subject of a child placement proceeding, or, if appropriate, for his natural parent or parents, or the blood relative in whose care the child may have been left by his natural parent or parents.

(c) The Secretary also is authorized and directed, under such rules and regulations as he may prescribe, to collect and maintain records in a single, central location of all Indian child placements which either are effected after the date of this Act or are the subject of the study required under subsection (a) hereof, which records shall show as to each such placement the name and tribal affiliation of the child, the names and addresses of his natural parents and the blood relative, if any, in whose care he may have been left by a natural parent, the names and addresses of his siblings, and the names and locations of any tribal court

or nontribal government agency which possesses files or information concerning his placement. Such records shall not be open for inspection or copying pursuant to the Freedom of Information Act (80 Stat. 381), as amended, but information concerning a particular child placement shall be made available in whole or in part, as necessary: (1) to an Indian adoptive child over the age of eighteen for the purpose of identifying the court which entered his final adoption decree and furnishing such court with the information specified in section 104; (2) to the adoptive parent of an Indian child or to an Indian tribe for the purpose of assisting in the enrollment of an Indian adoptive child in the tribe of which he is eligible for membership; and (3) to the adoptive parent of an Indian child for the purpose of establishing or continuing his tribal affiliation or a relationship with his siblings. The records collected by the Secretary pursuant to this section shall be privileged and confidential and shall be used only for the specific purposes set forth in this Act.

(d) There are authorized to be appropriated $18,000,000 during fiscal year 1979, $20,000,000 during fiscal year 1980, $22,000,000 during fiscal year 1981, and such sums as may be necessary during each subsequent fiscal year in order to carry out the purposes of this section, including the payment of attorney fees.

SEC. 205. (a) The Secretary is authorized to perform

any and all acts and to make such rules and regulations as may be necessary and proper for the purposes of carrying out the provisions of this Act.

(b) (1) Within six months from the date of enactment of this Act, the Secretary shall consult with Indian tribes, Indian organizations and Indian interest agencies in the consideration and formulation of rules and regulations to implement the provisions of this Act.

(2) Within seven months from the date of enactment of this Act, the Secretary shall present the proposed rules and regulations to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, respectively.

(3) Within eight months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(4) Within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act.

(c) The Secretary is authorized to revise and amend any rules or regulations promulgated pursuant to this section: *Provided*, That prior to any revision or amendment to such rules or regulations, the Secretary shall present the

~~proposed revision or amendment to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, respectively, and shall, to the extent practicable, consult with the tribes, organizations, and agencies specified in subsection (b) (1) of this section, and shall publish any proposed revisions in the Federal Register not less than sixty days prior to the effective date of such rules and regulations in order to provide adequate notice to, and receive comments from, other interested parties.~~

That this Act may be cited as the "Indian Child Welfare Act of 1977".

FINDINGS

SEC. 2. Recognizing the special relations of the United States with the Indian and Indian tribes and the Federal responsibility for the care of the Indian people, the Congress finds that:

(a) An alarmingly high percentage of Indian children living within both urban communities and Indian reservations, are separated from their natural parents through the actions of nontribal government agencies or private individuals or private agencies and are placed in institutions (including boarding schools), or in foster or adoptive homes, usually with non-Indian families.

(b) The separation of Indian children from their families frequently occurs in situations where one or more of the following circumstances exist: (1) the natural parent does not understand the nature of the documents or proceedings involved; (2) neither the child nor the natural parents are represented by counsel or otherwise advised of their rights; (3) the agency officials involved are unfamiliar with, and often disdainful of Indian culture and society; (4) the conditions which led to the separation are not demonstrably harmful or are remediable or transitory in character; and (5) responsible tribal authorities are not consulted about or even informed of the nontribal government actions.

(c) The separation of Indian children from their natural parents, especially their placement in institutions or homes which do not meet their special needs, is socially and culturally undesirable. For the child, such separation can cause a loss of identity and self-esteem, and contributes directly to the unreasonably high rates among Indian children for dropouts, alcoholism and drug abuse, suicides, and crime. For the parents, such separation can cause a similar loss of self-esteem, aggrevates the conditions which initially gave rise to the family breakup, and leads to a continuing cycle of poverty and despair. For Indians generally, the child placement activities of nontribal public and private agencies undercut the continued existence of tribes as self-

governing communities and, in particular, subvert tribal jurisdiction in the sensitive field of domestic and family relations.

DECLARATION OF POLICY

SEC. 3. The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligations to the American Indian people, to establish standards for the placement of Indian children in foster or adoptive homes which will reflect the unique values of Indian culture, discourage unnecessary placement of Indian children in boarding schools for social rather than educational reasons, assist Indian tribes in the operation of tribal family development programs, and generally promote the stability and security of Indian families.

DEFINITIONS

SEC. 4. For purposes of this Act:

(a) "Secretary", unless otherwise designated, means the Secretary of the Interior.

(b) "Indian" means any person who is a member of or who is eligible for membership in a federally recognized Indian tribe.

(c) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided by the Bureau of Indian Affairs to Indians because of their status as

Indians, including any Alaska Native villages, as listed in section 11(b)(1) of the Alaska Native Claims Settlement Act (85 Stat. 688, 697).

(d) "Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians, or a majority of whose members are Indians.

(e) "Tribal court" means any Court of Indian Offenses, any court established, operated, and maintained by an Indian tribe, and any other administrative tribunal of a tribe which exercise jurisdiction over child welfare matters in the name of a tribe.

(f) "Nontribal public or private agency" means any Federal, State, or local government department, bureau, agency, or other office, including any court other than a tribal court, and any private agency licensed by a State or local government, which has jurisdiction or which performs functions and exercises responsibilities in the fields of social services, welfare, and domestic relations, including child placement.

(g) "Reservation" means Indian country as defined in section 1151 of title 18, United States Code and as used in this Act, shall include lands within former reservations where the tribes still maintain a tribal government, and lands held by Alaska Native villages under the provisions of the Alaska

Native Claims Settlement Act (85 Stat. 688). In a case where it has been judicially determined that a reservation has been diminished, the term "reservation" shall include lands within the last recognized boundaries of such diminished reservation prior to enactment of the allotment or pending statute which caused such diminishment.

(h) "Child placement" means any proceedings, judicial, quasi-judicial, or administrative, voluntary or involuntary, and public or private action(s) under which an Indian child is removed by a nontribal public or private agency from (1) the legal custody of his parent or parents, (2) the custody of any extended family member in whose care he has been left by his parent or parents, or (3) the custody of any extended family member who otherwise has custody in accordance with Indian law or custom, or (4) under which the parental or custodial rights of any of the above mentioned persons are impaired.

(i) "Parent" means the natural parent of an Indian child or any person who has adopted an Indian child in accordance with State, Federal, or tribal law or custom.

(j) "Extended family member" means any grandparent, aunt, or uncle (whether by blood or marriage), brother or sister, brother or sister-in-law, niece or nephew, first or second cousin, or stepparent whether by blood, or adoption, over the age of eighteen or otherwise emancipated, or as defined by tribal law or custom.

TITLE I—CHILD PLACEMENT JURISDICTION AND STANDARDS

SEC. 101. (a) No placement of an Indian child, except as provided in this Act shall be valid or given any legal force and effect, except temporary placement under circumstances where the physical or emotional well-being of the child is immediately and seriously threatened, unless (1) his parent or parents and the extended family member in whose care the child may have been left by his parent or parents or who otherwise has custody according to tribal law or custom, has been accorded not less than thirty days prior written notice of the placement proceeding, which shall include an explanation of the child placement proceedings, a statement of the facts upon which placement is sought, and a right: (A) to intervene in the proceedings as an interested party; (B) to submit evidence and present witnesses on his or her own behalf; and (C) to examine all reports or other documents and files upon which any decision with respect to child placement may be based; and (2) the party seeking to effect the child placement affirmatively shows that available remedial services and rehabilitative programs designed to prevent the breakup of the Indian family have been made available and proved unsuccessful.

(b) Where the natural parent or parents of an Indian child who falls within the provisions of this Act, or the

extended family member in whose care the child may have been left by his parent or parents or who otherwise has custody in accordance with tribal law or custom, opposes the loss of custody, no child placement shall be valid or given any legal force and effect in the absence of a determination, supported by clear and convincing evidence, including testimony by qualified expert witnesses, that the continued custody of the child by his parent or parents, or the extended family member in whose care the child has been left, or otherwise has custody in accordance with tribal law or custom, will result in serious emotional or physical damage. In making such determination, proverty, crowded or inadequate housing, alcohol abuse or other nonconforming social behaviors on the part of either parent or extended family member in whose care the child may have been left by his parent or parents or who otherwise has custody in accordance with tribal law or custom, shall not be deemed prima facie evidence that serious physical or emotional damage to the child has occurred or will occur. The standards to be applied in any proceeding covered by this Act shall be the prevailing social and cultural standards of the Indian community in which the parent or parents or extended family member resides or with which the parent or parents or extended family member maintains social and cultural ties.

(c) In the event that the parent or parents of an

Indian child consent to a child placement, whether temporary or permanent, such placement shall not be valid or given any legal force and effect, unless such consent is voluntary, in writing, executed before a judge of a court having jurisdiction over child placements, and accompanied by the witnessing judge's certificate that the consent was explained in detail, was translated into the parent's native language, and was fully understood by him or her. If the consent is to a nonadoptive child placement, the parent or parents may withdraw the consent at any time for any reason, and the consent shall be deemed for all purposes as having never been given. If the consent is to an adoptive child placement, the parent or parents may withdraw the consent for any reason at any time before the final decree of adoption: Provided, That no final decree of adoption may be entered within ninety days after the birth of such child or within ninety days after the parent or parents have given written consent to the adoption, whichever is later. Consent by the parent or parents of an Indian child given during pregnancy or within ten days after the birth of the child shall be conclusively presumed to be involuntary. A final decree of adoption may be set aside upon a showing that the child is again being placed for adoption, that the adoption did not comply with the requirements of this Act or was otherwise unlawful, or that the consent to the adoption

was not voluntary. In the case of such a failed adoption, the parent or parents or the extended family member from whom custody was taken shall be afforded an opportunity to reopen the proceedings and petition for return of custody. Such prior parent or custodian shall be given thirty days notice of any proceedings to set aside or vacate a previous decree unless the prior parent or custodian waives in writing any right to such notice.

(d) No placement of an Indian child, except as otherwise provided by this Act, shall be valid or given any legal force and effect, except temporary placements under circumstances where the physical or emotional well-being of the child is immediately threatened, unless his parent or parents, or the extended family member in whose care the child may have been left or who otherwise has custody in accordance with tribal law or custom, has been afforded the opportunity to be represented by counsel or lay advocate as required by the court having jurisdiction.

(e) Whenever an Indian child previously placed in foster care or temporary placement by any nontribal public or private agency is committed or placed, either voluntarily or involuntarily in any public or private institution, including but not limited to a correctional facility, institution for juvenile delinquents, mental hospital or halfway house, or is transferred from one foster home to another, notification

shall forthwith be made to the tribe with which the child has significant contacts and his parent or parents or extended family member from whom the child was taken. Such notice shall include the exact location of the child's present placement and the reasons for changing his placement. Notice shall be made thirty days before the legal transfer of the child effected, if possible, and in any event within ten days thereafter.

SEC. 102. (a) In the case of any Indian child who resides within an Indian reservation which maintains a tribal court which exercises jurisdiction over child welfare matters, no child placement shall be valid or given any legal force and effect, unless made pursuant to an order of the tribal court. In the event that a duly constituted Federal or State agency or any representation thereof has good cause to believe that there exists an immediate threat to the emotional or physical well-being of an Indian child, such child may be temporarily removed from the circumstances giving rise to the danger provided that immediate notice shall be given to the tribal authorities, the parents, and the extended family member in whose care the child may have been left or who otherwise has custody according to tribal law or custom. Such notice shall include the child's exact whereabouts and the precise reasons for removal. Temporary removals beyond the boundaries of a reservation shall not affect the exclusive

jurisdiction of the tribal court over the placement of an Indian child.

(b) In the case of an Indian child who resides within an Indian reservation which possesses but does not exercise jurisdiction over child welfare matters, no child placement, by any nontribal public or private agency shall be valid or given any legal force and effect, except temporary placements under circumstances where the physical or emotional well-being of the child is immediately and seriously threatened, unless such jurisdiction is transferred to the State pursuant to a mutual agreement entered into between the State and the Indian tribe pursuant to subsection (j) of this section. In the event that no such agreement is in effect, the Federal agency or agencies servicing said reservation shall continue to exercise responsibility over the welfare of such child.

(c) In the case of any Indian child who is not a resident of an Indian reservation or who is otherwise under the jurisdiction of a State, if said Indian child has significant contacts with an Indian tribe, no child placement shall be valid or given any legal force and effect, except temporary placements under circumstances where the physical or emotional well-being of the child is immediately and seriously threatened, unless the Indian tribe with which such child has significant contacts has been accorded thirty days prior written notice of a right to intervene as an interested party

in the child placement proceedings. In the event that the intervening tribe maintains a tribal court which has jurisdiction over child welfare matters, jurisdiction shall be transferred to such tribe upon its request unless good cause for refusal is affirmatively shown.

(d) In the event of a temporary placement or removal as provided in subsections (a), (b), and (c) above, immediate notice shall be given to the parent or parents, the custodian from whom the child was taken if other than the parent or parents, and the chief executive officer or such other person as such tribe or tribes may designate for receipt of notice. Such notice shall include the child's exact whereabouts, the precise reasons for his or her removal, the proposed placement plan, if any, and the time and place where hearings will be held if a temporary custody order is to be sought. In addition, where a tribally operated or licensed temporary child placement facility or program is available, such facilities shall be utilized. A temporary placement order must be sought at the next regular session of the court having jurisdiction and in no event shall any temporary or emergency placement exceed seventy-two hours without an order from the court of competent jurisdiction.

(e) For the purposes of this Act, an Indian child shall be deemed to be a resident of the reservation where his parent or parents, or the extended family member in whose care he

may have been left by his parent or parents or who otherwise has custody in accordance with tribal law or custom, is resident.

(f) For the purposes of this Act, whether or not a non-reservation resident Indian child has significant contacts with an Indian tribe shall be an issue of fact to be determined by the court on the basis of such considerations as: Membership in a tribe, family ties within the tribe, prior residency on the reservation for appreciable periods of time, reservation domicile, the statements of the child demonstrating a strong sense of self-identity as an Indian, or any other elements which reflect a continuing tribal relationship. A finding that such Indian child does not have significant contacts with an Indian tribe sufficient to warrant a transfer of jurisdiction to a tribal court under subsection (c) of this section does not waive the preference standards for placement set forth in section 103 of this Act.

(g) It shall be the duty of the party seeking a change of the legal custody of an Indian child to notify the parent or parents, the extended family members from whom custody is to be taken, and the chief executive of any tribe or tribes with which such child has significant contacts by mailing prior written notice by registered mail to the parent or parents, or extended family member, and the chief executive officer of the tribe, or such other persons as such tribe or

tribes may designate: Provided, That the judge or hearing officer at any child placement proceeding shall make a good faith determination of whether the child involved is Indian and, if so, whether the tribe or tribes with which the child has significant contacts were timely notified.

(h) Any program operated by a public or private agency which removes Indian children from a reservation area and places them in family homes as an incident to their attendance in schools located in communities in off-reservation areas and which are not educational exemptions as defined in the Interstate Compact on the Placement of Children shall not be deemed child placements for the purposes of this Act. Such programs shall provide the chief executive officer of said tribe with the same information now provided to sending and receiving states which are members of the Interstate Compact on the Placement of Children. This notification shall be facilitated by mailing written notice by registered mail to the chief executive officer or other such person as the tribe may designate.

(i) Notwithstanding the Act of August 15, 1953 (67 Stat. 588), as amended, or any other Act under which a State has assumed jurisdiction over child welfare of any Indian tribe, upon sixty days written notice to the State in which it is located, any such Indian tribe may reassume the same jurisdiction over such child welfare matters as any

other Indian tribe not affected by such Acts: Provided, That such Indian tribe shall first establish and provide mechanisms for implementation of such matters which shall be subject to the review and approval of the Secretary of the Interior. In the event the Secretary does not approve the mechanisms which the tribe proposes within sixty days, the Secretary shall provide such technical assistance and support as may be necessary to enable the tribe to correct any deficiencies which he has identified as a cause for disapproval. Following approval by the Secretary, such reassumption shall not take effect until sixty days after the Secretary provides notice to the State which is asserting such jurisdiction. Except as provided in section 102(c), such reassumption shall not affect any action or proceeding over which a court has already assumed jurisdiction and no such actions or proceeding shall abate by reason of such reassumption.

(j) States and tribes are specifically authorized to enter into mutual agreements or compacts with each other, respecting the care, custody, and jurisdictional authority of each party over any matter within the scope of this Act, including agreements which provide for transfer of jurisdiction on a case-by-case basis, and agreements which provide for concurrent jurisdiction between the States and the tribes. The provisions of the Act of August 15, 1953 (67 Stat. 588), as amended by title IV of the Act of April 11, 1968 (82 Stat.

78) shall not limit the powers of States and tribes to enter into such agreements or compacts. Any such agreements shall be subject to revocation by either party upon sixty days written notice to the other. Except as provided in section 102(c), such revocation shall not affect any action or proceeding over which a court has already assumed jurisdiction and no such action or proceeding shall abate by reason of such revocation: And provided further, That such agreements shall not waive the rights of any tribe to notice and intervention as provided in this Act nor shall they alter the order of preference in child placement provided in this title. The Secretary of the Interior shall have sixty days after notification to review any such mutual agreements or compacts or any revocation thereof and in the absence of a disapproval for good cause shown, such agreement, compact, or revocation thereof shall become effective.

(k) Nothing in this Act shall be construed to either enlarge or diminish the jurisdiction over child welfare matters which may be exercised by either State or tribal courts or agencies except as expressly provided in this Act.

SEC. 103. (a) In offering for adoption an Indian child, in the absence of good cause shown to the contrary, a preference shall be given in the following order: (1) to the child's extended family; (2) to an Indian home on the reservation where the child resides or has significant contacts; (3) to an

Indian home where the family head or heads are members of the tribe with which the child has significant contacts; and (4) to an Indian home approved by the tribe: Provided, however, That each Indian tribe may modify or amend the foregoing order of preference and may add or delete preference categories by resolution of its government.

(b) In any nonadoptive placement of an Indian child, every nontribal public or private agency, in the absence of good cause shown to the contrary, shall grant preferences in the following order: (1) to the child's extended family; (2) to a foster home, if any, licensed or otherwise designated by the Indian tribe occupying the reservation of which the child is a resident or with which the child has significant contacts; (3) to a foster home, if any, licensed by the Indian tribe of which the child is a member or is eligible for membership; (4) to any other foster home within an Indian reservation which is approved by the Indian tribe of which the child is a member or is eligible for membership in or with which the child has significant contacts; (5) to any foster home run by an Indian family; and (6) to a custodial institution for children operated by an Indian tribe, a tribal organization, or nonprofit Indian organization: Provided, however, That each Indian tribe may modify or amend the foregoing order of preferences, and may add or delete preference categories, by resolution of its government body.

(c) Every nontribal public or private agency shall mantain a record evidencing its efforts to comply with the order of preference provided under subsections (a) and (b) in each case of an Indian child placement. Such records shall be made available, at any time upon request of the appropriate tribal government authorities.

(d) Where an Indian child is placed in a foster or adoptive home, or in an institution, outside the reservation of which the child is a resident or with which he maintains significant contacts, pursuant to an order of a tribal court, the tribal court shall retain continuing jurisdiction over such child until the child attains the age of eighteen.

SEC. 104. In order to protect the unique rights associated with an individual's membership in an Indian tribe, after an Indian child who has been previously placed attains the age of eighteen, upon his or her application to the court which entered the final placement decree, and in the absence of good cause shown to the contrary, the child shall have the right to learn the tribal affiliation of his parent or parents and such other information as may be necessary to protect the child's rights flowing from the tribal relationship.

SEC. 105. In any child placement proceeding within the scope of this Act, the United States, every State, every territory or possession of the United States, and every

Indian tribe shall give full faith and credit to the laws of any Indian tribe applicable to a proceeding under the Act and to any tribal court orders relating to the custody of a child who is the subject of such a proceeding.

TITLE II—INDIAN FAMILY DEVELOPMENT

SEC. 201. (a) The Secretary of the Interior is hereby authorized, under such rules and regulations as he may prescribe, to carry out or make grants to Indian tribes and Indian organizations for the purpose of assisting such tribes or organizations in the establishment and operation of Indian family development programs on or near reservations, as described in this section, and in the preparation and implementation of child welfare codes. The objective of every Indian family development program shall be 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 parent or parents, or the custody of any extended family member in whose care he has been left his parent or parents, or one who otherwise has custody according to tribal law or custom, shall be effected only as a last resort. Such family development programs may include, but are not limited to, some or all of the following features:

(1) a system for licensing or otherwise regulating Indian foster and adoptive homes;

(2) the construction, operation, and maintenance

of family development centers, as defined in subsection (b) hereof;

(3) family assistance, including homemakers and home counselors, day care, after school care, and employment, recreational activities, and respite services;

(4) provision for counseling and treatment of Indian families and Indian children;

(5) home improvement programs;

(6) the employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters;

(7) education and training of Indians, including tribal court judges and staff, in skills relating to child welfare and family assistance programs;

(8) a subsidy program under which Indian adoptive children are provided the same support as Indian foster children; and

(9) guidance, legal representation, and advice to Indian families involved in tribal or nontribal child placement proceedings.

(b) Any Indian foster or adoptive home licensed or designated by a tribe (1) may accept Indian child placements by a nontribal public or private agency and State funds in support of Indian children; and (2) shall be granted preference in the placement of an Indian child in

accordance with title I of this Act. For purposes of qualifying for assistance under any federally assisted program, licensing by a tribe shall be deemed equivalent to licensing by a State.

(c) Every Indian tribe is authorized to construct, operate, and maintain a family development center which may contain, but shall not be limited to—

(1) facilities for counseling Indian families which face disintegration and, where appropriate, for the treatment of individual family members;

(2) facilities for the temporary custody of Indian children whose natural parent or parents, or extended family member in whose care he has been left by his parent or parents or one who otherwise has custody according to tribal law or custom, are temporarily unable or unwilling to care for them or who otherwise are left temporarily without adequate adult supervision by an extended family member.

SEC. 202. (a) The Secretary is also authorized under such rules and regulations as he may prescribe to carry out, or to make grants to Indian organizations to carry out, off-reservation Indian family development programs, as described in this section.

(b) Off-reservation Indian family development programs operated through grants with local Indian organizations, may include, but shall not be limited to, the following features:

(1) a system for regulating, maintaining, and supporting Indian foster and adoptive homes, including a subsidy program under which Indian adoptive children are provided the same support as Indian foster children;

(2) the construction, operation, and maintenance of family development centers providing the facilities and services set forth in section 201(d);

(3) family assistance, including homemakers and home counselors, day care, after school care, and employment, recreational activities, and respite services;

(4) provision for counseling and treatment both of Indian families which face disintegration and, where appropriate, of Indian foster and adoptive children; and

(5) guidance, representation, and advice to Indian families involved in child placement proceedings before nontribal public and private agencies.

SEC. 203. (a) In the establishment, operation, and funding of Indian family development programs, both on or off reservation, the Secretary may enter into agreements or other cooperative arrangements with the Secretary of Health, Education, and Welfare, and the latter Secretary is hereby

authorized for such purposes to use funds appropriated for similar programs of the Department of Health, Education, and Welfare.

(b) There are authorized to be appropriated $26,000,000 during fiscal year 1979 and such sums thereafter as may be necessary during each subsequent fiscal year in order to carry out the purposes of this title.

TITLE III—RECORDKEEPING, INFORMATION AVAILABILITY, AND TIMETABLES

SEC. 301. (a) The Secretary of the Interior is authorized and directed under such rules and regulations as he may prescribe, to collect and maintain records in a single, central location of all Indian child placements which are effected after the date of this Act which records shall show as to each such placement the name and tribal affiliation of the child, the names and addresses of his natural parents and the extended family member, if any, in whose care he may have been left, the names and addresses of his adoptive parents, the names and addresses of his natural siblings, and the names and locations of any tribal or nontribal public or private agency which possess files or information concerning his placement. Such records shall not be open for inspection or copying pursuant to the Freedom of Information Act (80 Stat. 381), as amended, but information concerning a particular child placement shall be made available in

whole or in part, as necessary to an Indian child over the age of eighteen for the purpose of identifying the court which entered his final placement decree and furnishing such court with the information specified in section 104 or to the adoptive parent or foster parent of an Indian child or to an Indian tribe for the purpose of assisting in the enrollment of said Indian child in the tribe of which he is eligible for membership and for determining any rights or benefits associated with such membership. The records collected by the Secretary pursuant to this section shall be privileged and confidential and shall be used only for the specific purposes set forth in this Act.

(b) A copy of any order of any nontribal public or private agency which effects the placement of an Indian child within the coverage of this Act shall be filed with the Secretary of the Interior by mailing a certified copy of said order within ten days from the date such order is issued. In addition, such public or private agency shall file with the Secretary of the Interior any further information which the Secretary may require by regulations in order to fulfill his recordkeeping functions under this Act.

SEC. 302. (a) The Secretary is authorized to perform any and all acts and to make rules and regulations as may be necessary and proper for the purpose of carrying out the provisions of this Act.

(b)(1) Within six months from the date of this Act, the Secretary shall consult with Indian tribes, Indian organizations, and Indian interest agencies in the consideration and formation of rules and regulations to implement the provisions of this Act.

(2) Within seven months from the date of enactment of this Act, the Secretary shall present the proposed rules and regulations to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, respectfully.

(3) Within eight months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(4) Within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act.

(c) The Secretary is authorized to revise and amend any rules and regulations promulgated pursuant to this section: Provided, That prior to any revision or amendment to such rules or regulations, the Secretary shall present the proposed revision or amendment to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, respectively, and shall, to the extent practicable, consult with the tribes, organizations, and agencies specified in subsection (b)(1) of this section, and shall publish any proposed revisions in the Federal Register not less than sixty days prior to the effective date of such rules and regulations in order to provide adequate notice to, and receive comments from, other interested parties.

TITLE IV—PLACEMENT PREVENTION STUDY

SEC. 401. (a) It is the sense of Congress that the absence of locally convenient day schools contributes to the breakup of Indian families and denies Indian children the equal protection of the law.

(b) The Secretary is authorized and directed to prepare and to submit to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs and Committee on Education and Labor of the United States House of Representatives, respectively, within one year from the date of enactment of this Act, a plan, including a cost analysis statement, for the provision to Indian children of schools located near the students home. In developing this plan, the Secretary shall give priority to the need for educational facilities for children in the elementary grades.

Chairman ABOUREZK. The administration panel is first: Nancy Amidei and Raymond Butler. We will hear from Mr. Butler first.

STATEMENT OF RAYMOND V. BUTLER, ACTING DEPUTY COMMISSIONER, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY RALPH REESER, OFFICE OF LEGISLATIVE COUNSEL

Mr. BUTLER. Thank you, Mr. Chairman.

I have a prepared statement here that was approved very, very late. I will summarize from that, Mr. Chairman.

We endorse the general concepts of S. 1214.

The placement of Indian children in foster and adoptive homes should be done within the context of their cultural environment and heritage and should insure the preservation of their identity and unique cultural values; and the stability and security of Indian family life should be promoted and fostered. However, I regret that we cannot support the enactment of S. 1214 at this time.

The quantity and quality of support services to vulnerable families generally are not always sufficient to meet the needs of such families and their individual members——

Chairman ABOUREZK. Would you repeat that, Mr. Butler?

Mr. BUTLER. The quantity and quality of support services to vulnerable families generally are not always sufficient to meet the needs of such families and their individual members.

Chairman ABOUREZK. What does that mean?

Mr. BUTLER. Mr. Chairman, this includes Indians.

What I am referring to here, Mr. Chairman, is resources that are available to the Bureau of Indian Affairs and that are available to HEW, as a whole, throughout the United States, as well as the staff support services, to provide services to keep these families intact so that we do not have the deplorable situation that confronts us here today.

Chairman ABOUREZK. And that is your reason for opposing the bill?

Mr. BUTLER. No; I am just making that as a part of the statement, Mr. Chairman.

Chairman ABOUREZK. All right.

Mr. BUTLER. This administration has recognized this general problem. On July 26 of this year, the administration's proposal, "The Child Welfare Amendments of 1977," was introduced as S. 1928. S. 1928 would amend the Society Security Act to establish standards for foster and adoptive placements, and is designed to strengthen and improve child welfare programs throughout the country.

S. 1928 could accomplish many of the objectives and goals set forth in S. 1214, and could assist Indian families in achieving such goals without the concerns found in S. 1214, provided that appropriate amendments can be worked out between HEW and Interior.

Further, HEW, as we understand, recently established the Administration on Children, Youth, and Families, which administers a spectrum of programs for child and family welfare. HEW's authority will be further expanded under S. 1928. The Bureau of Indian Affairs has very few programs in this area by comparison, Mr. Chairman; and

S. 1214 places new requirements on the Secretary of the Interior which may conflict with or duplicate current HEW authorities, as well as the HEW authorities proposed under S. 1928.

Title I of S. 1214 would impose one uniform set of Federal standards over all tribes without considering the wide cultural diversity and values of Indians throughout the country. Further, title I is far more restrictive to tribes than the present system because it increases Federal intrusion into the regulation of tribal domestic matters and sovereignty. We believe, Mr. Chairman, in the spirit of self-determination that——

Chairman ABOUREZK. Would you repeat that last phrase please?

Mr. BUTLER. Yes, Mr. Chairman.

Title I, in our judgment, would impose one set of uniform Federal standards over all tribes without considering the wide cultural diversity and values of Indians throughout the country. Further, title I is far more restrictive to tribes than the present system because it increases Federal intrusion in the regulation of tribal domestic matters and sovereignty. We believe, Mr. Chairman, in the spirit of self-determination, that a reaffirmation by the Congress of the federally recognized Indian tribes legislative and judicial powers in addition to the full faith and credit provision by the Congress would overcome the concept of Federal intrusion into the domestic affairs of the Indian tribe.

However, Mr. Chairman, I must say that although S. 1928 would reform and improve the present system of Federal and State child welfare services and meet many of the goals set out in S. 1214, it does not contain at this time any provisions that specifically deal with Indian children and tribal governments. In recognition of this, it would be our suggestion that Interior and HEW work together to develop any necessary amendments to S. 1928 to meet the special needs of Indian children and their families as is held in the unique special relationship between the Federal Government and the Indian tribes.

Mr. Chairman, that concludes the summary of my written remarks. I would be pleased to respond to any questions.

Chairman ABOUREZK. Thank you.

The next witness is Ms. Nancy Amidei of HEW.

Mr. Butler's entire written statement will be inserted into the record.

[The prepared statement of Mr. Butler follows:]

STATEMENT OF RAYMOND V. BUTLER, ACTING DEPUTY COMMISSIONER, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. Chairman, I appreciate the opportunity to appear before this committee today to testify on S. 1214, "The Indian Child Welfare Act of 1977."

We agree that the placement of Indian children in foster and adoptive homes should be done within the context of their cultural environment and heritage and should insure the preservation of their identity and unique values; and the stability and security of Indian family life should be promoted and fostered. However, we cannot support enactment of S. 1214.

The administration has recognized the problem of services to vulnerable families, and on July 26, 1977, the administration's proposal, "The Child Welfare Amendments of 1977," was introduced as S. 1928 in the Senate. S. 1928 would amend the Social Security Act to promote standards for foster and adoptive placements, and is designed to strengthen and improve child welfare programs throughout the country. S. 1928 could accomplish many of the goals set forth in S. 1214, and could assist Indian families in achieving some of these goals without

the concerns found in S. 1214. We defer to the Department of Health, Education, and Welfare as to a further discussion of S. 1928.

Further, HEW recently established the Administration on Children, Youth, and Families, which administers a spectrum of programs for child and family welfare. HEW's authority will be further expanded under S. 1928. The Bureau of Indian Affairs has very few direct child welfare programs, and S. 1214 places new requirements on the Secretary of the Interior which may conflict with or duplicate current HEW authorities, as well as the HEW authorities proposed under S. 1928.

We agree that a very high proportion of Indian children are living in foster care arrangements. However, in the case of the Bureau of Indian Affairs the children are usually placed with Indian foster parents. Information from a study done in 1972 indicates that where the BIA made payments for foster care, about two thirds of foster homes were Indian. This proportion has subsequently increased. The BIA is not an adoption agency but has secured services from the Adoption Resources Exchange of North America (ARENA) for the adoption of Indian children for whom adoptive homes are not available locally. Between Juy 1, 1977 and June 30, 1976, about 90 percent of the children referred to ARENA were placed with Indian adoptive families both on and off reservation. It is generally difficult to locate families for many older or handicapped children, regardless of race, and this problem equally applies to older or handicapped Indian children. This situation has resulted in some placements in non-Indian adoptive homes.

The use of boarding schools for foster care of Indian children is often at the choice of the parents. In the case of some other children, it is the best available placement. We agree that it is desirable that there be less need for care of children away from their parents, but in the foreseeable future, it appears that boarding school placements will continue to be needed for many children who require foster care.

S. 1214 also finds that Government officials involved with Indian child placement are unfamiliar with and disdainful of Indian culture. We would point out that the majority of BIA employees who work with Indian families involved in placement are themselves Indian. S. 1214 further finds that child placement subverts tribal jurisdiction over domestic relations if a tribe has established an Indian court. The BIA honors such jurisdiction, as have several courts, including the U.S. Supreme Court. Further, many tribes have Welfare Committees which participate in or advise BIA social services in matters of Indian child and family development and in foster care activities.

Section 105 of S. 1214 would state what has essentially been upheld by the U.S. Supreme Court and two State Supreme Courts, that is, that tribal court proceeding over areas under tribal jurisdiction should be given full faith and credit in the proceedings of other jurisdictions.

In summary, we feel that enactment of S. 1214 would be duplicative in that it would purport to confer upon tribes and tribal courts authority that they already have; that other Federal agencies already provide (or have the authority to provide) many of the family development services authorized in S. 1214; that efforts are already underway in the BIA to improve Indian child welfare placement standards; that the BIA can already assist tribes in many of the activities authorized by title II of S. 1214 under the broad general authority of the Snyder Act (25 U.S.C. 13) and through Public Law 93-638; and that enactment of the administration's major new child care legislation (S. 1928) will be of assistance to Indians as well as the general population.

However, while S. 1928 would reform and improve the present system of Federal and State child welfare services, and meet many of the goals set out in S. 1214, it does not contain any provisions that specifically deal with Indian children and tribal governments. In recognition of this, Interior and HEW will work together to develop any necessary amendments to S. 1928 for special needs of Indian children and families.

This concludes my prepared statement. I will be glad to respond to any questions that the committee may have.

STATEMENT OF NANCY AMIDEI, DEPUTY ASSISTANT SECRETARY FOR LEGISLATION/WELFARE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, ACCOMPANIED BY FRANK FERRO, OFFICE FOR CHILD DEVELOPMENT

Ms. AMIDEI. Thank you, Mr. Chairman.

I am very glad to be here this morning. I realize that your proposal would create a new child welfare program in Interior rather than HEW, so we are particularly glad that you were willing to take HEW's views into account.

I think that you should know that your request for testimony from HEW came at a particularly timely moment. Just 1 week ago, a bill reflecting a massive review of foster care adoptions and other child welfare services was introduced by Senator Alan Cranston. The number of that bill is S. 1928. Having your proposal before us—S. 1214—has prompted some soul searching with respect to that proposal, and a new look at our initiatives and their value to Indian children in need of protective or other child welfare services.

In my statement this morning, I would like to take up two things briefly. First, for the committee's information, I would like to report on several of the department's activities with relevance to service for Indian children, that were prompted in large part by hearings that this committee conducted in 1974. And then I would like to take up the subject of child welfare, particularly as it relates to S. 1214.

Since the 1974 hearings, the Department of HEW has conducted and reported on the findings of a state-of-the-field survey of Indian child welfare needs and service delivery. The survey examined the activities and policies of 21 States and tried as well to review the training and employment opportunities for Indian professionals in child welfare.

In reporting on the policy implications of its findings, that survey pointed to several of the factors that remain of concern to members of this committee as well as others interested in the field:

First, the need to support increased involvement by tribal governments and other Indian organizations in the planning and delivery of child welfare-related services;

Second, the need to encourage States to deliver services to Indians without discrimination and with respect for tribal culture;

Third, the need for trained Indian child welfare personnel;

Fourth, the need to resolve jurisdictional confusion on terms that will eliminate both the most serious gaps in service and the conflicts between State, Federal, and tribal governments that leave too many children without needed care;

Fifth, the need to find ways to insure adequate funding for services; and

Sixth, the need to assure that insensitivity to tribal customs and cultures is not permitted to result in practices where the delivery of services weaken rather than strengthen Indian family life.

In addition, negotiations are now underway with the National Tribal Chairman's Association for a project that would explore the desirability of amending the Social Security Act to more effectively operate title XX social services programs for Indians. That project is being funded at more than a quarter of a million dollars, and is being conducted because we believe that further documentation of the need for services is of less importance at this point than the development of programmatic alternatives.

At the same time, we are reviewing proposals for a technical assistance contract designed to aid the governing bodies of recognized Indian groups in the development and implementation of tribal codes and court procedures with relevance for child abuse and neglect.

In the current fiscal year, the Secretary has exercised his authority to conduct research and demonstration projects on terms that will provide for a test of alternative methods to improve the ways in which State agencies deliver social services to Indians.

Similar efforts will focus specifically on the delivery of child welfare services in Public Law 280 States, the design of day care standards appropriate to Indian children living on reservations, and the designation of reservations as State planning areas for purposes of the title XX program.

All of these activities, including some that are still being put into operation, are intended to reflect the Department's belief that Indian child welfare services must be based not only on the best interests of the child and support for the family unit—however, that may be defined—but also on a recognition of the need to involve Indians themselves in the provision of services.

But individual projects, however sensitively designed, cannot ever take the place of the support for an adequately financed, official backed, ongoing system that would address the needs of children and support the rights of their families.

As the Secretary of HEW pointed out in announcing the Department's recent child welfare initiatives, none of those desirable features could be said to characterize the present situation in child welfare for children of whatever race or ethnic group.

Until now, the Federal Government has not done enough in the areas of foster care and adoption, providing only minimal support for the efforts of individuals across the States who care about children and who have been willing to fight the battles against outmoded and sometimes conflicting laws. The situation across the country is not a pretty one. Too many children have been taken from their homes, when supportive and preventive services might have allowed them to remain with their families.

Some children who have been appropriately placed in others' homes may be assigned to families too far away to make regular contact a possibility. Too little has been done to work with natural parents after a temporary placement in foster care, thus almost insuring that the children will never be able to come home.

For many children, the decision whether to return the child to the natural family or, when appropriate, free the child for adoption has not been made in a reasonable amount of time. Some children simply float in a kind of legal limbo because their foster parents cannot afford to lose the financial support that unfortunately ends where legal adoption begins.

We have learned that parents and children alike have suffered from the lack of adequate protection against the inappropriate removal of children from their homes, against the sometimes uninformed decisions that determine their placement outside their home, and the nature of the judicial proceedings that may determine the fate of children who come into the orbit of the juvenile courts.

We have seen that there are too few trained workers available, too little guidance for overworked staff, and even some perverse incentives that would seem to encourage social agencies to favor foster care over more permanent, more child-focused situations.

It was for reasons such as these that the administration proposed 2 weeks ago to reorganize this Nation's system of child welfare services in ways that would provide more adequate funding and a better integrated, more rational approach to the kinds of problems that have plagued the families of children in need of temporary or permanent care.

Everything we found in relation to child welfare services generally could be said about services for Indian children—only more so. This committee has remarked on the higher-than-normal rate of foster care and other out-of-home placement experienced by Indian children, the services that are provided in culturally insensitive ways, the placement of Indian children in settings that do not meet their special needs, the failure of public policies to recognize the unique character of Indian family lives.

Thus, while we recognize the concerns which have prompted you to propose a separate program exclusively devoted to the provision of Indian child welfare services, it is precisely because we also recognize the need for a better service system for all children that we would want to urge you to consider, together with us, how we might make that larger system serve their needs as well.

As I mentioned when I began my remarks, your request for testimony from the administration was a particularly timely one. It caused us over at HEW to consider whether the bill that we sent up to Congress, as drafted, would respond to the kinds of concerns that this committee and S. 1214 have raised. You will probably not be surprised to learn that we found some gaps that had not been so apparent before. However, we now believe that we may be able to accomplish some of what you would want to see achieved, but within the context of S. 1928.

We will want to be careful not to further duplicate either funding sources or administrative mechanisms, but we think it might be possible to do better for Indian children through S. 1928 than we have been doing.

The bill that we sent up to Congress would, for example:

State a clearer test for involuntary removal of children from their families and provide greater protections for those families during the course of proceedings;

Create financial incentives in the form of child welfare funds to provide due process protections for child, birth parents, and foster parents, including legal counsel and the payment of legal fees;

Provide services that would enable children to remain home or to return home;

Require a review of all children in foster care for 6 months;

Create in each State an information system that would aid in case management and provide ongoing oversight of children placed outside the homes and make that information available to the public.

It would also establish a new program of federally supported adoption subsidies to enable children with special needs to be adopted, and it would try to create financial disincentives for the inappropriate use of foster care as a holding action for children.

Many of these provisions are not so very different from the objectives behind the provisions set out in S. 1214, particularly in title I, which speaks most directly to matters surrounding the procedures that have led in the past to the arbitrary and sometimes inappropriate removal of children from their homes. But we believe that in S. 1928 we have a useful vehicle for serving the needs of Indian children as well as the needs of other children.

We may want to make some changes in our proposal, but with changes, what we hope will be a more adequately funded, more comprehensive system of child welfare services will also be made more responsive to the needs of Indian children.

I do not have any legislative language with me to propose this morning—we have not settled on any details. But we would like to work together with the staff of this committee, with people from the BIA, with people you might recommend to be involved with us, and try to work out some of the most serious concerns you have within the context of S. 1928.

For example, we share your objectives concerning the need for better safeguards and procedures to protect Indian children and their families. To provide those safeguards, we might consider conforming language in the administration's bill that would take into account the role of tribal courts and tribal governments in the procedures that surround the placement of children outside their homes.

And, we are persuaded that the moneys available for child welfare services have in the past been uncertain, with gaps resulting from the mix of Federal, State, and county systems. We believe we could rethink that as well so that, where appropriate, the new moneys that will become available under the administration's proposal would also become available for Indian children.

We intend to work closely with the BIA and the staff of this committee to determine what changes in S. 1928 might be needed to assure the full participation of, and safeguards for, Indian children under the administration's proposal.

With my prepared testimony, I am submitting for the record a section-by-section analysis of the administration bill so that you can see parallels where they occur.

Chairman ABOUREZK. Your prepared statement and the section-by-section summary of the administration bill will be made a part of the record.

[The material follows:]

STATEMENT OF NANCY AMIDEI, DEPUTY ASSISTANT SECRETARY FOR LEGISLATION/WELFARE

Senator Abourezk, members of the Committee, I am pleased to be able to be here this morning to testify on the subject of Indian child welfare, and your Bill, S. 1214. We realize that your proposal does not directly involve HEW, and we appreciate your taking our views into account.

Your request for testimony from the Department of Health, Education, and Welfare, came at a particularly timely moment. As you no doubt know, the Administration has recently undertaken a major review of foster care, adoptions, and other child welfare services, and just last week a Bill reflecting the results of that review, S. 1928, was introduced by Senator Alan Cranston. Having your proposal before us, S. 1214, has prompted some soul-searching with respect to that proposal, and a new look at our own initiatives from the perspective of their value to Indian children in need of protective or other child welfare services.

In my statement this morning, I would like to deal with two things. First, for the Committee's information, I would like to report on several of the Department's activities with relevance to services for Indian children, that were prompted in large part by hearings that this Committee conducted in 1974. And then I should like to take up the subject of child welfare--particularly as it relates to S. 1214.

Recent HEW Activities Related to Indian Child Welfare Services

Since the 1974 hearings, the Department has conducted and reported on the findings of, a State-of-the-Field survey of Indian Child Welfare needs and service delivery. The survey examined the activities and policies of 21 states, and tried as well to review the training and employment opportunities for Indian professionals in child welfare.

In reporting on the policy implications of its findings, that survey pointed to several of the factors that remain of concern to members of this Committee as well as others interested in the field:

-- the need to support increased involvement by tribal governments and other Indian organizations in the planning and delivery of child welfare-related services;

-- the need to encourage states to deliver services to Indians without discrimination and with respect for tribal culture;

-- the need for trained Indian child welfare personnel;

-- the need to resolve jurisdictional confusion on terms that will eliminate both the most serious gaps in service and the conflicts between State, Federal, and tribal governments that leave too many children without needed care;

-- the need to find ways to ensure adequate funding for services;

-- the need to assure that insensitivity to tribal customs and cultures is not permitted to result in practices where the delivery of services weaken rather than strengthen Indian family life.

Negotiations are underway now with the National Tribal Chairman's Association for a project that would explore the desirability of amending the Social Security Act--to more effectively operate Title XX social services programs for Indians. That project is being funded at more than a quarter of a million dollars, and is being conducted because we believe that further documentation of the need for services is of less importance at this point than the development of programmatic alternatives.

At the same time, we are reviewing proposals for a technical assistance contract designed to aid the governing bodies of recognized Indian groups in the development and implementation of tribal codes and court procedures with relevance for child abuse and neglect.

In the current fiscal year, the Secretary has exercised his authority to conduct research and demonstration projects on terms that will provide for a test of alternative methods to improve the ways in which state agencies deliver social services to Indians.

Similar efforts will forcus specifically on the delivery of child welfare services in P.L. 280 States, the design of day care standards appropriate to Indian children living on reservations, and the designation of reservations as State planning areas for purposes of the Title XX program.

All of these activities, including those that are still being put into operation, are intended to reflect the Department's belief that Indian child welfare services must be based not only on the best interests of the child and support for the family unit -- however that may be defined -- but also on a recognition of the need to involve Indians themselves in the provision of services.

Child Welfare Initiatives

But individual projects, however sensitively designed, cannot take the place of support for an adequately financed, officially backed, on-going system to address the needs of children, and to support the rights of their families.

As the Secretary pointed out in announcing the Department's recent child welfare initiatives, none of those desirable features could be said to characterize the present situation in child welfare, for children of whatever race or ethnic group. Until now, the Federal government has not done enough in the areas of foster care and adoption--providing minimal support for the efforts of individuals throughout the States who care about children, and who have been willing to fight the battles against out-moded and sometimes conflicting laws.

The situation across the country is not a pretty one. Too many children have been taken from their homes when

supportive and preventive services might have allowed them to remain with their families. Those children who have been appropriately placed in others' homes, may be assigned to families too far away to make regular contact a possibility. Too little has been done to work with natural parents after a temporary placement in foster care -- thus almost ensuring that the children will never be able to come home. For many children, the decision whether to return the children to their natural families, or, when appropriate, free them for adoption, is not made in a reasonable amount of time. Some children simply float in a kind of legal limbo because their foster parents cannot afford to lose the financial support that ends where legal adoption begins.

We have learned that parents and children alike have suffered from the lack of adequate protection against the inappropriate removal of children from their homes, against the sometimes uninformed decisions that determine the placement outside their homes, and the nature of the judicial proceedings that may determine the fate of children who come into the orbit of the juvenile courts.

We have seen that there are too few trained workers available, too little guidance for over-worked staff, and even some perverse incentives that would seem to encourage social agencies to favor foster care over more permanent, more child-focused solutions.

It was for reasons such as these that the Administration proposed two weeks ago to reorganize this nation's system of child welfare services in ways that would provide more adequate funding and a better-integrated, more rational approach to the kinds of problems that have plagued the families of children in need of temporary or permanent care.

Everything we found in relation to child welfare services could be said about services for Indian children -- and more. This Committee has remarked on the higher-than-normal rate of foster care and other placement outside the home experienced by Indian children, the services that are provided in culturally insensitive ways, the placement of Indian children in settings that do not meet their special needs, the failure of public policies to recognize the unique character of many Indian families' lives.

Thus, while we recognize the concerns which have prompted you to propose a separate program exclusively devoted to the provision of Indian child welfare services, it is precisely because we also recognize the need for a better service system for <u>all</u> children that we would urge you to consider, together with us, how we might make that larger system serve their needs.

As I mentioned earlier in my remarks, your request for Administration testimony was a timely one. It has caused us to consider whether the Bill that we sent up to Congress, as drafted, would respond to the kinds of concerns that this Committee, and S. 1214, have raised. You will perhaps not be surprised to learn that we found some gaps that had not been so apparent before. However, we now believe that we may be able to accomplish some of what you would want to see achieved.

We will want to be careful not to further duplicate either funding sources or administrative structures, but we think it may be possible to help Indian children through S. 1928.

The Bill that we sent up to Congress would, for example,

-- state a clearer test for involuntary removal of children from their families;

-- create financial incentives (in the form of extra child welfare funds) to:

  * provide due process protections for child, birth parents, and foster parents;

  * provide services that would enable children to remain home or to return home;

  * call for a one-time review of all children in foster care for six months;

  * create in each State an information system that will aid in case management and provide on-going oversight of children placed outside their homes;

-- establish a new program of federally-supported adoption subsidies to enable children with special needs to be adopted;

-- create financial disincentives for the inappropriate use of foster care as a "holding action" for children.

Many of these provisions are not so very different from the provisions set out in S. 1214, particularly in Title I, which speaks most directly to matters surrounding the procedures that have led in the past to the arbitrary and sometimes inappropriate removal of children from their homes. But we believe that in S. 1928 we have a suitable vehicle for serving the needs of Indian children as well as the needs of others.

We may have to make some changes in our proposal, but with changes, what we hope will be a more adequately funded, more comprehensive system of child welfare services will also be more responsive to the needs of Indian children.

I don't have any legislative language with me to propose this morning; we have not settled on any details. But we would like to work together with the staff of this Committee and individuals whom you might recommend to try and meet some of your most serious concerns within the context of S. 1928. For example:

We share your objectives concerning the need for better safeguards and procedures to protect Indian children and their families. To provide those safeguards we might consider conforming language in the Administration's bill

that would take into account the role of tribal courts and tribal governments in the procedures that surround the placement of children outside their natural homes.

And, we are persuaded that the monies available for child welfare services have in the past been uncertain, with gaps resulting from the Federal, State, and County systems. We believe we could re-think that as well so that, where appropriate, the new monies that will become available under the Administration's proposal would also become available for Indian children.

We intend to work closely with the BIA and the staff of this Committee to determine what changes in S. 1928 might be needed to assure the full participation of, and safeguards for, Indians, under the Administration's proposal.

With my testimony this morning, I am submitting a section-by-section analysis of the Administration's child welfare proposals so that you can see the parallels where they occur.

I will, of course, be pleased to try and answer any questions that the Committee may have.

Thank you.

SECTION-BY-SECTION SUMMARY

The first section of the draft bill would provide the short title of the Act—the "Child Welfare Amendments of 1977".

Section 2 of the draft bill would amend title IV of the Social Security Act by adding at the end of that title a new part which would authorize a program of Federal financial assistance to States for foster care and adoption assistance. Currently, State foster care programs are assisted with Federal funds available under the aid to families with dependent children (AFDC) program, and there is no Federal program designed specifically to help States encourage adoptions. Following is a summary of each section which would be contained in the new part E.

Section 470(a) of the part would provide the State plan requirements which must be satisfied for participation in the foster care and adoption assistance programs. Most of the provisions parallel requirements currently applicable to foster care programs under the State plan provisions for AFDC. They include requirements pertaining to "statewideness" (the programs must be in effect throughout the State), personnel standards based on merit, State reports to the Secretary, periodic evaluations of the programs, and confidentiality of individual records.

There are also several new provisions. They include the requirements (1) that the State agency which is responsible for the child welfare service program (authorized by title IV–B of the Social Security Act) and the social services program (authorized by title XX of the Social Security Act) also administer the new part E programs; (2) that the State will assure appropriate coordination between the new programs and other related programs; (3) that the State agency will bring to the attention of the appropriate court or law enforcement agency conditions which would endanger any child assisted under the part E programs; (4) that the title XX standards which apply to child-care institutions and foster care homes would also apply to such entities when assisted under part E; (5) that an individual denied benefits offered under the programs will be informed of the reason for the denial; and (6) that the State will arrange for periodic independent audits of its programs under part E.

Section 470(b) of that part would require the Secretary to approve a State plan which met the statutory conditions. In the case of a State which later fell out of compliance with the statutory requirements, the Secretary would have the flexibility to reduce the Federal payment to the State under part E by an appropriate amount, or cease making the payments entirely, until the State corrected its failure.

Section 471 of part E would describe the foster care maintenance program which a State must provide under its State plan. In many respects, the program would not differ from the one currently authorized as part of the AFDC program under section 408 of the Social Security Act. Following are the major innovations which would characterize the revised program: (1) Federal reimbursement would be provided with respect to children voluntarily placed in foster care or placed initially on an emergency basis; (2) findings to be included in judicial determinations which serve as the basis for placement in foster care would be specified; (3) the requirements for the individual case plan for each child in foster care would be strengthened; and (4) federal reimbursement would be permitted with respect to foster care provided by public institutions, so long as any such institution accommodated no more than 25 children. As under current law, children receiving foster care under part E would retain their Medicaid eligibility.

Section 472 of part E would describe the adoption assistance program which a State must provide under its State plan. Under the program, a State would be responsible for determining which children in the State in foster care would be eligible for adoption assistance because of special needs which have discouraged their adoption. The State would have to find that any child would have been receiving AFDC but for the child's removal from the home of his relatives; that the child cannot or should not be returned to that home; and that, after making a reasonable effort consistent with the child's needs, the child was not adopted without the offering of financial assistance. In the case of any such child, the State would be able to offer adoption assistance to parents who adopt the child, so long as their income does not exceed 115 percent of the median income of a family of four in the State, adjusted to reflect family size.

The agency administering the program could make exceptions to the income limit where special circumstances in the family (as defined by regulation) warrant adoption assistance. The amount of the adoption assistance would be agreed upon between the parents and the agency, could not exceed the foster care maintenance payment that would be paid if the child were in a foster family home, could be readjusted by agreement of the parents and the local agency to reflect any changed circumstances, and could initially include an additional payment to cover the non-recurring expenses associated with the adoption of the child. Adoption assistance payments would not be paid after the child reached maturity, or for any period when the family income rose above the specified limits. Finally, a child who the State determines has a medical condition, which contributed to the finding that he is a child with special needs, would retain his Medicaid eligibility until he reached maturity. It should be noted that, as is the case with other Medicaid recipients under current law, if there is a family insurance contract that covers the child, Medicaid would only provide coverage in excess of what is covered by the insurance policy. Furthermore, the Administration continues to favor the provision in H.R. 3 that would prohibit discrimination against insured medicaid recipients by their insurance providers.

Secton 473(a) of part E would authorize appropriations for carrying out the programs authorized by part E. In the first two fiscal years of the program, 1978 and 1979, there would be authorized an appropriation of a sum necessary to pay each State the Federal share of whatever expenses are incurred in establishing and maintaining the part E programs.

During the five succeeding fiscal years, the authorization level would go up by ten percent each year, and beginning in fiscal year 1985 would be maintained at the fiscal year 1948 level.

Section 473(b) of part E would provide for the allotment to States of the funds appropriated. For the first two fiscal years of the program, there would be no limitation to the allotment—a State would be paid the Federal share of its expenditures under its State plan approved under part E. For the next five succeeding fiscal years a State would be entitled to an allotment each year which would be ten percent higher than the previous year's allotment. Beginning with fiscal year 1985, there would be no automatic annual increase in allotments.

Section 474 of part E would provide for payments to the States. For the first two fiscal years of the program, a State with an approved plan under part E would be paid the Federal share (as determined for purposes of the Medicaid program) of the cost of the program. For each fiscal year thereafter, the payment to a State would be limited by the amount of its allotment. Two other modifications would become effective beginning in fiscal year 1980—the Federal payment with respect to expenditures for child-care institutions which accommodate more than 25 children would be reduced to eighty percent of the payment as calculated in the first two fiscal years, and sums allotted to a State for purposes of part E which the State does not claim under part E could be claimed by the State under part B. As is currently the case under AFDC foster care, the Federal government would provide 75 percent reimbursement for training State employees to administer the plan, and 50 percent reimbursement for other administrative expenses.

Section 475 of part E would provide the definitions of certain terms used in part E or part B of title IV. Terms which are defined include "administrative review", "case plan," "voluntary placement agreement," "adoption assistance agreement," and "foster care maintenance payment."

Section 476 of part E would authorize an appropriation of $1.5 million annually to permit the Secretary to provide technical assistance to States to assist them in developing the programs called for in part E; to make grants to, or enter contracts with, the State agencies to develop interstate systems for the exchange of information pertaining to foster care and adoptions; and to evaluate the programs authorized under part B and part E of title IV. The Secretary, pursuant to this section, would publish periodically data pertaining to foster care and adoptions.

Section 477 of part E would limit the time period for the filing of claims for reimbursement by the Federal Government to two fiscal years following the fiscal year in which the expenditure was made.

Section 2 of the draft bill would also repeal section 408 of the Social Security Act, the provision of law which currently authorizes Federal reimbursement for State foster care programs.

Section 3 of the draft bill would amend part B of title IV of the Social Security Act—the part which authorizes Federal reimbursement for State child welfare services programs. The amendment would limit the amount of a State's payment under part B which the State could spend for foster care maintenance

payments, adoption assistance payments, and employment related day care services to the amount which the State was actually paid under part B for expenditures in fiscal year 1977.

Section 4 of the draft bill would amend part B to convert the child welfare services program under that part to a State "entitlement" program, based upon the current annual appropriations authorization level of $266 million (but limited by certain conditions specified in section 6 of the draft bill). During this fiscal year, $56.5 million will be paid to the States pursuant to part B.

Section 5 of the draft bill would amend part B to modify the Federal share of State costs under the child welfare services program. Currently, the rate of federal reimbursement is related to the per capita income in each State, and generally ranges between about 40 percent and 60 percent. Under the amendment which would be made by section 5, Federal reimbursement would be 75 percent of expenditures for each State.

Section 6 of the draft bill would amend part B to specify the conditions under which States would be paid the additional sums, which would be authorized by the draft bill, beyond the amounts available for fiscal year 1977. Thirty percent of the additional sums would be available beginning in fiscal year 1978. States would be able to use that money for any purposes permitted under part B. However, the intent is to provide increased sums to the States to enable them to give priority to establishing certain systems and procedures—including information systems, case review systems, service programs to help children stay with, or return to, their families, and procedural safeguards to protect the rights of parents, children, and foster parents. States would also be expected to conduct a one time inventory of children in foster care.

Once these steps have been accomplished, but not before fiscal year 1979, a State would be eligible for the full amount of its allotment under part B, based on an appropriation of $266 million. A State eligible for its full payment would be required to meet two conditions: (1) an amount equal to at least 40 percent of the money it is paid in excess of the amount it received for fiscal year 1977 would need to be spent for services designed to help children stay with, or be returned to, their families, and (2) in any fiscal year, a State may not be paid in excess of the amount it was paid in fiscal year 1977 if the State spends less from State sources in that year for child welfare services than it spent from State sources in fiscal year 1977.

Section 7 of the draft bill would make two conforming changes to the State plan requirements for part B. It would require (1) that once a State had met the conditions for receipt of its full allotment under part B, the State would maintain the systems and procedures it had developed, and (2) that any requirements applicable to foster care maintenance payments or adoption assistance payments under part E would also be applicable to payments under part B which are used for those purposes. The purpose of the latter amendment is to assure that children in foster care, or who are adopted, with assistance under part B will be treated the same as children in foster care, or who are adopted, with assistance under part E.

Section 8 of the draft bill would repeal the reallotment provision currently in part B of title IV.

Section 9 of the draft bill contains some technical conforming changes. For example, whereas current law requires a State to have a foster care program under section 408 of the Social Security Act as a condition for participation in AFDC, under the draft bill the reference in the State plan for AFDC would be to foster care and adoption assistance payments in accordance with part E.

Section 9 of the draft bill would also require the Secretary to submit a report on the implementation of the amendments contained in the draft bill by March 1, 1980, and would provide an effective date for the draft bill of October 1, 1977. Finally, section 9 would provide that funds appropriated and allotted to States under part B for fiscal year 1978 would remain available for expenditure by the States through fiscal year 1979.

Ms. AMIDEI. I would, of course, be glad to answer any questions.

Thank you.

Chairman ABOUREZK. Thank you very much for your testimony.

I assume, and correct me if I am wrong, that OMB cleared both statements.

Ms. AMIDEI. Yes, Senator.

Chairman ABOUREZK. So, the administration position is set out in both statements by the BIA and by HEW?

Ms. AMIDEI. Yes.

Chairman ABOUREZK. Perhaps, then, you can explain to me why the Bureau of Indian Affairs has testified this morning that the Federal Government is becoming concerned that Indian child welfare is an intrusion when BIA says it, and it is not an intrusion when HEW says it.

It is an inconsistency to me. Perhaps you could explain that.

Ms. AMIDEI. I think I would have to ask the BIA to explain that.

Chairman ABOUREZK. I would like to hear both of you speak to that, if you would.

Mr. BUTLER. Mr. Chairman, what we had in mind was that, in title I, there are certain sets of standards that are imposed uniformly throughout. They may well be very appropriate standards.

What we are suggesting, Mr. Chairman, is the conceptualization of that in terms of a Federal intrusion. I have no quarrel whatsoever professionally, Mr. Chairman, with the standards that are enunciated there. It is my judgment that, in our era of self-determination, these should be established, both legislatively and judicially, by the respective Indian tribes themselves.

I feel that it would be a great deal more meaningful to the Indian people for members of that particular tribe to have such standards established by their own tribal council or through their own judicial process.

We have, Mr. Chairman, I think once and for all adjudicated all the way to the Supreme Court the issue of according full faith and credit to tribal judicial and legislative actions. I would be reluctant or remiss if I did not say that, in certain instances, this will probably be challenged from time to time; but, in my professional judgment, this has been established judicially.

The full faith and credit provisions, however, Mr. Chairman, for example, of those tribes that reside in Public Law 280 States, that Ms. Amidei referred to in her remarks, would need to be applied to the legislative process, similar to that full faith and credit provision that States now afford to their sister States relative to their legislative process.

Let me give you an example. If the Warm Springs Tribe in Oregon sets forth legislative standards for the provision of child welfare services to the members of their tribe, any action that would take place by a county or State child welfare program in the State of Oregon would be required to give full faith and credit to those legislative standards established by the Warm Springs Tribe.

Chairman ABOUREZK. Section 1, title I, which you say is an intrusion, states that, except for temporary placements and emergency situations, no child placement shall be valid or given any legal force and effect unless made pursuant to an order of the tribal court.

Are you prepared to say that someone besides the tribe or its legal institutions knows better what to do with Indian children than that particular institution or tribe?

Mr. BUTLER. Mr. Chairman, the actions of a tribal court are taken into conformity with those types of ordinances or codes that are estab-

lished by the legislative process of that tribal council. And the tribal court operates within that context.

I have no question, Mr. Chairman, in that instance, that is the very best approach.

Chairman ABOUREZK. Then how is that a Federal instrusion?

I really fail to understand why you call it a Federal intrusion.

Mr. BUTLER. In that instance, Mr. Chairman, if the tribe acts themselves—I am not saying I do not think per se that it is necessarily a Federal intrusion. It is viewed in some instances as a Federal intrusion.

Chairman ABOUREZK. By whom?

Mr. BUTLER. By some of the Indian community.

They want the opportunity to establish those themselves.

Chairman ABOUREZK. You mean the tribe?

Mr. BUTLER. The tribe.

Chairman ABOUREZK. Well, that is precisely what this says.

Mr. BUTLER. That is right.

Chairman ABOUREZK. And you just said that the tribal court would not necessarily follow the legislative mandates of the tribal council or whatever legislature it might have.

Mr. BUTLER. That is correct.

Chairman ABOUREZK. You are dancing all around it, but you are not getting to it.

What is wrong with the tribal council and the tribal court enforcing a tribal council ordinance?

Mr. BUTLER. If the tribal council has the ordinance.

Chairman ABOUREZK. If the tribal council passes the ordinance?

Mr. BUTLER. Yes.

Chairman ABOUREZK. How else would the tribal court act, except by ordinance?

Mr. BUTLER. Mr. Chairman, section 101(a) merely gives full faith and credit recognition. I think the comments relative to the view of Federal intrusion is relative to sections 101(b) and 101(c), where the tribes can establish those being accorded, the intervening parties, and so on.

Chairman ABOUREZK. Are you saying that the requirement that the tribe have 30 days' notice of any kind of placement of an Indian child and that the tribe be given that notice is a Federal intrusion?

Mr. BUTLER. That would require the 30 days. The tribe may wish to set 10 days. The tribe may wish to set 20 days. They may wish to set 60 days.

Chairman ABOUREZK. But are you saying that is a Federal intrusion—setting the number of days during which the tribe can intervene?

Mr. BUTLER. It is viewed in the Indian community, Mr. Chairman, by some of those as a Federal intrusion into the domestic affairs.

I think it is a conceptual thing rather than a factual thing, Mr. Chairman.

Chairman ABOUREZK. And in section 101(c): What do you see as the intrusion there?

Mr. BUTLER. Mr. Chairman, you have the 30-day, the eligibility for membership, et cetera. In certain instances, in my professional experience, Mr. Chairman, I have had some unwed mothers who have not

wished to go for a tribal membership because of the problems that it might create in terms of confidentiality. There are some instances of this kind.

Chairman ABOUREZK. Then you are saying that, by establishing this minimal procedure, it is a Federal intrusion and that you are, in effect, favoring an alternative. That alternative is that the tribes will have no voice whatsoever in how Indian children are placed.

Now, that is the only conclusion that I can draw from your statement.

Mr. BUTLER. No, Mr. Chairman.

What I am saying is that the tribes should have this exclusively. But the problem that has belied us is in giving full faith and credit to those tribal provisions. Absolutely, the tribes should have this exclusively.

Chairman ABOUREZK. Do you have a problem in giving full faith and credit to the tribal court order?

Mr. BUTLER. Indeed I do not, Mr. Chairman. But, as I say, it has been challenged. We have had court decisions on it. Judicially, I think that is now resolved. It has gone all the way to the Supreme Court.

As I said, I would be remiss if I did not say to the committee that I would expect in the future we will continue to have certain challenges. But, in my judgment, judicially, that has definitely been resolved.

Chairman ABOUREZK. Is that a reason for not passing legislation—that there might be a challenge in court to the legislation?

Mr. BUTLER. Not judicially, Mr. Chairman.

The lack of full faith and credit comes about, Mr. Chairman, in the legislative process, in recognizing the standards that are established through the legislative process by a tribal council who may not have a tribal court.

Chairman ABOUREZK. Would you answer the question?

Is that a reason? Is the prospect of a challenge to the legislation, or to the effect of it, a reason not to pass the legislation?

Mr. BUTLER. No, sir; it is not.

Chairman ABOUREZK. What do you estimate the cost of S. 1214 to be?

Mr. BUTLER. Mr. Chairman, we work with staff to estimate costs which are identified in title II of S. 1214. In the authorization of the program, there is $21.8 million in fiscal 1978, $23.7 million in 1979, and $25.1 million in 1980. And in the defense section, there is $18 million in fiscal year 1979, $20 million in 1980, and $22 million in fiscal year 1981.

We did not estimate any costs in title I, which in my judgment for the Bureau of Indian Affairs would be negligible. However, relative to 101(b) and 101(c), I would need to defer to HEW in terms of estimating any additional staff costs they may have in the States on that.

Ms. AMIDEI. I am sorry, but I do not have estimates. We could try and get some for you, if you would like.

Chairman ABOUREZK. As far as S. 1928 is concerned—the administration bill—what would be the cost of the Indian portion of that proposal?

Ms. AMIDEI. Senator, I do not think there has been any attempt to break out what price or what cost there would be for individual

groups. We have total costs, and we know what kind of new money we are going to put in, but it has not been broken down that way.

Chairman ABOUREZK. I have not read your proposal because I just found out about it this morning.

What does it contain with regard to the placement and adoption of Indian children?

Ms. AMIDEI. It does not refer specifically to any particular ethnic group. But it does provide a number of protections that I think get to some of the same kinds of concerns you are raising in your title I.

Chairman ABOUREZK. What are those?

Ms. AMIDEI. Incidentally, if I can go back for a second. You had asked about the issue of whether or not there has sometimes been intrusive Federal action when children are removed from their homes. I cannot answer on the same kinds of terms, but the Department of Interior can. I cannot speak for them, of course.

When HEW conducted its review of child welfare, foster care, adoption kinds of activities generally, I think they probably would be able to say that the ways in which some public moneys have been used have been intrusive in family lives. It is simply because we did not provide for protections for those families and for their children in the kinds of terms that we would like to see them.

It was because of some of those kinds of concerns that we made our proposal in the first place. Some of the things that would be growing out of our proposal that would relate to protections in particular are, first of all, in the instance in which there would be a voluntary foster care placement outside the home, there could only be Federal support for those voluntary foster care placements if all the parties had a binding, written, clearly expressed, and mutually understood agreement. Second, within 180 days, a judicial or administrative determination would have to be made whether or not that placement should continue.

We would require that any child placed outside their home be placed in the least restrictive, most familylike setting and in close proximity to their natural parents' home, if possible. We would make available for the first time Federal support for the placement of children in foster care in the homes of relatives. In the past, many States have not recognized that. Now we would be prepared to recognize that.

We would increase the Federal match to 75 percent, which would help some areas that have not been able to get into foster care and adoption in a big way because of the excessive cost at the local match.

In addition, to be eligible for new money under this program, the States would be required to conduct an inventory of all the children in foster care under State responsibility within 6 months. They would have to determine whether those placements are appropriate, whether they should be ended, or whether they should be changed.

That inventory, including demographic information—the background of the children, their age, the placement in terms of race, ethnic, religious, whatever—would have to be made public. Other groups could take advantage of it.

They would have to establish a statewide information system, including information about all the children in placement.

They would have to review the status of each child no less frequently than every 6 months.

They would have to establish a service plan to prevent the removal of children from their families, or to reunite families wherever that is appropriate.

They would have to see that children who cannot be returned home are not made to linger in foster care indefinitely.

They would require that the States establish due process procedures that would include the right to a hearing within 18 months of placement, would provide parents and other interested parties with notice of proceedings, the nature of the proceedings, and, if necessary, with counsel that would be paid for. Legal services would be paid for if there were going to be an adoption process undertaken.

All the parties involved must be informed of every step along the way.

Finally, there was a provision that was aimed at trying to be sure that families would not lose adoptive or foster care rights simply because they did not have a lot of money, and that other families that did have more money should not automatically get preference in the case of finding adoptive homes.

Chairman ABOUREZK. We conducted extensive hearings on this question in 1974. We did oversight hearings at the time because we did not have a bill introduced at that point.

The major abuse in regard to Indian children on which we received testimony was that social welfare agencies—non-Indian agencies—totally failed to understand what it was like for an Indian child to grow up in an Indian home. They consistently thought that it was better for the child to be out of the Indian home whenever possible.

There was count after count of abuse in that regard.

The bill, S. 1214, seeks to redress that abuse. Do you agree or disagree that that abuse ought to be ended?

Ms. AMIDEI. As a matter of fact, that is something I raised with some of the lawyers back at HEW. Although they did not give me anything official, they said that they would like to look at the civil rights statutes to be sure that we were not somehow creating problems in terms of civil rights law because we could not, for example, require the placement of white children only with white families or black children only with black families. They were going to look into that for me.

If you like, I will supply that for the record.

Chairman ABOUREZK. You mean with regard to S. 1214?

Ms. AMIDEI. I simply raised the question of whether or not we would support the notion of requiring in law—for example, in our proposal, the requirement that children of particular ethnic groups or racial groups be placed in similar families. They said they would look into it.

Chairman ABOUREZK. Would you answer the question then, after having said that?

Do you agree or disagree that that abuse ought to be ended so far as Indian families are concerned?

Ms. AMIDEI. I cannot answer that at the moment, Senator. I do not know whether or not we can say that in terms of our requirements under the Civil Rights Act. But I can supply that for the record, if you would like.

Chairman ABOUREZK. Mr. Butler?

Mr. BUTLER. Mr. Chairman, I would like to comment. Ms. Amidei can correct me if I am wrong; but, as I read the analysis of S. 1928, one of the provisions would provide the foster care rate of payment to a number of those child placements made in settings with relatives. This is one of the very strong recommendations and one of the very positive parts of S. 1928, that I see, in that the extended family is still very, very much alive in the Indian community. There are a number of grandmothers, aunts, uncles, and brothers or sisters, Mr. Chairman, that are providing care for Indian children.

Is that not correct—in the proposed provision?

Ms. AMIDEI. Yes; that is true.

In the past, there has not been Federal support for children who have been placed in foster care settings in the home of a relative. Under S. 1928, that would be possible for the first time.

Mr. BUTLER. Mr. Chairman, if I may, I would like to comment that historically I have found over the years that a number of the other Federal agencies are utilizing the domestic systems of delivering services. For example, about a year and a half ago, when we were discussing certain Indian provisions of title XX, the comment was made that, if we provide this type of service for the Indian people, we will be compelled to provide it for the blacks, for the Spanish, for the Mexican-Americans.

One comment that I would like to leave with you, Mr. Chairman, is that I think we must, once and for all, give full recognition to the unique Federal relationship to Indian people and remove the special programs for Indian people from the concept that it is on an ethnic or a racial basis. It is not, Mr. Chairman.

Chairman ABOUREZK. I appreciate that statement. I think you are absolutely right.

I do not think that the civil rights laws would apply in this instance because of the modified sovereignty concept that Indian tribes are in possession of at this time.

Ms. AMIDEI. That might be. I know that the lawyers that I asked said that they did not know off the top of their heads, and they had not gotten back to me by this morning.

Chairman ABOUREZK. You indicated that you would like to adopt some of the provisions of S. 1214 to the administration bill (S. 1928). I do not know how you intend to do that. Your bill amends the Social Security Act and goes into the Finance Committee. The Indian Affairs Committee has sole jurisdiction over Indian matters in the Senate.

I do not know how you propose to do that and allow the Finance Committee, which has had no experience dealing in Indian affairs and, in fact, has no jurisdiction over it, to operate on a bill dealing with the Indian tribes and Indian families.

Ms. AMIDEI. It would work a little differently, Senator. I do not propose to take wholesale sections out of one bill nor would I propose to do anything that would suggest that we would be taking over responsibilities from the BIA or things that you would want to see handled by the BIA.

But I think it would be possible—without knowing exactly how it would work out—to take our proposal and make it more responsive to the needs of Indian children in ways that involve the recognition of tribal governments or tribal courts in these legal proceedings and

the protective elements of placing children outside the home, for example, or in trying to work out more creative ways to insure that the moneys available generally would also be available on behalf of Indian children in ways that they are not now.

Chairman ABOUREZK. I will take you up on your offer to work together. I think we can work out something so that the procedures will remain intact and, yet, allow the incentives that you are talking about for adoption and child placement to be worked out through your bill.

Ms. AMIDEI. Obviously, you may still choose to pursue other kinds of things. I realize that just because we have said something, you don't necessarily accept it.

I cannot emphasize too strongly what a healthy thing it was that we were confronted with the fact that we had to deal with your proposal at the same time we were dealing with ours. We had to take a new look. We did find that we had not been careful enough to make sure that the kinds of things we were proposing generally were going to be as helpful as they ought to be particularly. So, we obviously cannot do everything that you would want to do; but we can do a better job of what we were going to do.

I think we are certainly prepared to work with you in trying to do that.

Chairman ABOUREZK. I have one more question for the Department of Health, Education, and Welfare.

Before I ask that, the Indian witnesses have requested that all the administration people remain to hear their testimony. I think it would be very valuable for you to hear them. Much better than me preaching to you about abuses of child welfare. So, I would hope that you would be able to do that and stay here.

Ms. AMIDEI. I may have to leave for about 10 minutes, but I will come back.

Chairman ABOUREZK. Fine.

During the hearings in 1974, HEW testified that at that time the Department did not have any real planning or programing designed to address the special needs of Indian communities. At that time, I specifically asked the Department that they develop such policies and programing and said that I would be interested in knowing what the Department has done.

I would like to know if you have developed anything during the past 3 years since that promise from HEW. Has anything been developed at all?

Ms. AMIDEI. Senator, I do not know any detail. Again, that is something I could check back at the Department about.

The kinds of things that have been put into effect are to establish moneys for training professional Indian child welfare people, for example, or to try to do what the Department likes to call "capacity building"—which I think covers a multitude of sins—or to do the kinds of things that would help provide for involvement of Indian groups in the planning and design of social welfare services, which at this point are in the nature of demonstration projects, research projects, and that sort of thing.

But I suspect that that would be the answer to your question.

Chairman ABOUREZK. Well, if you want to let us know later on——

Ms. AMIDEI. Yes.

Chairman ABOUREZK. Thank you very much for your appearance.

The next panel will be some of the Indian witnesses. We have two or three panels of Indian witnesses. I hope you can stay and hear those witnesses.

Thank you.

The next panel is Ms. Goldie Denny, director of social service of the Quinault Nation; Dr. Marlene Echohawk of the National Congress of American Indians; Ms. Virginia Bausch, executive director, American Academy of Child Psychiatry; and Mr. Bertram Hirsch of the Association on American Indian Affairs.

Welcome.

STATEMENT OF GOLDIE DENNY, DIRECTOR OF SOCIAL SERVICES, QUINAULT NATION AND NATIONAL CONGRESS OF AMERICAN INDIANS, ACCOMPANIED BY BERTRAM HIRSCH, ASSOCIATION ON AMERICAN INDIAN AFFAIRS

Ms. DENNY. Thank you, Mr. Chairman.

My name is Goldie Denny. I am director of social services for the Quinault Tribe. I will be giving testimony on behalf of the National Congress of American Indians as well as the Quinault Tribe.

First of all, I would like to start out by saying I am appalled at what I have just heard from our trustee, the Bureau of Indian Affairs. But I don't know why I am surprised because this has been typical of the BIA's lack of response to Indian problems for a good number of years.

I think it is a gross neglect of responsibility that they made these comments here today. I say this because these comments do not reflect the thinking of people in Indian country, the people who live on the reservations, the people who deal with Indian child welfare problems on a day-to-day basis.

At the 1976 33d annual convention of the National Congress of American Indians a resolution was passed supporting the then draft Senate bill 3777. It was passed unanimously by 130 Indian tribes in the United States supporting the basic concepts that are contained within this bill.

The BIA is supposed to represent the Indian views. But when 130 Indian tribes say, "This is what we want," the BIA says, "We don't want this for the Indians."

I cannot understand that thinking at all.

In addition, at that same convention, a policy resolution, No. 5, was adopted by the National Congress of American Indians Convention. The title of that resolution was the "International Intertribal Child Welfare Compact." Indians were attempting on their own to establish some type of system for identifying where their lost children were and how to get them back.

In addition to that, policy resolution No. 10 was passed. This was addressing the interstate placement of Indian children, whether for cultural, educational, or whatever reasons. Indian people are entitled to know where their children are and what is going to happen to them. They are entitled to have complete control of their children.

The failure of the BIA and the State and county welfare services' practices has been clearly evidenced in the 1974 hearings. I will not burden you with the many horror stories of things that have happened to Indian children because——

Chairman ABOUREZK. Ms. Denny, I think you ought to tell a couple of horror stories while the administration witnesses are here.

Ms. DENNY. I will tell my own.

When I was approximately 4 years old, I was one of five children. Our mother was deceased. We lived with our father. My grandmother came in to help take care of us.

My sister and I were removed by the welfare department because we were caught out in the street barefoot, wading in mud puddles. I don't see anything wrong with being barefoot, wading in mud puddles. I had a good time. I might have been a little dirty, but dirt washes off. But what's up in the head does not wash off.

There was no reason for that type of removal. I was returned home, but that is one instance.

Chairman ABOUREZK. For the record, is that the kind of thing that goes on around the country, around Indian reservations when the non-Indian social welfare agencies decide that they know what is best for the Indian kids?

Ms. DENNY. Absolutely.

Chairman ABOUREZK. I recall the testimony in 1974. I believe it was a psychiatrist who testified that, most of the time, the Indian children are even better off if their mother happens to be an alcoholic.

Mr. HIRSCH. That was Dr. Joseph Westermeier who gave that testimony.

Chairman ABOUREZK. Do you recall exactly what he said at the time?

Mr. HIRSCH. My recollection is that he said that the trauma that is caused to the children—Indian children, in particular—in light of the studies that he has done and the patients that he has had, is far worse in that they spend many years growing up in non-Indian homes and then have to struggle for identity when they reach late adolescence and early adulthood. He says many of these people end up on skid rows in cities like Minneapolis-St. Paul and Los Angeles. Generally speaking, children are better off growing up in their own homes, even with alcoholic parents. It is not a fact that alcoholic parents necessarily create a situation that is so harmful to a child that they must be taken out of that home.

Chairman ABOUREZK. I think there was testimony at the time that children grew up much healthier with their parents irrespective of the physical or mental condition of the parents—within reasonable bounds. They were much happier there than if they were dragged out of the home and an attempt was made to bring them up in a non-Indian home.

There was another aspect. I am sorry that I cannot remember exactly what it is right now.

Mr. HIRSCH. I think what he was saying, Senator Abourezk, is that Indian children grow up in their own communities and with their own families and at least know that they are Indian. Regardless of the kinds of problems that they may have during that growing up

period, they do not have to start with the process of learning who they are. If they grow up in non-Indian homes, they grow up thinking that they are white and expect to be treated as other white people. They are treated that way when they are little kids. But then, when they reach late adolescence and early adulthood, the entire community looks at them and says, "You're Indian; you can't date our children. You can't be employed in our businesses," and so on.

So, these kids who have grown up perhaps in healthful environments and have had an integrating psychological growth period begin to disintegrate psychologically; while the children who have grown up in somewhat difficult economic and social circumstances, but who know they are Indian, can begin to integrate psychologically and develop whole personalities when they are in late adolescence and early adulthood.

I think that was the essence of Dr. Westmeier's testimony; and Dr. Bob Bergman, who testified at that time, gave similar testimony.

Chairman ABOUREZK. I apologize for interrupting you, but I wanted to try to bring that out.

Ms. DENNY. That is quite right, Senator.

One of the things that the BIA seems to think will help us is S. 1928, while criticizing S. 1214 for imposing standards on Indian people. That is not true. The intent of the bill is to impose standards upon the State, county, and Federal agencies who are now imposing their materialistic standards on Indian people.

So, the BIA statement is simply not a true statement; and does not describe the intent of this bill at all.

It is not interfering with any Indian tribe or any individual's right because the bill is purely asking for the notification to tribes so that they can respond within 30 days. The tribe has the option not to respond. They do not have to respond to this at all. So, I do not see that that is detracting from any tribal rights or any Indian individual's rights.

These standards set forth in this document are long overdue. The Quinault Tribe is located in the State of Washington which is a Public Law 280 State. The Quinault people have suffered the same injustice that any other Indian tribe has. We have lost a great number of children through foster care and adoption by non-Indian caseworkers who come upon the reservation and remove children for stupid reasons: You don't have enough bedrooms in your house; you don't have this; and you don't have that. It is all based upon materialistic possessions.

Indian people have successfully raised many, many happy children and were providing good parenthood for many, many years before we had middle class American standards imposed upon us as to how we are supposed to be caring for our children.

I cannot understand why the BIA is not going along. As Mr. Butler says, Indian people are now beginning to speak out, learning, and trying to take care of some of their own problems. This is what Indian people are saying: The Federal, State, and county governments have messed up Indian child welfare matters ever since they started meddling around in them. So why not let Indian people run their own show for a change? They can do it a lot better than any other agency can.

The Indian people understand the problems better, and they are better equipped to do it. And they will say, "Well, we've got to take care of these Indians because they don't have enough education; they don't have the skills." I heard a very skilled lady up here this morning who could not make a commitment as to whether this abuse toward Indian children should be halted or not. She could not answer that question. I do not understand that. If that is an educated opinion—well, I am glad I don't have that education.

I maintain that any Indian person can provide social services on an Indian reservation if they do not even have an eighth grade education. They understand the problems better. They have lived there. They can relate to their own people better than a non-Indian person who has a Ph. D. who might come in and try to tell them how they should be operating.

I would like to cite the Quinault Tribe as an example of how Indian people can develop successful programs on their own.

Quinault Tribe has developed on its own, with no help from the Bureau of Indian Affairs, no help from the State, no help from the county, a human resource delivery system consisting of the provision of 34 different types of services on the reservation. The social service department is just one portion of that human resource delivery system. I am the director. I have trained five paraprofessional Quinault caseworkers.

We have been in operation approximately 5 years. In that period of time, I have been able to train the staff so that they have been able to assume all the child welfare responsibilities that were at one time administered by the State and county officials. We handle all child welfare cases such as foster care, adoption, the child protective services, and juvenile delinquincy services. We offer many services.

It took a while to establish our credibility within the State court system. It was not easy; but, after being in operation and providing services for over a year the State began recognizing that Quinault Social Services Department was a legitimate organization. It set a precedent. All courts give Quinault Social Services Department joint supervision on any child custody case in the Grace Harbor and Jefferson County area along with the department of social and health services, which has the legal jurisdiction. That is a major breakthrough.

We have more credibility in the courts than the department of social and health services does in our area.

These are some of the advantages of a tribe operating its own social services delivery system. You can be innovative. You do not have to be restricted by the old ways of doing things that the non-Indian people have taught you to do. The foster care program in the entire United States, not only for Indians but for every child, is a total disgrace.

The average length of foster care in the State of Washington for any child is 4.5 years. I think that is a disgrace.

Quinault has developed its own foster care system, thereby limiting the length of stay in foster care to less than a year.

I want to continue on with the advantages of a tribe being able to implement Senate bill 1214.

The tribe is not restricted by agency rules and regulations and meaningless forms.

All Quinault children are now placed in Quinault foster homes. Foster home recruitment has increased licensed foster homes on the reservation from 7 to 31.

Fifty-two Quinault children have been returned from foster care to their natural parents. All Quinault juvenile cases are referred to the Quinault Social Services Department by the Grace Harbor Juvenile Department.

The Washington Administrative Code was amended October 27, 1976, to address Indian child welfare placement standards in the State of Washington. The Washington Administrative Code contains the same standards that are set forth in Senate bill 1214.

I think you might look at the State of Washington as a model of how it is being implemented. I strongly support and recommend passage of Senate bill 1214.

NCAI has submitted their narrative comments on the bill in support of it. In addition to that, we have some specific recommendations on Senate bill 1214 to strengthen the bill. We are submitting those for the record.

Chairman ABOUREZK. That material as well as your entire prepared statement will be inserted in the record.

[Material follows:]

STATEMENT OF THE NATIONAL CONGRESS OF AMERICAN INDIANS REGARDING S.1214 THE INDIAN CHILD WELFARE ACT OF 1977 BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS - 8-4-77

At the 33rd Annual Convention of the National Congress of American Indians held in Salt Lake City, Utah in 1976, the 130 member tribes of NCAI voted to support S. 3777, now S. 1214. We are submitting copies of NCAI Policy Resolution #6, and Policy Resolutions #5 and #10 which are concerned with issues in S. 1214 involving the interstate placement of Indian children.

The failure of past and current Bureau of Indian Affairs and state child welfare services is evidenced in the 1974 Congressional hearings and current documentation submitted since 1974, (especially the recent report of the American Indian Policy Review Commission established under P.L. 93-580), substantiates the continuing problems to date.

Indians have a unique legal trust status relationship with the federal government that sets them apart from other racial groups.

Child welfare services to Indians have historically been the responsibility of the BIA. More recently, the services of state, county and private agencies have been thrust upon Indian tribes and people. Statistics show that these services have resulted in a high rate of child removal from the natural parents and extended family and destructive effects in Indian family and tribal life.

This bill evidences and addresses remedies to the fact that the BIA has grossly neglected their responsibility in the field of child welfare and family preservation. State and county involvement, especially in P.L. 83-280 states has further perpetrated negative and socially undesirable damage to Indian family and tribal life. Indian tribes and people have not been consulted or involved in the social planning for their children with the obvious results. The basis of placements of Indian children are being made on material standards of the non-Indian culture rather than what is in the best interest of the Indian child.

Political theory which has dominated Indian policy has been one of negative acculturation and assimilation of the Indian into the dominant society. This philosophy has been a dismal failure for over two hundred years. Indians still survive and maintain their legal tribal sovereignty.

Child placement standards need to be developed by Indians in keeping with their own unique culture. In addition, Indians can better provide these services to their own people. The failure to involve Indian people in the placement of their children has helped to produce the tragic results such as the high rate of alcoholism, drug abuse and suicide. S.1214 can overcome the failure to include Indian people in the planning for and the care and protection of their own children.

The present-day trend in Indian legislation is Indian self-determination. S.1214 reflects this policy and assures Indians the opportunity to nurture and develop their most important resource, their children.

Before highlighting some of the specific recommended modifications NCAI is submitting, we are submitting three drafts of material which we, with much offense, understand were prepared by BIA Social Service staff and OMB related to S. 1214 and request that this Committee review these drafts because of the attitudes and administrative problems contained within which are adverse to Indian self-determiniation and the status of tribal governments and Indian people.

We want to draw specific attention to ARENA which is mentioned in that draft material. We are questioning the statistical coverage in respect to the total number of adoptive placements referred to, and the criteria used to identify Indian adoptive home, and whether Canadian Indians were included in the total. We are submitting copies of ARENA statistics from 1974 which show 120 Indian children adopted; 14 went to Indian homes and 106 of the 120 were Canadian Indians, and from 1975 showing 63 Indians adopted through ARENA with the statement that 70 per cent were placed in Indian homes with no proof of the definition of Indian adoptive home used.

NCAI continues to go on record as strongly recommending that the current BIA contract to Adoption Resource Exchange of North America (ARENA) be given to an Indian adoption exchange to insure practices complimentaty to the stated federal Indian self-determination policy.

In conclusion we wish to highlight some of the specific modifications to S. 1214 NCAI is recommending:

SPECIFIC RECOMMENDATIONS S.1214

1. Definition Sec. D P. 4, line 13
   Omit all words after "Indians"
2. P. 5 Sec. (9) line 1 insert after the word "means" the phrase "any public or private relinquishment of the custody of a child or"
3. P. 5 (i) add "cousins"
4. P. 5 Sec. 101 (a) add "or is domiciled" after the word "resides" on line 20
5. P. 7 make sections (d) and (e) a separate section
6. P. 8 A separate section should be added to require that 30 days prior notice be given to the tribe when an Indian child residing or domiciled on the reservation will be absent from the reservation for more than 60 days for social service or educational purposes.
7. P. 8 line 10 add the word "prior" in front of the word "written".
8. P.10 line 12 change "age of two" to "from birth"
9. P.10 line 23 strike out the last sentence
10. P.11 lines 5 & 6 It should be added that Indian guardian - ad litems or non-Indian guardian - ad letems who have received approval of an Indian tribe or tribes must be appointed to represent Indian children
11. P.11 line 13 change "offering" to "placing"
12. Hirsch should speak to justify section (c) P.12
13. P.11 line 23 strike "last known address" and add "birthplace" and "birthdate"

14. P.12-13 Sec. 104 This section should direct the Secretary to establish a data bank to contain the adoption records of Indian children. County courts, state archives and state, county, and private agencies are to supply the Secretary with copies of their files pertaining to the adoptions of all Indian children.

15. P.13 line 10 add the words "and directed"

16. P.13 line 17 add the words "and directed"

17. P.14 line 5 add the words "and directed"

18. P.15 line 9 add the word "treatment" after "counseling"

19. P.18 line 17 after the word "defective" add "and upon a finding that the best interest of the child may be served thereby"

20. P.19 line 4 add the line that was struck from S.3777

21. P.20 line 17
    1. After "seconds" add "from Dec. 31, 1929 forward"
    2. There also needs to be added a statement requiring county courts, state archives and state, county, and private agencies to supply the necessary records to the Secretary.

22. P.20 line 7 add after "child" the phrase "or the sibling of an Indian adopted child for the purpose of establishing or continuing their sibling relationship providing both are 18 or over"

23. P.21 line 21
    1. A separate section should be added to direct the Secretary to establish an Indian Policy Committee of representatives of Indian tribes and organizations which will assist the Secretary in the implementation and monitoring of the Act and provide a vehicle for accountability.
    2. Another section should be added to direct the Secretary to establish a special monitoring team with the authority and responsibility to monitor the implementation of this Act by the Department of Interior, county courts, state archives, and state, county, and private agencies. The team will make direct reports to the Secretary and Indian Policy Committee and have direct access to the Secretary and Indian Policy Committee.
    3. The diversity of tribes warrants the establishment of a national child protection team composed of American Indian professionals, outside of the governmental agencies, to monitor and give direction to tribal child development programs. This team will also assist and advise the Secretary in such sensitive areas as described in Sec. 204.

REPORT ON S. 1214

S. 1214 is composed of a statement of findings and a declaration of policy; two programs; authorizations for appropriations and for promulgating rules and regulations. The two programs are Title I - Child Placement Standards, and Title II - Indian Family Development.

The general intent of this Bill to establish standards for the placement of Indian children in foster care or adoptive homes, to prevent the breakup of Indian families, and for other purposes, is commendable.

While endorsing and supporting this general intent we must advise that we cannot support the Bill in its present version because of many of the specific provisions therein.

Following is an analysis and discussion of various parts of the Bill about which we have question. These should be read alongside a copy of the Bill to have their meaning fully understood.

Sec. 2(a). We agree that a very high proportion of Indian children are living in foster care arrangements. However, in the case of the BIA, the children are usually placed with Indian foster parents. Preliminary information from a study done in 1972 indicates that about two thirds of foster homes were Indian where the BIA made payments for foster care. We have a strong impression that this proportion has increased in the intervening years. The BIA is not an adoption agency but has secured services from the Adoption Resource Exchange of North America (ARENA) for the adoption of Indian children for whom adoptive homes are not available locally. In the period July 1, 1975, through June 30, 1976, about 90% of the children referred to the ARENA were placed with Indian adoptive families on-and off-reservation. Generally, it is difficult to locate families for older and handicapped children, regardless of race, country-wide, and this condition prevails for the older and handicapped Indian child. This has resulted in some placements in non-Indian adoptive homes.

The use of a boarding school for foster care of an Indian child often results from the parent's choice. For other children, it is the best available placement. We agree that it is desirable that there be less need for care of children away from their parents, but in the foreseeable future, boarding school placements will continue to be needed for many children who require foster care.

Sec. 2(b). Any of these conditions may well exist in some cases, but they do not prevail generally.

With regard to Government officials unfamiliar with, and often disdainful of Indian culture /2(b)(3)/ we note that the majority of BIA employees who work with Indian children and families involved in placement, are themselves Indian. The numbers are increasing, stimulated by the policy of Indian preference in employment with the Bureau. Indian officials generally direct the work of the Bureau, so have the authority to require respect for Indian culture by the rare employee who may not demonstrate it.

With regard to the absence of consultation with tribal authorities /2(b)(5)/ it should be noted that administrative agencies are provided with certain authorities by law or specific Court Order and Government officials exercise over-all authority rather than on a case by case decision.

Sec. (2)(c). The last sentence is not applicable to the BIA as where there is a tribe which has established an Indian Court, its jurisdication is honored. Further, many tribes have Welfare Committees which participate or advise BIA Social Services in matters of Indian child and family development and in foster care activities. In some other cases, there is an Advisory Committee composed of local Indian residents.

Note: The comments with regard to Sec. 2 of the Bill are not intended to deny the obvious - Society and its governments have nowhere made the investment necessary to provide a sufficient quantity or quality of support services needed by all vulnerable families, nor of foster care services. Indians do have great needs for such services.

Sec. 3. The declaration of policy seems an instance of Federal-government imposed standards on Indian tribes. It also seems to assume that a single set of standards is applicable to all Indian tribes. Rather, there is great variation among the tribes as to desirable standards. A primary concern among Indian tribes is to set their own standards.

The objective of promoting the stability and security of family life is, of course, most commendable.

Sec. 4(b). The definition of "Indian" differs in wording but perhaps not substance from that used in administering the Indian Self-Determination Act.

(d) This definition expands the BIA's present authority for contracting and grant activities by adding as eligible, an organization with a majority of Indian members (apparently without regard to the control of the organization). The proposed definition appears to be incompatible with Indian control of Indian programs. Under the proposed definition, organizations controlled by non-Indians would be competitive with tribes and Indian organizations for available funds.

(e) We are not certain as to the meaning of the phrase ... "any other tribunal which performs judicial functions in the name of an Indian tribe within an Indian reservation."

(g) Of greatest concern is the apparent inclusion in the scope of the Act of child placement by parents. Intervention in child placement by a Court or other government body, in the absence of established child abuse, neglect, abandonment, or delinquent acts by the child is generally considered an invasion of family privacy.

TITLE I - CHILD PLACEMENT STANDARDS

Note: Title I establishes three categories of Indian children: (a) Indian children living on an Indian reservation where a tribal court exercises jurisdiction over child welfare matters and domestic relations; (b) Indian children domiciled or living on an Indian reservation which does not have a tribal court; and (c) Indian children not domiciled or living on an Indian reservation. For children in each category, certain procedures are required before placement is valid and in legal force. These include 30 days written notice to the parents, and that a non-tribal government agency must show that alternative services to prevent the family breakup have been available and have been proved unsuccessful. Further, when the parent opposes loss of custody, the placement must be supported by an overwhelming weight of evidence; and when the parent consents to the loss of custody, consent must be executed before a Judge of a Court having jurisdiction over child placements. The latter also must certify that the consent was explained in detail, was translated into the parent's native language and was fully understood by the parent.

The Bill further requires that non-tribal government agencies shall grant certain ranked preferences in the placement of the children which include members of the child's extended Indian family, and to Indian foster homes and to Indian operated custodial institutions.

Sec. 101(a). This provision denies parents' rights to make placements of their children, without the intervention of a Court. Practical problems related to such a provision relate to the current workload of many courts, including tribal courts, which deal with matters leading to child placement. Tribal courts are generally understaffed. This provision would require new activities as it seems to provide for a Court to have jurisdiction which they do not now have, to intervene in family matters in the absence of child abuse and neglect and delinquency. Further, problems arise as many Indian Courts are not Courts of record, nor are appellate procedures always readily available.

(b). "Domiciled" has not applied to matters pertaining to children needing the protection of a Court and it is considered in the child's best interest to have protections of the Court having jurisdiction where he is "found."

The preceding section, 101 (a), refers to "Indian Courts which have jurisdiction over child welfare matters and domestic relations." Section 101 (b) refers only to "tribal courts." Among the latter are courts of limited jurisdiction (e.g. fishing rights). A number of children would be left in "limbo" by the apparent gap between (a) and (b).

The requirement of a 30-day notice to a tribe as part of validating a placement, delays the authority of an agency to pay costs of foster care. The requirement of 30 days notice offers another problem. It is an unusually long period of time for notice in a child abuse, neglect, or delinquency hearing. Ordinarily, it is considered that the child's well-being and the community's interest requires a more prompt action by the Court.

It would be a rare State Juvenile Code which defines "the tribe" as an interested party in proceedings before its Courts, and which provides for a 30-day period for notice to parents or interested parties. Where there is no such provision in the State Codes, an impasse may well occur.

(c). Same comments as in (a) and (b) with regard to problems resulting from a delay in establishing the validity and legal force of a placement, with establishing the tribe as an interested party, and with the 30-day period of notice of proceedings.

There are many practical problems of identifying a child's tribal membership when the child is at a considerable distance - perhaps 2 or 3,000 miles. Membership may be difficult to document, as a Court should require. Not all tribes maintain current rolls and establishing membership in such tribes may be very time consuming. The time consumed in these efforts when added to the required 30-days notice if membership is established, adds to the burdens of providing child protection. If such a search does not establish membership, much valuable time has been lost.

The circumstances of some of the children in the category established under (c) present additional problems. One example is the children who are eligible for membership in an Indian tribe and who have never lived on a reservation or in an Indian community and, so far as can be seen, are themselves identified with their non-Indian heritage. Delays in establishing tribal membership and possible intervention by a tribe to which they have no ties, could be of great disservice to these children. Much valuable time has been lost.

Sec. 102(a)(1). This would seem to require of Tribal and non-Tribal Courts, and any other non-Tribal government agency to give 30 days written notice to parents of any original or later placement of a child. This provision is inimical to the child's welfare, when the parents are living, but their current whereabouts are not known, or when a child is an orphan, even if he has a legal guardian. Again, the problem of 30 days notice.

102(a)(1)(A). The parents are a party to a Court Proceeding (unless their rights have been terminated) and their presence would not be an intervention. State laws are consistent in this regard.

The application of the requirement of representation through legal counsel to administrative agencies raises serious practical considerations. There is real question as to whether there are sufficient lawyers and funds to hire them for each placement and replacement of an Indian child. Further, many administratively made placements are not always adversary in nature. (For example, a placement which is made is at the request of the parent).

It should be recognized that the legal counsel's expertness is in the matters of the parent's and children's rights and that legal training does not qualify a person to provide expert judgements based on the social sciences.

Relative to the right to counsel in abuse and neglect cases, it should be noted that establishing the right would require that the Court appoint counsel when the parent cannot afford it. There is no consensus among the States as to whether Courts must appoint counsel in child abuse and neglect proceedings, but there is agreement that parents have the right to employ counsel.

Sec. 102(a)(1)(B) appears to consider that all placements are of an adversary nature.

(C). The Privacy Act may impose restrictions on the availability of some records of administrative agencies. Placement-related records of administrative agencies containing personal information about foster parents or adoptive parents would presumably be protected under the Privacy Act. There are probably other examples, but this illustration comes to mind readily and indicates that not all records should be available. Also, a parent's rights may be limited by Court actions that limit or restrict their rights and perhaps restrict the parent's rights to information.

Sec. 102(a)(2). This is a good goal for any child placing agency, including the tribe, but some emergency placements and some short terms are suitably effected without such evidence.

Sec. 102(b). Either "clear and convincing" or "preponderance" is the usual standard of proof of evidence in child abuse and neglect cases; "beyond a reasonable doubt" in delinquency cases. Overwhelming weight of evidence" as a standard does not appear appropriate. As a practical matter, the most abusive parents may be the most resistive to child placement.

Determinations as to whether or not social problems are evidence of child abuse and neglect should be left to the determination of the Court.

Sec. 102(c). This would require every placement by a parent to be executed by a Judge. Many parents are capable of making placements of their children without the invasion of their privacy by a Court. In States where adoptive agreements may be made by natural parent and adoptive parent before filing the adoption petition, this provision would require treatment for Indian parents, to be different from that of others and raises questions of discrimination. The above described adoptive agreements are often used in step-parent adoptions, though that is not their exclusive use. Further, the "replacement" of an adopted child might be with a parent and step-parent.

Sec. 103(a). Family members, whether extended or nuclear-family, may not always be the placement of preference. Many relatives do not wish to take on additional child rearing responsibilities, some do not wish to have the interference by the natural parents which almost always results. The child's "best interest" should be the compelling reason for the selection of a placement.

(b) Aside from the appropriateness of including such restrictions in Federal legislation, there are certain problems about some of the preferences as stated. In 103(b)(5) "Any foster home run by an Indian family" does not provide any safeguards as to the character and stability of the family and their standing in the community, two characteristics that are extremely important to a foster child's development.

As to 103(b)(6), "custodial" should be defined further. An Indian operated group home on a reservation might be considered "custodial" but not be intended to provide for the needs of adolescent delinquents. If "custodial" refers to secure custody, there are insufficient Indian operated resources. To our knowledge, there are no Indian operated facilities which provide secure custody other than adult jails and jails are totally unsuitable as placements for children.

Sec. 103(c). In adoption cases, the Court's jurisdiction is ended with the adoption decree as its jurisdiction in the case is for the purpose of adoption. As long as a Court has continuing jurisdiction, adoptive parents cannot have the full status of parents. Their rights under this provision would have to be defined.

Sec. 104. Courts with extensive adoption experience have not settled this question so simply. For example, Courts have entered adoption decrees where anonymity was promised to the natural parents. The opening of all records would result in a breach of promise in these cases. Also, the Privacy Act may affect the availability of some records.

Again, it should be noted that the State Codes may not have such provisions and this Bill would set up a conflict that might be difficult to resolve.

TITLE II - INDIAN FAMILY DEVELOPMENT

This Title provides for the funding of Indian tribes by the Secretary of the Interior, who may be joined by the Secretary of Health, Education, and Welfare, in funding Indian organizations in off-reservation communities, to establish and operate Indian family development programs. The components of a family development program are described.

The Secretary is further authorized to fund Indian tribes for a special home improvement program to upgrade housing when (1) the housing of Indian foster and adoptive homes is substandard, (2) improvements would enable Indian persons to qualify as foster or adoptive parents under tribal law and regulation, and (3) where improved housing of a disintegrating family would significantly contribute to the family's stability.

An appropriation is authorized for these two programs.

The Title further authorizes Indian tribes to establish and operate an Indian family development program and sets forth the rights of Indian foster homes under a tribally implemented licensing or regulatory system. Tribes are also authorized to construct a family development center. Purposes for which grants or contracts may be awarded for off-reservation locations are described.

The Title also authorizes and directs the Secretary to undertake a study of the circumstances surrounding all child placements which have occurred in the last 16 years where the children so placed are still under 18. If a placement is found invalid, or otherwise legally defective, when the parents or qualified blood relative request it, the Secretary is authorized to undertake certain actions in the U.S. District Court. Further, grants or contracts are authorized with Indian tribes or Indian organizations to operate a legal defense fund to provide representation by an attorney for every Indian child or its parents, as appropriate, who is the subject of a child placement proceeding. An appropriation on authorization is established for these activities.

Further provisions of the title refer to rule making.

Sec. 201(a). The Secretary now has the authority to enter into contracts and grants with tribes for the services described.

(b). The provision is silent as to relationships with the Department of Housing and Urban Development programs with some similar purposes, and with Tribal Housing Authorities, and with the BIA home improvement program. The provisions in new legislation should reflect the experience gained with similar Indian programs for Indians by existing organizations, but do not.

(c). This provision duplicates authority now held by the Secretary of Health, Education, and Welfare, under Title XX of the Social Security Act.

Sec. 202(a). Authority now exists for such programs. However, tribal court judges and staff /202.(a)(7)/ do not require training in child welfare and family assistance programs, but in the judicial process relate to family law matters.

Sec. 202(b)(1). This is the right of an Indian family now and it is an unnecessary and possibly unwarranted legislation in the area of family privacy.

(2) This would seem to imply that all Indian-licensed foster homes would have first preference for any child - how would competing claims be settled? Would one have to be selected even if demonstrably unsuitable and it were the only one available?

Sec. 202(2)(B) and (C). Temporary care of Indian children should not be provided in the same facility that provides for the detoxification of adults.

Sec. 203. Again, the problem of "Indian organization," and the duplication of Title XX authoritizations to the Secretary of Health, Education, and Welfare, except for 203(b) (Indian legal defense fund).

Sec. 204(a). The study of all placements made in the last 16 years of children who are still under 18, whether foster care of adoption placements, would in many situations inflict great hardship unnecessarily, and raise questions of the invasion of privacy by the Federal government, and of interference in State child placement activities.

A placement may be "invalid or legally defective" yet its continuance could be essential for the child's well-being. A parent's wish, particularly if only a whim, should not be the sole controlling element in the breaking of a placement. Because a placement is invalid or legally defective, it does not follow that return t- the parent or designated blood relative is to the child's advantage, even if his foster care placement is broken.

Why is the U.S. District Court involved when other Courts have jurisdiction? There has been considerable publicity as to the unavailability of services from the District Attorney Offices relative to criminal matters. Would this suggest that these Offices might also be unable to respond to cases added to their workload under this Bill? Also, there would be cases where solutions could be effected without Court action.

(b). Employment of counsel for a child and a parent in every child placement proceeding, whether judicial or administrative, is perhaps impossible to achieve, if only because of the limited number of attorneys practicing in this field, particularly in rural or isolated areas. Further, the desirability of employment of counsel is questionable where the relationship is not adversarial.

The comparability between the proposed appropriation for family development program 201(d) and the programs related to legal issues 204(c) appear disproportionate. In fact, in the third year, authorizations related to legal issues in child placement exceeds that for family life development. The latter program would require a comparatively larger appropriation if it were to be effective.

We consider the questions and issues referred to above the basis for our inability to support the Bill in its present form.

In addition to and in further elaboration of our basic position in this matter we provide the following comments:

1. Constructive legislation to protect the general welfare and well-being of Indian children is always most certainly desirable. Subsequent drafts, if any, of this particular legislation hopefully will address the questions and issues referred to above.

2. Aside from operational statistical data pertaining to BIA child welfare assistance the most comprehensive date available as pertains to this legislation is contained in "Report on Federal, State, and Tribal Jurisdiction-Task Force Four: Federal, State and Tribal Jurisdiction - Final Report to the American Indian Policy Review Commission," pp. 179-242. We have no resources available to verify the validity and reliability of any of this data which did not originate within this Bureau.

3. Any laws resulting from this proposed legislation or any similar subsequent legislation will be better served and enforced through administration by D/HEW. This is particularly true in view of the national scope and the Federal-State interrelationships involved. In this regard, D/HEW administrative expertise, funding source, interstate placement of children, and program review authority over States are all factors to be considered. Interior Department administration would be extremely difficult, if possible at all, and would require at the minimum the addition of 100 professional child welfare workers.

Honorable James Abourezk
Chairman, Select Committee
on Indian Affairs
United States Senate
Washington, D. C. 20510

Draft

Dear Mr. Chairman:

This responds to your request for our views on S. 1214, a bill "To establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes."

We endorse the general concepts of S. 1214, namely that the placement of Indian children in foster and adoptive homes should be done within the context of their cultural environment and heritage and should insure the preservation of their identity and unique cultural values; and the stability and security of Indian family life should be promoted and fostered. However, we cannot support enactment of S. 1214 for the reasons discussed herein.

Title I of the bill contains provisions governing Indian child placement. Title II would authorize the Secretary to make grants or enter into contracts with Indian tribes and organizations for Indian family development programs, including off reservation families, and special home improvement programs. For this purpose, Title II authorizes $21,792,000 for fiscal year 1978, $23,700,000 for fiscal year 1979 and $25,120,000 for fiscal year 1980.

Title II also: directs the Secretary to study all Indian child placement made sixteen years preceeding enactment for all children placed still under age 18; to make grants to or contract with Indian tribes or organizations for an Indian family defense program; and to collect and maintain a central record file on child placements. For these purposes section 204(d) authorizes $18 million for fiscal year 1979, $20 million for fiscal year 1980 and $22 million for fiscal year 1981.

The quantity and quality of support services to vulnerable families generally are not always sufficient to meet the needs of such families and their individual members, and this includes Indians. The Administration has recognized this problem, and on July 26, 1977, the Administration's proposal, "The Child Welfare Amendments of 1977", was introduced as S. 1928 in the Senate. S. 1928 would amend the Social Security Act to establish standards for foster and adoptive placements, and is designed to strengthen and improve child welfare programs throughout the country. S. 1928 would accomplish many of the goals set forth in S. 1214, and would assist Indian families in achieving such goals without the concerns found in S. 1214, provided that certain technical amendments are

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considered; such as, Federally Recognized Indian Tribes be given the option equal to the status as States to be funded to administer their own child welfare services programs; and Indian tribes are given full faith and credit to their legislative and judicial sovereign powers in standards set forth by them in child welfare services programs. We defer to the Department of Health, Education, and Welfare as to a further discussion of S. 1928.

Further, HEW recently established the Administration on Children, Youth and Families, which administers a spectrum of programs for child and family welfare. HEW's authority will be further expanded under S. 1928. The Bureau of Indian Affairs has very few programs in this area, and S. 1214 places new requirements on the Secretary of the Interior which may conflict with or duplicate current HEW authorities, as well as the HEW authorities under S. 1928.

Finding

We agree that a very high proportion of Indian children are living in foster care arrangements. However, in the case of the Bureau of Indian Affairs the children are usually placed with Indian foster parents. Information from a study done in 1972 indicates that where the BIA made payments for foster care, about two-thirds of foster homes were Indian. This proportion has subsequently increased. The BIA is not an adoption agency but has secured services from the Adoption Resources Exchange of North America (ARENA) for the adoption of Indian children for whom adoptive homes are not available locally. Between July 1, 1975, and June 30, 1976, about 90% of the children referred to ARENA were placed with Indian adoptive families both on and off reservation. It is generally difficult to locate families for many older or handicapped children, regardless of race, and this problem equally applies to older or handicapped Indian children. This situation has resulted in some placements in non-Indian adoptive homes.

The use of boarding school for foster care of an Indian child is often at the choice of the parents. For other children, it is the best available placement. We agree that it is desirable that there be less need for care of children away from their parents, but in the foreseeable future, boarding school placements will continue to be needed for many children who require foster care.

S. 1214 also finds that Government officials involved with Indian child placement are unfamiliar with and distainful of Indian culture. We would point out that the majority of BIA employees who work with Indian families involved in placement are themselves Indian. S. 1214 further finds that child placement subverts tribal jurisdiction over domestic relations if a tribe has established an Indian court. The BIA honors such jurisdiction, as have several courts, including the U. S. Supreme Court. Further many tribes have Welfare Committees which participate in or advise BIA social services in matters of Indian child and family development and in foster care activities. In some cases, there exists Tribal Council and/or Advisory Committees composed of local Indian residents.

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Definitions

The definition of "Indian organization" in section 4(d) would expand the BIA's present P.L. 93-638 authority for contracting and grant activities by adding as eligible organizations with a "majority" of Indian members (apparently without regard to the control of the organization). The definition appears to be incompatible with Indian control of Indian programs. Thus, organizations controlled by non-Indians might be competitive with tribes and Indian organizations for available funds.

Title I

Title I establishes three categories of Indian children: (1) Indian children living on a Indian reservation where a tribal court exercises jurisdiction over child welfare matters and domestic relations; (2) Indian children domiciled or living on an Indian reservation which does not have a tribal court; and (3) Indian children not domiciled or living on an Indian reservation. For children in each category, certain procedures are required before placement is legally valid.

Section 101(b) requires that where a child resides or is domiciled on a reservation without a tribal court, the tribe must be given 30 days notice of any placement proceedings so that it may intervene as an interested party.

Section 101(c) governs the placement of Indian children who reside away from a reservation. Before any valid placement can occur (except for temporary placement when life or health is threatened) tribal membership must be established and then 30 days notice given to the tribe to intervene in the placement proceedings.

Under section 102(b) the requirement that child placement can only be made upon a finding of "an overwhelming weight of evidence" is at varience with the prevailing standards of proof for such proceedings. Either "clear and convincing" or "preponderance" is the usual standard of proof of evidence in child abuse and neglect cases; "beyond a reasonable doubt" in deliquency cases.

Section 103(c) requires that a tribal court retain jurisdiction over a child placed in an off-reservation foster or adoptive home or an institution until that child is eighteen.

In adoption cases, the court's jurisdiction ends with the adoption decree as its jurisdiction in the case is for the purpose of adoption. As long as a court has continuing jurisdiction, adoptive parents cannot have the full status of parents, nor can a family be assured that an adopted child will be permitted to remain with the family. Such a provision is not in the best interest of the child.

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Section 104 mandates that an adopted child reaching age 18 may, upon application to the court which entered the final adoption decree, learn the name of his or her natural parents, their last known address, their tribal affiliation and grounds for severing the family relationship.

This issue of the adopted child's right to learn of his or her background has been the subject of debate generally. Without taking any position on the merits of this debate, we would point out that section 104 is in direct conflict with many State Codes as they now stand. Further, courts usually enter adoption decrees with the promise of anonymity to the natural parents. The opening of records would breach confidentially, and may be done against the express wishes of the natural parents. Also, in most adoption proceedings, the records of administrative agencies containing personal information about the natural parents are sealed to protect all the parties.

Section 105 requires that the laws of any Indian tribe in any proceeding under the bill and any tribal court order issued in such proceedings shall be given full faith and credit in proceedings in all other jurisdictions.

We agree that tribal court proceedings over areas under tribal jurisdiction should be given full faith and credit in the proceedings of other jurisdictions, and in the child welfare area, inter alia, this has been upheld by the U. S. Supreme Court as well as by two State Supreme Courts.

In Fisher v. District Court, (47 L. Ed. 2d 106, 1976), the U. S. Supreme Court affirmed exclusive jurisdiction of the Northern Cheyenne Tribal Court over adoption proceedings in which all parties were members of the Tribe and residents of the reservation in Montana, and held that "State court jurisdiction plainly would interfere with the powers conferred upon the Northern Cheyenne Tribe and exercised through the tribal court." (47 L. Ed. 2d 112)

In Duckhead v. Anderson (No. 44120, 1976) the Washington State Supreme Court ruled that Washington Courts have no jurisdiction to determine the custody of a Blackfeet child placed in temporary foster care in Seattle by the Blackfeet Tribal Court, Montana. The Court rejected the argument that Public Law 83-280 and Washington law applied to matters arising on reservations outside the State, and that the child's presence in Washington gave State courts jurisdiction.

In Wakefield v. Littlelight (347 A. 2d 228, 1975), the Maryland Supreme Court held that an Indian child domiciled on an Indan reservation is subject to tribal court jurisdiction, and that tribal court jurisdiction continues even after the child is removed from the reservation and from the State where the reservation is located.

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5.

Tribes already have authority to ~~legislative~~ legislate and establish standards for child welfare proceedings in tribal courts, hence we endorse the conferral of full faith and credit on tribal proceedings.

Title I would also impose one uniform set of Federal standards over all tribes, without considering the wide cultural diversity and values of Indians throughout the country. Further, Title I is far more restrictive to tribes than the present system because it increases Federal intrusion in a regulation of tribal domestic matters and sovereignty. In the spirit of self-determination, we believe that a reaffirmation of the Federally Recognized Indian Tribe's legislative and judicial powers, in addition to the full faith and credit provision, by the Congress, would over come the concept of Federal intrusion into the domestic affairs of the Indian tribes.

Title II

Under the broad general authority of the Snyder Act (25 U.S.C. 13), the BIA can assist tribes in activities such as establishing and operating family tribal development programs. Further, the Secretary can already contract with tribes pursuant to Public Law 93-638 for some of the services described in Title II.

With regard to the home improvement program under section 201(b), tribal housing authorities already have authority to designate certain projects for foster homes. Further, section 201(b) may duplicate programs of the Department of Housing and Urban Development for similar purposes, as well as duplicating the BIA home improvement program.

Section 201(c) and 203 concerns the establishment of off-reservation family development programs by the Secretary through grants to or contracts with Indian organizations.

Enactment of section 201(c) and 203 could significantly increase our service population off-reservation, and decrease our resources for and services to reservation Indians in this entire area. Further, section 201(c) and 203 duplicate authority that HEW has under Title XX of the Social Security Act.

Section 204(a) requires the Secretary to study all Indian child placements, whether foster or adoptive, made within 16 years prior to enactment where the child is still a minor. If the Secretary finds any such placement invalid or legally defective, and a blood relative with previous custody so requests, the Secretary may institute legal proceedings in U. S. District Court to restore custody to such relative.

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6.

This provision raises serious legal and policy questions, and in most cases would not be in the best interest of the child, particularly when adopted, and could seriously disrupt a child's life. Legally, section 204(a) conflicts, with Tribal and State placement laws and procedures, and raises the issue of invasion of privacy by the Federal government as well as that of Federal interference in State placement proceedings. Further, the conferring of jurisdiction on the U. S. District Court for actions by the Secretary to overturn such placements is an inappropriate forum since child placement is a Tribal and State court matter.

A placement may be "invalid or legally defective" yet its continuance could be essential for the child's well-being. A parent's wish should not be the sole controlling element in the overturning of a placement. Because a placement is technically invalid or legally defective, it does not follow that return to the parent or designated blood relative is to the child's advantage. Again, the paramount standard must be the child's best interest, and section 204(a) would not insure that.

Section 204(b) requires the Secretary to make grants to or contracts with Indian tribes and organizations for an Indian family legal defense program.

While we recognize that legal counsel may not always be available to parents or other blood relations in child placement proceedings in our judgment, section 204(b) is not necessary.

S. 1928 will provide increased Federal assistance to States for, among other things, adoption assistance, Under section 472(b) of S. 1928, adoption assistance by the State could include non-recurring expenses such as legal expenses.

Further, section 204(b) would appear to duplicate existing legal aid programs particularly those under the auspices of the Legal Services Corporation. We question the need for a comprehensive legal defense program in light of existing alternatives. Tribes and the BIA can explore the best ways to utilize these existing alternatives.

The Office of Management and Budget ~~had~~ has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

S. 1214
Indian Child Welfare Act of 1977

OMB Questions

1. Why is legislation of this type needed?

2. What is the problem and what has caused it? Is it the result of well meaning but misdirected state and/or local social service agencies and workers who think they are serving the best interests of the children but simply do not understand the problem from an Indian perspective? Or, are public welfare agencies consciously trying to break down Indian family units, traditions, customs, etc? Or, do tribes feel that they are being left out of an important process which impacts upon their lives, customs and traditions and thus desire a greater say in what transpires?

3. Is quantifiable data available which will give some idea of the scope of the problem - i.e., number of cases per year (on and off reservation); specific states, counties, tribes or reservations where the problem seems to be more severe than others; comparative data on the numbers and types of Indian child placements as compared to the general population?

4. Do the provisions of the bill adequately protect the health and welfare of Indian children? Do the procedural delays of tribal notification, especially in cases involving children who do not live on reservations, create the potential for greater harm than good to the children involved?

5. What reasons are there for providing legislation such as this for Indians and not for other ethnic or minority groups who may feel that they also need special assistance in the area of family development and special recognition of their unique culture and traditions?

6. If Interior becomes involved in implementing the provisions of this bill, what other special social service programs for Indians are likely to be demanded of the Department over the next few years?

7. Is this legislation likely to cause more or less friction between Indians and state and local governments? Explain.

8. How many new FTP's will Interior need to administer the provisions of this bill?

9. What other Federal programs are now available which can or do provide services to Indians in the following areas:

   - home improvements;
   - family development services similar to those identified in Sec. 202(a);
   - facilities construction programs which could be used to build family development centers; and
   - legal services?

10. Would it not be more appropriate for a bill such as this to be administered by another Federal agency such as the Department of Health, Education and Welfare? If not, why?

11. What justification is there for the retroactive provisions of the bill contained in Sec. 204(a)?

Quinault Indian Nation
POST OFFICE BOX 1118 ☐ TAHOLAH, WASHINGTON 98587 ☐ TELEPHONE (206) 276-4445

QUINAULT NATION STATEMENT

The Quinault reservation, located on the west coast of the state of Washington has approximately 1600 residents. The larger village, Taholah, is located in Grays Harbor county. The smaller village Queets is located in Jefferson county. The village Taholah is located 45 miles from the Grays Harbor Department of Social and Health services. Queets is located 90 miles from the Jefferson county Department of Social and Health services. The one BIA social worker is limited to administrative duties 45 miles away and provides no direct social services.

Due to the geographic isolation, and the impractical, unrealistic services provided Quinault Indians, by non-Indian caseworkers the Quinault tribe has suffered the loss of many children. I will not burdon you with the many heart-breaking stories that testify to the feelings of bitterness and dispair suffered by Quinault Indians.

These facts were testified to in April 1974. Senate Bill 1214 is the first attempt being made to correct this injustice.

The negative assimulation oriented services provided by distant obscure government state and county agencies must cease. Social services for Indians can best be provided by Indians.

One may argue that Indians are not qualified or do not have enough education. I maintain that any Indian can provide more relavent service than any non-Indian with a P.H.D. The Quinault Nation is a present day example.

The Quinault Nation developed a tribal social service department approximately five years ago. All caseworkers are paraprofessionals. They started out with the most important ingrediant required by any social worker to deal with Indian Child Welfare problems. They are Indian and they know what the problems are because they have lived with them all their lives.

Staff consists of a director (myself) and 5 caseworkers that I have trained. They have had additional workshops and are provided on-going staff development.

Quinault Indian social service staff provides all child welfare services to Quinault people or any other persons requesting such service.

Washington is a PL 280, and you are probably wondering, how this coordinates with state and county services. It wasn't easy. We just did it. The state caseworker accused us of stealing "our Indians" even though they

didn't really want to be bothered, and didn't like to have to travel to the reservation.

I let the court know that Quinault social services was operational. It took approximately 1 year, but we established our credibility with the court, primarily (Grays Harbor and Jefferson) The Courts gave Quinault social service joint supervision with D.S.H.S. of all cases because we were doing a better job. This is automatic now.

Advantages

1. Can be innovative
2. Not restricted by agency rules, regulations and meaningless forms.
3. All Quinault children are placed in Quinault foster homes.
4. Foster home recruitment has increased licensed foster homes from 7 to 31.
5. 52 Quinault children have been returned from foster care to the natural parent.
6. All juvenile cases are referred back to Quinault social services for disposition.
7. General over-all attitude change of community.
8. Washington Administrative Code (W.A.C.) was ammended October 27, 1976 to address Indian child welfare standards in Washington state.
9. There have been no Quinault children adopted during the past four years.

Disadvantages

1. Jurisdictional problems ~~PL 280~~ (P.L. 83-280).
2. Much energy is spent explaining and arguing Indian values with state employees.
3. No assurance of money to keep program operating on a continuing basis.

Thank you for this opportunity to testify.

Goldie M. Denney

STATEMENT OF VIRGINIA Q. BAUSCH, EXECUTIVE DIRECTOR, AMERICAN ACADEMY OF CHILD PSYCHIATRY

Ms. BAUSCH. Thank you, Mr. Chairman.

My name is Virginia Q. Bausch. I am executive director of the American Academy of Child Psychiatry.

I realize the time this morning is limited. I would ask that my entire prepared statement be included in the record. The statement contains a number of very specific recommendations.

We applaud the overall thrust of the child placement standards in title I. These establish clear guidelines safeguarding the interests of children and their families, while respecting the very great importance of cultural ties. Our concerns about such matters were expressed in the hearings before this committee in April 1974, and later in an official position statement of the American Academy of Child Psychiatry. Copies of this statement have also been submitted.

We are extremely pleased with the general intentions in title II of setting up family development programs. We are delighted to see the emphasis on encouraging tribal groups themselves to establish such programs. Our academy, along with several other national groups, recently sponsored a conference in Bottle Hollow, Utah, on child welfare issues. The conference addressed itself to the unique developmental needs of American Indian children and how many programs have adapted themselves to meet these needs.

We all came away enthused about the competence, wisdom, and creative innovativeness of certain programs established by tribes throughout the country. But we were also made more aware of the need for fiscal encouragement of and technical assistance to tribal groups less advanced in the development of these programs.

Chairman ABOUREZK. May I interrupt you at this point? I have to go to a markup session in the Judiciary Committee on a bill that I am sponsoring. I have to be there or it is going to fail.

Senator Hatfield will be here in about 2 minutes. I want to recess the hearings for just 5 minutes until he gets here to continue them. Then, when I am finished, I will come back.

I am very sorry to have to do this. This spring we reorganized the Senate so that Senators would not have to be in two places at once. This is the logical result of that great reorganization effort.

I want to apologize for interupting you, but I have to be there. If I am not there, the bill is not going to pass. Excuse me.

[Recess taken.]

Senator HATFIELD [acting chairman]. The hearings will be in order.

May I suggest that no one read their statement, but, rather, highlight and summarize the statements. We will include the statement as you present it in full in the record. We have a number of other people to be heard this morning. In order to conserve time, I would ask you to please summarize your prepared statements or highlight them as you wish. We will then include the full prepared statement in the record.

Please continue, Ms. Bausch.

Ms. BAUSCH. Thank you, Mr. Chairman.

The major concern of the American Academy of Child Psychiatry with this bill is in the implementation of the act. It is the impression of our committee—which consists of many Indian consultants as well as child psychiatrists with experience in working with Indian families—that the track record of the Bureau of Indian Affairs in matters of child welfare and child mental health is not sparkling. This morning's discussion highlights their lack of concern.

It is, therefore, with mixed feelings that we sense a recent awakening of interest in this matter with the Bureau. Such interest may be wonderful. But we question the Bureau's ability to accept and carry out Congress' mandate. We realize the reasons are complex; but the well-known placement rates of Indian children, as compared with non-Indian children, says something very significant.

Indian children are placed at a rate 20 times that of Anglo children. It seems to us that there has been a lack of leadership and sensitivity within the Bureau to matters of child development and children welfare. We realize that the Bureau is not alone here. But we do wonder if there might be more viable alternatives for the implementation of the spirit of this bill.

The American Academy of Child Psychiatry stands ready to assist the Congress and the Bureau in promoting the welfare of Indian children.

If you have any questions, I would be happy to answer them.

Senator HATFIELD. Thank you, Ms. Bausch.

The committee will reserve the right to submit questions at a later time in writing that may arise in the course of the hearings.

We appreciate the opportunity to hear from you today.

Ms. BAUSCH. Thank you, Mr. Chairman.

Senator HATFIELD. Your entire prepared statement and the statement from the American Academy of Child Psychiatry, to which you referred, will be inserted in the record, without objection.

[Material follows:]

American Academy of Child Psychiatry

August 4, 1977

TESTIMONY OF THE AMERICAN ACADEMY OF CHILD PSYCHIATRY
BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. Chairman and Members of the Select Committee on Indian Affairs, I am Virginia Q. Bausch, Executive Director of the American Academy of Child Psychiatry.

The AACP applauds the concerns of the Senate Select Committee on Indian Affairs about problems effecting the welfare of Indian children and we congratulate the drafters of this particular bill in attempting to provide the framework by which significant changes could come about for Indian families. The over-all intentions and recommendations of Senate Bill 1214 are commendable.

We would, however, like to share some comments and suggestions with you. We will first enumerate specific recommendations and later focus on our major concern about the administration of the program.

NATURAL PARENTS....On page 5, in the section on definitions, we believe the term "natural parents" is confusing. The general clinical use of this term usually implies biological parents. We suggest the use of the terms "biological parents, adoptive parents, or foster parents" would clarify intentions.

RESERVATION DEVELOPMENT PROGRAM....On page 14, section 202,

lists specific services included within Indian families development programs, implying that only those services constitute such programs. There is a need to allow for the diversity and creative ingenuity of Indian groups in devising programs most useful within their own culture. Thus, we suggest that the wording on lines 24 and 25 be changed to: "may include, but not be limited to, some or all of the following features."

TREATMENT ADDED....On page 15, of the same section, we'd like to add "and treatment of" in section 4, line 9, as the term "counselling" is vague, and may not include specific therapy.

ALREADY PLACED CHILDREN....On page 19, there is the potential questioning and possible disruption of long established relationships with adoptive or foster parents when the Secretary is in power to review all placements made up to 16 years prior to the effective date of this act. Considerable clinical discretion is needed in such reviews so that a second wrong is not brought about. For example, the original grounds for placement may have been inadequate or even unlawfully carried out. But any further change must consider what is to the best interest of the child. While we have been reassured about this matter, we nevertheless want to emphasize the need for careful study by an appropriate group.

We applaud the overall thrust of the child placement standards in Title I. These establish clear guidelines safeguarding the interests of children and their families, while respecting the very great importance of cultural ties. Our concerns about such matters were expressed in

the hearings of this Committee in April, 1974 and later in an official position statement of the American Academy of Child Psychiatry issued in January, 1975. Copies of this statement are attached.

We are extremely pleased with the general intentions in Title II of setting up family development programs. We are delighted to see the emphasis on encouraging tribal groups themselves to establish such programs. Our Academy, along with several other national groups, recently sponsored a conference in Bottle Hollow, Utah, on child welfare issues. The conference addressed itself to the unique developmental needs of American Indian children and how many programs have adapted themselves to meet these needs. We all came away enthused about the competence, wisdom and creative innovativeness of certain programs established by tribes throughout the country. But we were also made more aware of the need for fiscal encouragement of and technical assistance to tribal groups less advanced in the development of such programs.

In regard to the need for technical assistance we would hope that provision be made for establishing a consulting group made up of Indian people experienced with programs and who could be called upon to assist tribes and urban groups in establishing their own family development programs. This bill gives much responsibility to tribes but it must be recognized that technical assistance should be available if a tribe desires it.

Our major concern, however, is the implementation of this act.

It is the impression of our committee (which consists of many Indian consultants as well as child psychiatrists with experience in working with Indian families) that the track record of the Bureau of Indian Affairs in matters of child welfare and child mental health is not sparkling! It is, therefore, with mixed feelings that we sense a recent awakening of interests in this matter within the Bureau. Such interests may be wonderful. But we question the Bureau's ability to accept and carry out Congress' mandate. We realize the reasons are complex but the well-known placement rates of Indian children, as compared with non-Indian children, says something very significant. Indian children are placed at a rate 20 times that of Anglo children. It seems to us that there has been a lack of leadership and sensitivity within the Bureau to matters of child development and child welfare. We realize that the Bureau is not alone here. But we do wonder if there might be more viable alternatives for the implementation of the spirit of this bill.

The AACP stands ready to assist the Congress and the Bureau in promoting the welfare of Indian children.

American Academy of Child Psychiatry

THE PLACEMENT OF AMERICAN INDIAN CHILDREN---THE NEED FOR CHANGE

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Adopted on January 25, 1975 by American Academy of Child Psychiatry

THE PLACEMENT OF AMERICAN INDIAN CHILDREN -- THE NEED FOR CHANGE

Each state in the United States has a statute which allows its agent (usually the juvenile or family court) to intrude into the privacy of a family and to consider separating the child from his/her family. Ordinarily this might occur when:

1) the child has been involved in delinquent acts;

2) the child is dependent or abandoned, i.e. has no recognized or legally appointed guardian;

3) the child is neglected, i.e., his needs are not being met by the family;

4) or the child is abused, i.e., is being hurt in his/her family.

The professed principle which governs in such cases has generally been the quest for "the best interests of the child". This principle has few standards or criteria associated with it to guide its interpretation. As a consequence there are wide variations in the way individual state's agents or courts put it into practice.[1] This, in turn, allows and perhaps encourages society's agent to fall back on his personal values and moral system in evaluating the child rearing of any particular family who comes before him. Thus, the judge (social worker, probation officer) makes some determination of the child's needs and family's ability to meet those needs. This estimate, however, may be based on his own individual class values which can differ radically from the culture of the child and the values of his family. Moreover,

the less powerful the family, the greater the likelihood of the state's 'benevolent' intrusion (especially when there are few standards and no systematic review of judgments).

For a long time state and federal government agents have intruded regularly into the families of American Indians, particularly those living on reservations.* This intrusion occurs in four areas:

1) where a child is held to be dependent-abandoned;
2) where a child is considered to be neglected;
3) when a child is considered delinquent;
4) and for another reason altogether: to meet the child's "educational" needs.

In regard to the last mentioned, on some reservations, the Bureau of Indian Affairs (B.I.A., part of the Department of the Interior) has made it policy to send children as young as six years to a distant boarding school. This had formerly been widespread practice, with the overt aim of "helping" Indian children enter the mainstream of American life. Now, supposedly, the practice is confined to regions where other educational opportunities have not developed, where there are difficult home situations, or where behavior has been deviant. In the past, this educational practice has had a devastating effect on several generations of Indian children.[2] It has affected their family life, their native culture, their sense of identity, and their parenting abilities. It

*There are approximately 800,000 American Indians -- about 500,000 live on a reservation.

is quite likely that the continuation of these practices today will have the same destructive impact. Ultimately the message is the same: It is better for Indian children to be reared by others than by their parents or their own people.[3] The complex issues relating to the B.I.A. boarding schools have recently been addressed by the American Psychiatric Associations's Task Force on Indian Affairs. Their views are expressed in an editorial in the American Journal of Psychiatry.[4]

We would like to focus here on the fact that today American Indian children are regularly removed from their families and communities. This action is being taken by government and voluntary agencies and some religious groups, ostensibly, for reasons of dependency-abandonment or neglect.

The Association on American Indian Affairs asserts that these practices have resulted in the wholesale, and often unwarranted, removal of Indian children from their homes, reservations and people.[5,6] The figures are alarming. In the state of South Dakota, on a per capita basis, approximately 16 times as many Indian children as white children are living in foster homes. In Montana, the rate is 13 times the national foster home placement rate. In Minnesota, among the Indian children, the rate of foster home placement is 5 times greater than for non-Indian children.[7]

In the United States, one in every 200 children lives outside of his home of origin. In North Dakota, South Dakota and Nebraska one in every nine Indian children are in foster homes, adoptive homes, institutions or boarding facilities. Indian children in these states are withdrawn from their homes at a rate of 20 times the national average.[5] In Minnesota during 1971-1972, one in every

seven Indian children was in placement outside of their own homes (there were about 1,413 Indian children under 18 in adoptive placement while there were 241 Indian children under 18 in foster care). Ninety-one per cent of the adoptions were in non-Indian homes. In a survey of 16 states, "approximately 85% of all Indian children in foster care are placed in non-Indian homes."[7]

There are, then, two trends which are both obvious and alarming: 1) American Indian children are being placed outside of their natural homes at an enormous rate, and 2) they are being given over to the care of non-Indians in very considerable numbers.

There is much clinical evidence to suggest that these Native American children placed in off-reservation non-Indian homes are at risk in their later development. Often enough they are cared for by devoted and well-intentioned foster or adoptive parents. Nonetheless, particularly in adolescense, they are subject to ethnic confusion and a pervasive sense of abandonment with its attendant multiple ramifications. Consequently, these problems combined with their untoward early childhood preplacement experiences adversely affect their young adulthood and their own potential capacities as parents.

The two trends noted above appear to be final common pathways reflecting:

1. The professed policy of the Bureau of Indian Affairs, state welfare agencies, and of voluntary and religious groups had been to admit Indians into the mainstream of America. While this policy has changes at higher levels of the Bureau, the change is unevenly applied at the lower levels. It is not so clear that the policy has changed among the other groups,

particularly, on actively proselytizing religious groups, such as the Mormon Church.

2. Alternatives to placement are either not available, not thought of, or are inaccessible for varied reasons. Families which have become disorganized or have had difficulties in providing for the needs of their children are usually well known to various agencies. The decision to place the child often assumes that other options have been tried and have failed. All too often, however, neither tribe, state nor federal agencies has made any real effort at early intervention and support for the child and his family. As a result, when things get bad enough, the only clear option appears to be placement.
3. The decision to remove a child from his parents is often made by federal and state agency personnel who are poorly trained and who have limited understanding of Indian culture or by Indian personnel with little clinical and developmental training.
4. The parents may have no understanding of their rights, e.g., they may be induced to waive their parental rights voluntarily without understanding the implications. Furthermore, the child, and in most cases his parents, do not have an advocate in court to represent his and their respective interests even if there is a court procedure.
5. The decision to place the child is often made by a state court. This procedure typically fails to utilize the rich information about potential support and care readily available from the

child's extended family and neighboring community. (While there has been some growth of tribal courts with greater understanding of cultural and community resources, there have been procedural and jurisdictional problems).

6. The standards used in non-Indian courts in making the placement reflect the majority culture's criteria for suitability (e.g., so many square feet of space available per foster child in the home) and do not take into sufficient account what may be characteristic of the child's socio-cultural milieu. Thus Indian families are discriminated against as potential foster families.[5,7]
7. The tribes generally have been given little or no responsibility for controlling or monitoring the flow of monies available for child care and family welfare.[7]
8. There is no systematic review of placement judgments to insure that the child's placement offers him the least detrimental alternative.[9]
9. There is no person or agency charged with focusing on the needs of Indian children that would compile information and develop comprehensive planning models adaptable to different regions.

Recently, Indian communities have become actively involved with these threats to their survival.[5] In some instances tribal councils have established welfare commitees to become involved with decisions pertaining to child neglect and dependency; and have adopted more stringent tribal codes governing child welfare matters. Depending on the local circumstances, such active participation on the part of tribal groups has led to a reduction of off-reservation

placements. Indeed, there are some innovative efforts by Indian tribes to find and support foster homes, establish group homes and residential centers for families, and provide for other child-care services.[8] While there are some complex issues resulting from the various degrees of jurisdictional authority, the relationship with the B.I.A., the availability of assistance from the Indian Health Service (a section of the Public Health Service), and the local or state welfare departments, coordinated working relationships are possible. The major point here is that the tribal groups have made an effort to assume parental, and in many ways, grandparental authority over the families and children in their community. Indeed this corresponds to the increasing activity on the part of Native Americans to gain control over their own lives.

While some changes in the practice of child placement have begun on some reservations, more needs to be done. The following are recommendations related to the specific reasons given previously.

1. The bureau of Indian Affairs and state welfare agencies, which are the recipients of federal funds, should assert explicitly that a major goal of their work is to support the integrity of Indian families and communities. In the area of child placement, this policy would be implemented by recommendation #2.
2. Options should be sought out and made available to Indian communities other than placement. These options should be integrated into a continuum of services under the general direction of the tribal government. The options would be flexible, i.e., capable of responding to the needs of an individual family whic would vary with time. Such options might include:

a) in-home help, such as homemaker care, home counselor-child rearers able to work within a family for extended periods of time, and,

b) out-of-home help such as pre-school care, after-school care, day care, respite service, group homes, and residential treatment facilities.

Both kinds of support should be provided either by Indians or by personnel familiar with Indian culture, and who are trained in the psychological aspects of child development.

3. When placement is considered, the child and his parents should each be represented by an advocate. This would help to insure that the interests of each are represented. It is important to keep in mind that these interests are not necessarily the same, and may indeed be different from the state's interests.

4. Decisions about the custody or placement of Indian children should be under the auspices of Indian tribal governments. Agency personnel and professionals should be available in an advisory capacity, but they should not be decision-makers.

5. The standards that govern these decisions should be developed and monitored by appropriate groups under the auspices of the tribe. Thus the fate of a child and his family would be determined by persons who share the child's and family's socio-cultural milieu.

6. Monies for the support and care of children should flow through the tribe, rather than through B.I.A. Welfare and state welfare agencies. Funds should be available for innovative responses to the needs for child care -- e.g., the funding of foster families at a rate reflecting their training, their experience and the magnitude of the child's needs; the development of group homes; the establishment of family centers; the improvement of housing to allow for better child care; arrangements for subsidized adoption, etc.

7. Judgments pertaining to child-care and placement should be under systematic review. In every case the tribes should be the responsible agent for this on-going process of evaluation. The goal of the process would be to insure that the service is providing the child with the least detrimental alternative.

8. Within the B.I.A. there are offices focusing on roads, business and economic development, relocation, etc. But, there is no office, at any level, charged with focusing on the needs of Indian children[1]. Since it seems likely that "children's rights cannot be secured until some particular institution has recognized them and assumed responsibility for enforcing them,"[1] this issue should be explored.

These recommendations can be formally legislated by Congress. Indeed, the Association on American Indian Affairs has made very specific legislative recommendations that would enable broad implementation of similar policies.[7]

States, took can respond to the spirit of these new approaches.

Adopted on January 25, 1975 by American Academy of Child Psychiatry

This is evidenced by recent developments in Wisconsin. There the American Indian Child Welfare Service Agency, with an all-Indian policy board, has been established with broad responsibility for supervising all child placement decisions.

A recent book concerned with the complex issues of child placement highlights the importance of the issues involved.

> "....by and large, society must use each child's placement as an occasion for protecting future generations of children by increasing the number of adults-to-be who are likely to be adequate parents. Only in the implementation of this policy does there lie a real opportunity for beginning to break the cycle of sickness and hardship bequeathed from one generation to the next by adults, who as children, were denied the least detrimental alternative".

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STATEMENT OF MARLENE ECHOHAWK, PH. D., NATIONAL CONGRESS OF AMERICAN INDIANS

Ms. ECHOHAWK. Thank you, Mr. Chairman.

My name is Marlene Echohawk. I am a clinical psychologist. I am a member of the Otoe-Missouri Tribe.

I am here to present testimony in support of S. 1214. I am representing the National Congress of American Indians.

In general, this bill is considered to be humanely written. There are some specific recommendations I would like to suggest, which are measures to further insure Indian children's welfare.

First of all, to use a social action model as proposed in this bill presupposes an adequate knowledge of the culture under consideration. Other programs have failed, where Indians are concerned, by not having a well-grounded knowledge of Indian cultures—and I emphasize the plural of "culture."

The refreshing and energizing concept incorporated in S. 1214 permits the specific involvement of Indian tribes in the care of our own children. I am impressed by the earlier panel of high echelon Government witnesses; American Indians are notably absent. That emphasizes the need to respect our ability to care for our children and endow them with an identity necessary to function and enjoy this life.

I would be glad to answer any questions you have.

Senator HATFIELD. Dr. Echohawk, we do have a number of questions that staff has prepared. We would like to submit them to you. If you could respond for the record, we would appreciate it very much. I am sure you would want a little time to reflect on some of these questions.

[The prepared statement of Dr. Marlene Echohawk follows:]

PURPOSES

S. 1214 is intended to deal with the recurrent problem of forcible and fraudulent removal of Indian children from their natural or adoptive parents, or from the homes of blood relatives, for placement with non-Indian families or institutions, often without adequate information or notice to the children's parents, relatives, or tribe. The bill also seeks to strengthen Indian families by providing funds for family counseling and assistance, improved housing, construction of temporary care facilities, representation of Indian children and parents or relatives in child placement proceedings, and the gathering of information on which to base such programs.

SUMMARY OF MAJOR PROVISIONS

Under the child placement provisions (Title I) of the bill, no placement of a child living on a reservation is valid unless ordered by a tribal court or, if no tribal court exists, unless the tribe occupying the reservation has been given thirty days' written notice of the placement proceedings and the right to intervene as an interested party. [§101 (a) and (b).] In cases where neither the child nor the parents or relatives who have custody of the child live on a reservation, a placement is invalid unless the tribe in which the child is, or is eligible to be, a member has been given thirty days' written notice of the proceedings

and the right to intervene. [§101 (c).] In addition, the bill prohibits the removal of an Indian child for more than thirty days from the custody of his parents or of relatives with whom the child has been privately placed without written notice to the tribe to which the child belongs or on whose reservation the child normally lives. An exception to all of these requirements is made in the case of temporary placements under circumstances where the child's physical or emotional well-being is immediately threatened.

The bill further guarantees Indian parents, or blood relatives with custody of a child, thirty days' written notice of placement proceedings and the rights to intervene and be represented in the proceedings, to submit evidence and present witnesses, and to examine all materials or files on which a decision on placement may be based. [§102 (a).] Any consent by the parents or blood relatives to a placement must be voluntary, in writing, and signed before a judge with jurisdiction over the proceedings, who must certify that the consent was fully explained in the parents' or relatives native language and was fully understood. If the placement is not an adoption, the consent may be withdrawn at any time for any reason. If the consent is to the adoption of a child over two years old, the consent may be withdrawn at any time before the final decree of adoption, which cannot be entered until ninety days after the consent is given. Final adoptions cannot be attacked unless the child is again being placed for adoption, the adoption was unlawful, or the consent to the adoption was involuntary. [§102 (c).] Moreover,

the bill requires that an Indian child and his parents be represented by separate counsel in child placement proceedings. [§102 (d).]

In contested placement proceedings, a placement based on potential emotional damage to a child must be supported by the overwhelming weight of the evidence, including professional witnesses' testimony. Where the court bases a placement on the potential for serious physical harm to a child, that determination must be supported by clear and convincing evidence including testimony by a qualified physician. Evidence of poverty, inadequate housing, misconduct, or alcohol abuse on the part of a parent or blood relative is not sufficient, standing alone, to support a determiniation that continued custody will result in emotional or physical damage to the child. The court is to apply the standards of the parents' or relatives' Indian community in making placement determinations. [§102 (b).]

S. 1214 also requires that non-Indian adoption agencies grant a preference to members of a child's extended Indian family (as defined by tribal law or custom), and that preferences in other types of placements be given in the following order: (1) to the child's extended Indian family; (2) to a foster home licensed or designated by the Indian tribe on whose reservation the child normally lives; (3) to a foster home licensed by the tribe of which the child is, or is eligible to be, a member; (4) to any other foster home on a reservation recommended by the tribe of which the child is, or is eligible to be, a member; (5) to a foster home run by an Indian

family; and (6) to an institution for children operated by an Indian tribe, a tribal organization or non-profit Indian organization. This order of preference can be altered by tribal resolution, or upon a showing of good cause why it should not be followed. [§103 (b).]

Where a tribal court makes a child placement outside the child's reservation, the tribal court has continuing jurisdiction until the child is eighteen years old. [§103 (c).] Upon reaching the age of eighteen, an adopted Indian child is given the right, absent good cause to the contrary, to learn the names and last known addresses of his natural parents and brothers and sisters who are over eighteen years old, their tribal affiliations, and the basis for the family's breakup. [§104.] The bill also requires that court conducting placement proceedings governed by this legislation anywhere in the United States follow the tribal law and tribal court order of any Indian tribe involved in the proceedings. [§105.]

The family development provisions (Title II) of S. 1214 authorize the Secretary of the Interior to contract with or fund Indian tribes to assist them in preparing and implementing child welfare codes, and in establishing and operating the following types of family development programs:

(1) Programs to improve housing conditions of: Indian foster and adoptive parents, if their housing is substandard; Indians wishing to qualify as foster or adoptive parents whose homes do not meet tribal standards fixed for that purpose; and Indian families facing disintegration, where improved housing would aid family stability. [§201 (b)];

(2) Programs for the licensing and regulation of Indian foster and adoptive homes; the construction and operation of family development centers with facilities for family counseling and temporary custodial care; the provision of family assistance and counseling; the employment of personnel to assist tribal courts in domestic relations and child welfare matters; the education and training of Indians (including tribal judges) in skills related to child welfare and family assistance; and the provision of subsidies to raise the level of support of adopted Indian children to that of Indian foster children [§202 (a)];

(3) Programs for Indian child defense, providing legal representation for an Indian child or, if appropriate, his parents or blood relatives, involved in a child placement proceeding [§204 (b)]; and

(4) Off-reservation programs to provide the same services as the programs in paragraphs (2) and (3) above, as well as the furnishing of guidance, representation, and advice to Indian families involved in child placement proceedings before non-Indian government agencies [§203].

Finally, the bill gives the Secretary of the Interior discretion to prescribe rules and regulations to implement its provisions, in consultation with Indian tribes, Indian organizations and Indian-interest agencies, which regulations must be presented to the Senate Select Committee on Indian Affairs and the House Committee on Interior and Insular Affairs. [§205.]

COMMENTS AND RECOMMENDATIONS

Definitions: Section 4.

For the purpose of identifying the beneficiaries of this Act, Subsection (b) defines "Indian" to mean any person who is a member of, or is eligible for membership in, a federally recognized Indian tribe; and Subsection (c) defines "Indian tribe" to mean any Indian tribe, band, nation, or other organized group or community of Indians including any Alaska Native region, village, or group, as defined in the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. These definitions are consistent with present national policy limiting special Indian programs and services to specific tribes determined by the United States to be eligible for those services.

Indians who are members of tribes that are not federally recognized and Canadian Indians who live in the United States are not covered by the provisions of the Act, although they generally have the same needs as members of federally recognized tribes. The general child-welfare statutes of the United States and the programs and services available to Indians living in the United States who are not members of federally recognized tribes are wholly inadequate to promote the stability and security of these Indian families. The Association recommends that the general statutes be amended to meet their special needs or, alternatively, that S. 1214 be amended to accomplish this purpose.

The definition of "tribal court" in Subsection (e) includes tribunals which perform judicial functions. This recognizes the fact that some tribes do not have courts per se and respects the right of Indian tribes to determine for themselves the kind of tribal institutions they consider to be the most appropriate to deal with domestic and family relations. This recognition of tribal institutions was noted and respected in Wisconsin Potowatomies of the Hannahville Indian Community v. Houston, 393 F. Supp. 719 (W.D. Mich. 1973).

The definition of "child-placement" in Subsection (g) is intended to include every type of action under which an Indian child may be adopted or placed in a foster home or other insitution.

Three amendments to Subsection (g) are recommended:

1) Add the words "including any appeal" after the word "involuntary" on page 5, line 2.

2) Add the word "actions" after the word "private" on page 5, line 3.

(This perfecting amendment will make it clear that the phrase "public or private" does not modify "proceedings" on page 5, line 1, but rather refers to placement of children by public and private

child-placement agencies.)

3) Add the phrase "or who otherwise has custody in accordance with tribal law or custom" after the first time the word "parents" is used on page 5, line 7.

(This amendment will extend the protections of the Act to blood relatives who have valid custody that is not derived from an act of the natural parents.)

Subsection (h), which defines "natural parent," should be amended to add the phrase "under the laws of a state or in accordance with tribal laws or customs" after the last word on page 5, line 11. Absent this amendment, it is possible that the word "adopted" on page 5, line 11 will be construed to mean only state court adoptions, in accordance with the normally understood non-Indian use of the word. This amendment is consistent with the general thrust of the Act, which is to respect the sovereignty, customs, and family structure of Indian tribes.

It is recommended that the Act include a definition of the term "Indian reservation." We suggest the following language: "Indian

reservation" means Indian Country as defined in 18 U.S.C. §1151 and any Alaska Native village, as defined in the Alaska Native Claims Settlement Act (85 Stat. 688).

This amendment will clarify the scope of exclusive tribal jurisdiction in Section 101 (a) and the right of a tribe to intervene under Section 101 (b). The amendment is consistent with federal statutory and decisional law. Indian tribes that have not had their jurisdiction diminished under the authority of an Act of Congress are recognized to have jurisdiction within Indian Country and not merely on an Indian reservation. The amendment will also enable Alaska Native regions, villages, and groups to intervene in proceedings covered by Section 101 (b) and (c).

Child Placements Standards: Title I.

Section 101 gives effect to the underlying premise of the Act that Indian tribes, as governments, are essential participants in any decisions involving the possible separation of an Indian child from its family. The right of the tribes to participate in such decisions derives from their parens patriae interest in the health and welfare of children who are members of the tribal community and from the right of the tribes to perpetuate their tribal relations and culture.

Subsection (a) provides that , in the case of any Indian child who resides within an Indian reservation, no child placement shall be valid "unless made pursuant to an order of the tribal court,

where a tribal court exists within such reservation which exercises jurisdiction over child welfare matters and domestic relations." This subsection is supported by the recent decision of the United States Supreme Court in Fisher v. District Court, 424 U.S. 382 (1976). Fisher held that Indian children who are residents of a reservation where a tribal court exercises exclusive jurisdiction cannot be adopted in a state court.

Subsection (a) recognizes and does not change existing jurisdictional law. It delineates the breadth of tribal child welfare jurisdiction for tribes that have authority under law to exercise jurisdiction over tribal members. Under subsection (a), states that have properly acquired jurisdiction in Indian Country will continue unimpeded in that jurisdiction. The Supreme Court, in Bryan v. Itasca County, 426 U.S. 373 (1976), has recently held that P.L. 83-280 did no more than provide state forums in which Indians could settle their private disputes. Bryan supports the position that states may not impose their dependency, neglect, and delinquency laws and regulations on Indian people who live in Indian Country in P.L. 83-280 states.

Subsection (b) provides that, in the case of any Indian child who is domiciled within an Indian reservation, or who resides within an Indian reservation which does not have a tribal court, no child placement shall be valid unless the tribe occupying the reservation has been accorded thirty days' written notice of, and a right to intervene as an interested party in, the child placement proceedings.

This subsection does not alter the existing rights of Indian tribes to determine the placement of an Indian child domiciled within an Indian reservation. It does establish certain statutory rights of Indian tribes in such proceedings.

An unbroken line of recent judicial decisions holds that tribes have exclusive jurisdiction over placement decisions involving Indian children who are domiciled within an Indian reservation. See e.g., Wisconsin Potowatomies of the Hannahville Indian Community v. Houston, 393 F. Supp. 719 (W.D. Mich. 1973); Wakefield v. Little Light, 347 A. 2d 228 (1975); Adoption of Doe, 555 P. 2d 906 (1976); In the Matter of Greybull 543 P. 2d 1079 (1975); Adoption of Buehl, 555 P. 2d 1334 (1976); Severance of Duryea, 563 P. 2d 885 (1977).

As presently drafted, the definition of domicile in subsection (b) is too restrictive, and we suggest that the words "or who otherwise has custody in accordance with tribal law or custom" be added after the word "parents" on page 6, line 15.

Subsection (c) states that in the case of any Indian child who is not a resident or domiciliary of an Indian reservation, no child placement shall be valid or given any legal force and effect, unless the Indian tribe of which the child is a member, or is eligible for membership, has been accorded thirty days' written notice of, and a right to intervene as an interested party in, the child placement proceedings.

Two recent decisions, Adoption of Doe, supra, and Severance of

Burnett, supra, suggest that a tribe has concurrent jurisdiction with the state to determine the placement of Indian children who are members of the tribe and who neither reside nor are domiciled within Indian Country. Nothing in subsection (c) is intended to fix the extent of tribal jurisdiction over this class of Indian children. The scope of jurisdictional law with respect to this class of children is left by the Act to develop through judicial decision or other legislation.

An exception to the requirements in subsections (a), (b), and (c) is made in the case of temporary placements under circumstances where the child's physical or emotional well-being is immediately threatened. The exception is necessary to provide protection to Indian children who are in need of emergency placement while away from the tribal community. Although the term "temporary placement" is not defined in section 4, its scope is delimited by the qualifying phrase "under circumstances where the physical or emotional well-being of the child is immediately threatened." Once there is no longer an immediate threat to the child's physical or emotional well-being, the need and justification for the temporary placement vanishes and the placement should terminate.

Subsection (d) provides that no Indian child shall be removed from the custody of his natural parent or parents, Indian adoptive parent or parents, or blood relative in whose custody the child has been placed by the private actions of any private individual, corporation, group, or institution for a period of more than thirty

days without written notice served upon the tribe of which the child is a member or is eligible for membership in or upon whose reservation the child resides or is domiciled.

Subsection (e) provides that it shall be the duty of the party seeking a change of the custody of an Indian child to notify the revelant tribal governing body by mailing written notice to the chief executive officer or such other person as the tribe may designate.

Subsections (d) and (e) are intended to protect Indian children and families from coerced, fraudulent, or other overreaching privately arranged separations. These private agreements are frequently not explained to or understood by the Indian family and are not disclosed to the tribe. Such agreements often result in permanent separations of Indian children from their families, contrary to the wishes of the families and their understanding of the agreement.

Subsection (d) does not limit the authority a tribe may have to enact a system for the regulation of private child placements that are arranged within the tribal community.

Subsection (d) is ambiguous and its intent should be clarified. As drafted it could be construed to regulate the private placement actions of Indian parents or relatives who have custody of an Indian child rather than, as intended, the private placement actions

or individuals, corporations, groups, or institutions seeking to remove Indian children from the custody of their parents or relatives. Moreover, it could be construed to regulate private actions between parents or relatives and private actions occuring off the reservation, contrary to our understanding of its intent.

We suggest that Subsection (d) be amended to incorporate requirements similar to those now imposed by the Interstate Compact on the Placement of Children on all privately arranged placements that involve the movement of children across state lines. These requirements mandate that states be given notice of such placements and that the notice contain, inter alia, the information required in Subsection (d). The amendment should provide that, in private placement actions, any private individual, corporation, group, or institution intending to remove an Indian child from the custody of its family for placement from within an Indian reservation to a place outside the reservation shall give such notice to the tribe and that such notice be given at least thirty days prior to the date of removal. Further the amendment should make clear that it does not apply to private placement actions where the parties to the agreement are members of the same family.

Section 102 establishes the procedural rights of Indian parents and extended Indian families in voluntary and involuntary proceedings that may result in the placement of a child and provides evidentiary standards for such proceedings.

Subsection (a) requires that Indian parents, or blood relatives with custody of a child be given thirty days' written notice of placement proceedings and establishes their right to submit evidence, present witnesses, and examine all materials or files on which a decision regarding placement may be based.

It is a common practice in the child placement proceedings of nontribal government agencies to fail to notify blood relatives on the notion that only the nuclear family has a legitimate interest in the proceedings. The subsection gives recognition to the custodial interests of the extended Indian family by directing that blood relatives have full party status in child placement proceedings.

A significant additional feature of Subsection (a) is the requirement that nontribal government agencies must make affirmative efforts to prevent the breakup of an Indian family before seeking a child placement. Generally, nontribal government agencies practice crisis intervention. Aware in their incipiency of the presence of factors that frequently lead to family breakup, the agencies often passively observe the corrosive effect of these factors and intervene only when disintegration has reached the point of crisis to seek the legal separation of children from their

families. Remedial and rehabilitative services are generally not made available to the Indian family in distress. The laws of some states mandate that agencies must make affirmative efforts to provide families with remedial and rehabilitative services. Subsection (a) extends this requirement to all states when Indian families are involved.

Subsection (a) should be amended to delete the word "or" on page 8, line 12 and the words "alternatively, in a tribal court, through a lay advocate" on line 13. The purpose of this Act is to regulate the activities of nontribal government agencies and not to impose requirements on tribes in tribal proceedings. The proceedings in a tribal court should be held under tribal law and custom and in accordance with the Indian Civil Rights Act of 1968.

Subsection (b) provides that involuntary child placements must be based on overwhelming evidence, including the testimony of professional witnesses, that a child faces serious emotional damage if parental or familial custody continues. Where a child placement is based on the potential for serious physical harm to a child, that determination must be supported by clear and convincing evidence including testimony by a qualified physician. Evidence of poverty, inadequate housing, misconduct, or alcohol abuse on the part of the parent or blood relative with custody is not sufficient, standing alone, to support a determination that continued custody will result in emotional or physical damage to the child. The standards of the parents' or relatives' Indian community must be applied in

making placement determinations.

Many Indian families lose custody of their children through involuntary placement proceedings where evidence supporting placement is scant, wrong, or biased. Subsection (b) will eliminate the most serious abuses experienced by Indian families in such proceedings and prevent the unnecessary breakup of countless Indian families. Specifically, the evidentiary standard of overwhelming evidence of serious emotional damage will eliminate the common practices of: (1) utilizing witnesses untrained and inexperienced in mental health practice to describe emotional damage; (2) finding emotional damage in minor family upsets and using such "damage" to breakup Indian families; and (3) basing emotional damage on a mere preponderance of the evidence

There is controversy in the children's rights field over the use of emotional damage as a basis for child placement. The concerns revolve around the almost limitless scope of the word "emotional," the difficulty in proving emotional damage and the unavailability of competent witnesses to offer proof of emotional damage. Recognizing the potential for unnecessary placements of children based on emotional considerations, subsection (b) requires overwhelming evidence of emotional damage. The requirement is for evidence that is more than clear and convincing and less than beyond a reasonable doubt. Thus, the intent of subsection (b) is to permit placements based on emotional damage only in extraordinary circumstances.

Subsection (b) prohibits any child placement based on a mere preponderance of the evidence. This provision is premised on the singular importance of the rights at stake in such proceedings and on the fact that weak evidentiary standards have resulted in the unwarranted breakup of untold members of Indian families.

Consideration of parental poverty, misconduct, and alcohol abuse, as prima facie, and sometimes the only, evidence of emotional or physical damage to a child has led to the unnecessary placement of many Indian children. Subsection (b) proceeds from a recognition that poor people beset with social problems nevertheless have a right to raise children. Under subsection (b), the poverty and social problems of an Indian family can only be weighed in determinations of physical or emotional damage if other evidence demonstrates that the situation will cause serious harm to a child. Absent actual harm, an Indian child cannot be removed from its family in involuntary proceedings.

The provision in subsection (b) that placement decisions must be based on Indian community standards is vital in incorporating the child-rearing practices of an Indian community in the decision-making process of the nontribal government agency. Frequently, Indian children are removed from their families under circumstances considered wholly inappropriate by the Indian community. The removals are based on non-Indian child-rearing standards not shared by the Indian community or on a miscomprehension of Indian child-rearing practices and their effect on the child. Subsection (b) is

intended to prevent such inappropriate removals.

Subsection (c) provides that in voluntary child placements any consent by the parents or blood relatives to a placement must be voluntary, in writing, and signed before a judge with jurisdiction over the proceedings who must certify that the consent was fully explained in the parents' or relatives' native language and was fully understood. If the placement is not an adoption, the consent may be withdrawn at any time for any reason. If the consent is to the adoption of a child over two years old, the consent may be withdrawn at any time before the final decree of adoption, which cannot be entered until ninety days after the consent is given. Final adoptions cannot be attacked unless the child is again being placed for adoption, the adoption was unlawful, or the consent to the adoption was involuntary.

The provision of subsection (c) prescribing voluntary consent procedures will eliminate one of the most common and abusive practices by which nontribal government agencies obtain the custody of Indian children. Parental "voluntary" relinquishments of Indian children are commonly obtained by nontribal government agencies. These relinquishments generally involve parental signature on an agency voluntary consent form. The signature is witnessed by an agency employee. Review by a judge occurs only in those states that have statutes requiring voluntary relinquishments to occur in court. Frequently, Indian parents are coerced by agency personnel into signing relinquishment consents with threats of cutting off public assistance payments for failure to consent and with insinuations of

parental unfitness and lack of concern for providing the best way of life for the child. Consents are often signed with no explanation ←When explanations are given, the Indian parent often has the understanding that the placement is temporary and revocable. Many times the form states otherwise. Subsection (c) assures that consents will in fact be voluntary and with knowledge of exactly what the consent agreement includes.

The provisions of subsection (c) pertaining to withdrawal of consent are consistent with the laws of many states. Some states limit the revocability of consents to adoption. The thrust of subsection (c) is to support the general proposition that it is in the best interests of children to be raised by their natural family and that every opportunity should be provided to maintain the integrity of the natural family. Also, under subsection (c), an Indian parent or blood relative with custody may withdraw consent to adoption up to ninety days after the consent is given and by that act completely terminate an adoption proceeding. This provision was included in subsection (c) to protect improvident adoption consents by mothers during the post partem depression period and to grant a period of grace to parents and blood relatives during which they can reconsider their relinquishment decision and develop alternative plans for the child. Once consent is withdrawn the nontribal government agency must immediately return the child to the parents or blood relatives.

The authorization to set aside final decrees of adoptions affecting Indian children is another important feature of subsection (c).

The decrees can be set aside only if the adoption was unlawful or the child is available again for adoptive placement. This authorization is necessary to assure strict compliance with the standards set forth in Title I of this Act and other laws governing adoption. It also recognizes that Indian children suffer from many failed adoptions and admits the possibility of a restoration of parental or blood relative rights in such instances. Many states do not permit final adoption decrees to be set aside.

The last sentence in subsection (c) should be deleted because it is in direct conflict with the first sentence after the "provided further" clause on page 10, line 15. Under the last sentence in subsection (c), there can be no valid adoptive placement within ninety days of the birth of the child. The purpose of the subsection is to allow valid adoptive placements during a child's first ninety days of life but to allow parents or blood relatives to withdraw consent to the adoption up to ninety days after consent is given.

Subsection (d) requires that an Indian child and its parents or blood relative be represented by separate counsel in child placement proceedings.

Subsection (d) should be amended to delete the phrase "unless the child" on page 11, line 5 and to delete all of page 11, lines 6 and 7, and to delete the words "separate" and "or lay advocate" on page 11, line 12.

This amendment will permit existing state law on the child's right to counsel in placement proceedings to prevail. Some states grant a right to counsel for children in certain types of placement proceedings. Other states leave the appointment of counsel for a child to judicial discretion. The amendment is based on the view that in involuntary placement proceedings the interests of a child should not be presumed adverse to the interests of a parent and that counsel for the parents and counsel for the state and/or the tribe as parens patriae can adequately represent the interests of the child. In voluntary placement proceedings and in certain involuntary placement proceedings separate counsel for a child may be indicated and can be appointed in the discretion of the court. To provide an absolute right to counsel for children will place a burden on already strained judicial resources and may exacerbate the personal difficulties of the child and its family.

Section 103 will help assure that most Indian children in need of placement will be placed in Indian homes and that Indians seeking custody of Indian children will not unreasonably be denied the opportunity to adopt Indian children or to provide them with foster care.

Subsection (a) requires that nontribal government agencies grant a preference in adoption to members of a child's extended family as defined by tribal law or custom.

Subsection (b) requires that, in otherwise placing an Indian child, nontribal government agencies shall grant a preference in accordance with six stipulated categories of preference, except

upon a showing of good cause why the order of preference should not be followed. This preference order can be altered by the resolution of the governing body of each Indian tribe.

Subsections (a) and (b) cover only child placements made by nontribal government agencies. Private, non-agency placements are not covered.

Subsection (c) provides that, where an Indian child is placed in a foster or adoptive home, or in an institution, outside the reservation of which the child is a resident, pursuant to an order of a tribal court, the tribal court shall retain continuing jurisdiction until the child reaches the age of eighteen.

Subsection (c) assures a continuing relationship between the tribe and a child and protects the ability of a tribe to determine the best interests of a child placed outside of Indian Country by an Indian tribe. Many Indian tribes do not have sufficient placement resources on the reservation to meet the needs of Indian children within tribal jurisdiction. These tribes would use off-reservation placement resources if assured of continuing jurisdiction. There is frequently a reluctance to place children outside of the reservation because many tribes have experienced difficulty in exercising continuing jurisdiction over children so placed. The difficulty derives from the laws of many states that permit state adjudication of the best interests of any child physically present within state jurisdiction. The exclusion of tribes from the Interstate Compact on the Placement of Children exacerbates the problem. Under the Compact the state that sends a child to another state does so by agreement and the sending state retains jurisdiction over the child.

Section 105 needs to be perfected. We suggest the following substitute language:

> In any child placement proceeding within the scope of this Act the United States, every state, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to any Tribal Court orders relating to the custody of a child who is the subject of such a proceeding.

Indian Family Development: Title II.

Our comments and recommendations relating to this Title are limited to Section 204.

Section 204 authorizes and directs the Secretary to undertake a study of past Indian child placements and to take appropriate legal action to challenge the placement where (1) the child is under the age of eighteen; (2) there is good cause to believe that the placement is legally defective; and (3) the parents or relatives of the Indian child request that the Secretary take action.

The section also authorizes the Secretary to make grants and contracts with Indian tribes and Indian organizations for the operation of Indian family defense programs, and to maintain records on all future Indian child placements and all placements studied by

the Secretary under this section.

The child placements to be studied under subsection (a) include adoption, foster care and institutional placements. The greatest concern expressed by critics of subsection (a) is that it should not operate to undo well-functioning and longstanding adoptive placements regardless of any legal defect in the adoption proceedings. In order to assure against such a possibility it has been suggested that the subsection be amended to require that the Secretary, prior to taking any legal action, make a finding that the best interests of the child would be served by legal action. This amendment is too restrictive and should not be accepted.

We believe that the broad discretionary power granted the Secretary in subsection (a) is an important feature. Family relationships are, by their very nature, extremely complex. To limit his discretion by a test of "the best interests of the child" fails to recognize the importance of taking the broad family context into consideration. Certainly the best interests of the child should be given great weight in his decision-making.

There is considerable controversy among children's advocates concerning the standards that should apply in determining the best interests of the child, the impact of these standards on the rights of parents and, indeed, on our society as a whole and its laws.

Subsection (a) will be most often applied in situations where Indian children are in inappropriate foster and institutional care and the Indian extended family is capable of assuming the care of the child, and in situations where an Indian child is the victim of a failed adoption and the extended Indian family wants the child back.

Subsection (b) should be amended to mandate the right of parents to counsel and make the right of children to counsel discretionary, for the reasons stated above in our discussion of Section 102(d).

Subsection (b) should be further amended to provide that the Secretary may not operate an Indian family defense program on any Indian reservation if such program has been rejected by the tribe involved.

In order that the Act be administered effectively, we urge that Congress direct the Secretary of the Interior to establish an Office of Child Development within the Bureau of Indian Affairs and, accordingly, that a new section be added to Title II.

Finally, we urge that Congress authorize and direct the Secretary of the Interior to prepare and submit to it a master plan for the construction and operation of locally convenient day schools as an alternative to boarding schools and that a new title be added to the Act to accomplish this purpose.

ADDITIONAL AMENDMENTS

On page 4, line 13, change the word "and" to "or".

On page 6, line 2, after the period add the words "For the purposes of this Act, an Indian child shall be deemed to be resident where his natural parent or parents, or the blood relative in whose care he may have been left by his natural parent or who otherwise has custody in accordance with tribal law or custom, is resident."

On page 6, line 23, after the word "membership" add the words "and one of whose parents is in fact a member".

On page 8, line 12, after the word "counsel" add the words "except in child placement proceedings before a tribal court".

On page 8, line 10, after the word "notice" add the words "and an explanation of".

On page 8, line 23, change the words "any of three" to "either of two", and on line 24, after the number "101" add "(b) and (c)".

On page 11, line 2, after the number "101" add the words "(a) or".

STATEMENT OF BERTRAM HIRSCH, ASSOCIATION ON AMERICAN INDIAN AFFAIRS

Mr. HIRSCH. Thank you, Mr. Chairman.

Primarily, we feel that title I of S. 1214 is perhaps the most vital section of the bill. The title is based on case law that has developed over the last several years and I might say over the last century and a half, respecting the rights of Indian tribes to control their membership and their tribal relations within the tribe.

Title I also addresses placement standards for Indian children which we believe will, to a major extent, eliminate most of the horror stories that were chronicled to this committee during the oversight hearings in 1974. Particularly I would like to emphasize the fact that so many Indian children are taken away from their families because of applications of standards related to poverty factors, related to alleged alcohol conditions, and also abuses of process, in my opinion, involved in the voluntary relinquishment of children without court order.

This bill, as you know, provides that voluntary relinquishment of children can only occur in a court by court order.

S. 1928, which an administration witness testified about earlier, continues the practice of not mandating that voluntary relinquishments occur by court order, but that they can occur by out-of-court agreements. This is one of the major abuses that Indian people are interested in seeing eliminated. Many States require court orders; some States do not. We feel that it would be better law to require court orders in voluntary relinquishments of children.

Whatever situations involving Indian families that cannot be ameliorated or eliminated by effective application of title I, we believe will be taken care of in the implementation of title II programs and self-determination provisions that run throughout this bill.

It is clear to me, contrary to what the administration witnesses testified to, that this bill is based solely on a self-determination philosophy. It in no way imposes any standards or any way of doing things on the tribes, but, rather, gives the tribes free reign to implement their own customs, laws, and traditions, and to develop their programs in the way that they see fit to meet the needs of their families and children.

The standards that are imposed in this bill are standards imposed on State and county and nontribal agencies that function on Indian reservations and in Indian communities in relationship to Indian families and Indian children.

Primarily, Senator Hatfield, I would like to emphasize something that is not in the bill that I think, and the Association on American Indian Affairs believes very strongly, is one of the most critical child welfare problems for Indian people in the United States today. That is the boarding of Indian children in BIA boarding schools far from, oftentimes, the reservation where they come from.

There are several thousand Indian children in boarding arrangements. They are boarded at the most vulnerable ages, in terms of family separation, grades 1 through 8, 6 years old through 12 years old. We feel very strongly that there should be an amendment to S. 1214 that incorporates a title III on the boarding school question.

We are prepared in a few days to submit specific language for the title III amendment to this bill.

Essentially what we would propose in title III is that the Congress recognize that the absence of locally convenient day schools for Indian children and families in the communities where they live is a violation of the equal protection of the laws that Indian families are entitled to.

Second, the Secretary of the Interior should be authorized and directed to prepare a master plan for the construction of locally convenient day schools and also to develop a plan for the construction of roads that would serve those schools. That has been a traditional BIA response on why there are not locally convenient day schools, the fact that roads are not available for access to such schools.

We would also request that title III incorporate a schedule of appropriations to phase in locally convenient day schools for Indian children over a period of 5 to 7 years and that the master plan be submitted to the Congress within 8 months after the enactment of this legislation.

I just want to add one last thing in closing, with respect to S. 1928, which was testified about in your absence earlier this morning.

Although I have not had an opportunity to give S. 1928 the careful review that it deserves, I believe that it does provide, as the administration witnesses testified, some valuable programing that will benefit Indian families and children just as it will other families and children throughout the United States.

However, I must say that the bill, as introduced, is absolutely ladled and riddled with all kinds of provisions that, if improperly applied—and we know from experience that they are improperly applied throughout the country—will result in a tremendously increased removal rate of Indian children from their families—unjustified and unnecessary.

The standards that are imposed in the bill as now written are non-Indian standards, drafted by non-Indians, and with no thought or concern for Indian people.

I might add, Senator, that S. 961, which preceded S. 1928 and was a successor to a bill introduced by Senators Cranston and Mondale last year, included specific provisions for a direct relationship between the U.S. Government and Indian tribes in the delivery of child welfare services to Indian communities. For some strange reason which I, for one, do not understand, when S. 1928 was introduced, all of those Indian provisions were eliminated from the bill. I can only say that I think the bill as now drafted is in direct contradiction of President Carter's pledge, when he was running for election, when he specifically said the following:

> Indian families and children, like all American families, deserve to be protected and supported by government rather than ignored and destroyed. The rights of Indian families to raise their children as they wish have not always been respected by government. Today, up to 25 percent of all Indian children are raised in foster homes or adoptive institutions.
>
> Some of these placements are unwarranted, and many could be prevented if proper social services as well as sufficient educational, economic, and housing resources were available to Indians.
>
> If I am elected President, I intend to insure that Indian families are assisted and bolstered by Government policies.

I truly believe that S. 1214 fulfills entirely the President's thoughts and wishes, and S. 1928 does not address the thoughts and wishes at all with respect to Indian people and Indian tribes in particular.

Thank you very much.

Senator HATFIELD. Thank you, Mr. Hirsch.

We will look forward to your written statement which you are invited to submit.

Mr. HIRSCH. Thank you.

Senator HATFIELD. Thank you very much.

I would like to call the next panel: Calvin Isaac, Rena Uvilla, Mona Shepard, Ramona Bennett, Fay LaPointe, Bobby George, and Gloria York.

Mr. Isaac, since you are already a chairman, would you act as chairman of the panel this morning and please proceed to summarize your prepared statement and then call on the other members of your panel as you desire?

STATEMENT OF CALVIN ISAAC, TRIBAL CHIEF, MISSISSIPPI BAND OF CHOCTAW INDIANS, REPRESENTING THE NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION (NTCA)

Mr. ISAAC. Thank you, Mr. Chairman.

I am Calvin Isaac, tribal chief of the Mississippi Band of Choctaw Indians in Mississippi. Thank you for asking NTCA to make an appearance before you today.

I testified before this committee last week on the matter of education programs. I do not wish to amend anything that I said last week.

The topic of today is an issue that is of more concern to us than education.

If Indian communities continue to lose their children to the general society for adoptive and foster care placement at the alarming rates of the recent past, if Indian families continue to be disrespected and their parental capacities challenged by non-Indian social agencies as vigorously as they have in the past, then education, the tribe, Indian culture have little meaning or value for the future. This is why NTCA supports S. 1214, the Indian Child Welfare Act of 1977.

I have three points I want to summarize from my written testimony.

The first point: One of the most serious failings of the present system is that Indian children are removed from the custody of their natural parents by nontribal government authorities who have no basis for intelligently evaluating the cultural and social premises underlying Indian home life and childrearing.

Another point is that, culturally, the chances of Indian survival are significantly reduced if our children, the only real means for the transmission of tribal heritage, are to be raised in non-Indian homes and denied exposure to the ways of their people. Furthermore, these practices seriously undercut the tribe's ability to continue as self-governing communities.

No. 3: The ultimate responsibility for child welfare rests with the parents. We would not support legislation which interfered with that basic relationship.

S. 1214 will put government responsibility for the welfare of the children where it belongs and where it can most effectively be exercised, and that is with the Indian tribes.

NTCA believes that the emphasis of any Federal child welfare program should be on the development of tribal alternatives to present practices of severing family and cultural relationships.

NTCA supports the bill.

We do have written testimony which I am sure you will have time to review.

This concludes my oral testimony. We support S. 1214 as being responsive to a critical problem. We look forward to progress in protecting and strengthening Indian families.

We would be most happy to work with the committee in the language of the proposed bill.

Thank you.

Senator HATFIELD. Thank you very much, Mr. Isaac.

Our next witness will be Ramona Bennett, chairwoman of the Puyallup Tribe.

Without objection, Mr. Isaac's entire written statement will be inserted.

[The prepared statement of Mr. Isaac follows:]

STATEMENT OF
THE NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION
BEFORE THE
SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE
ON
S. 1214, THE INDIAN CHILD WELFARE ACT

August 4, 1977

Mr. Chairman, I am Calvin Isaac, Tribal Chief of the Mississippi Band of Choctaw Indians and a member of the National Tribal Chairmen's Association. Thank you for asking NTCA to appear before you today.

I testified before this Committee only last week on the importance to the Indian tribal future of federal support for tribally-controlled educational programs and institutions. I do not wish to amend anything I said then, but I do want to say that the issue we address today is even more basic than education in many ways. If Indian communities continue to lose their children to the general society through adoptive and foster care placements at the alarming rates of the recent past, if Indian families continue to be disrespected and their parental capacities challenged by non-Indian social agencies as vigorously as they have in the past, then education, the tribe, Indian culture have little meaning of value for the future. This is why NTCA supports S. 1214, the Indian Child Welfare Act of 1977.

Our concern is the threat to traditional Indian culture which lies in the incredibly insensitive and oftentimes hostile removal of Indian children from their homes and their placement in non-Indian settings under color of state and federal authority.

Individual child and parental rights are ignored, and tribal governments, which are legitimately interested in the welfare of their people, have little or no part in this shocking outflow of children.

The problem exists both among reservation Indians and Indians living off the reservation in urban communities: an inordinately high percentage of our Indian children are separated from their natural parents and placed in foster homes, adoptive homes, or various kinds of institutions, including boarding schools. The rate of separation is much higher among Indians than in non-Indian communities.

Last year Task Force Four of the Policy Review Commission reported Indian adoption and foster care placement statistics for 19 states. Of some 333,650 Indians in those states under the age of 21, 11,157, or at least one in every 30, were in adoptive homes. Another 6,700 were in foster care situations. Comparison of Indian adoption and foster placement rates with those of the non-Indian population for the same state invariably showed the Indian rate was higher, usually at least two to four times as high and sometimes 20 times higher. Where the statistics were available they showed that most of the adoptions and placements, sometimes 95 percent of them, were with non-Indian families.

One of the most serious failings of the present system is that Indian children are removed from the custody of their natural parents by nontribal government authorities who have no

basis for intelligently evaluating the cultural and social premises underlying Indian home life and childrearing. Many of the individuals who decide the fate of our children are at best ignorant of our cultural values, and at worst contemptful of the Indian way and convinced that removal, usually to a non-Indian household or institution, can only benefit an Indian child. Removal is generally accomplished without notice to or consultation with responsible tribal authorities.

Often the situation which ultimately leads to the separation of the child from his family is either not harmful to the child, except from the ethnocentric viewpoint of one unfamiliar with the Indian community, or is one which could be remedied without breaking up the family. Unfortunately, removal from parental custody is seen as a simple solution. Typically the parents do not understand the nature of the proceeding, and neither parents nor child are represented by counsel.

Not only is removal of an Indian child from parental custody not a simple solution, under present policies it is no solution at all. The effect of these practices can be devastating -- both for the child and his family, and in a broader sense, for the tribe. The child, taken from his native surroundings and placed in a foreign environment is in a very poor position to develop a healthy sense of identity either as an individual or as a member of a cultural group. The resultant loss of self-esteem only leads to a greater incidence of some of the most visible problems afflicting

Indian communities: drug abuse, alcoholism, crime, suicide. The experience often results, too, in a destruction of any feeling of self-worth of the parents, who are deemed unfit even to raise their own children. There is a feeling among professionals who have dealt with the problem that this sort of psychological damage may contribute to the incidence of alcohol abuse.

Culturally, the chances of Indian survival are significantly reduced if our children, the only real means for the transmission of the tribal heritage, are to be raised in non-Indian homes and denied exposure to the ways of their people. Furthermore, these practices seriously undercut the tribes' ability to continue as self-governing communities. Probably in no area is it more important that tribal sovereignty be respected than in an area as socially and culturally determinative as family relationships.

The ultimate responsibility for child welfare rests with the parents and we would not support legislation which interfered with that basic relationship. What we are talking about here is the situation where government, primarily the state government has moved to intervene in family relationships. S. 1214 will put governmental responsibility for the welfare of our children where it belongs and where it can most effectively be exercised, that is, with the Indian tribes. NTCA believes that the emphasis of any federal child welfare program should be on the development of tribal alternatives to present practices of severing family and cultural relationships. The jurisdictional problems addressed by this bill are

difficult and we think it wise to encourage the development of good working relationships in this area between the tribes and nontribal governments whether through legislation, regulation, or tribal action. We would not want to create a situation in which the anguish of children and parents are prolonged by jurisdictional fights. This is an area in which the child's welfare must be primary.

The proposed legislation provides for the determination of child placements by tribal courts where they exist and have jurisdiction. We would suggest, however, that section 101 of the bill be amended to provide specifically for retrocession at tribal option of any pre-existing tribal jurisdiction over child welfare and domestic relations which may have been granted the states under the authority of Public Law 280.

The bill would accord tribes certain rights to receive notice and to intervene in placement proceedings where the tribal court does not have jurisdiction or where there is no tribal court. We believe the tribe should receive notice in all such cases but where the child is neither a resident nor domiciliary of the reservation intervention should require the consent of the natural parents or the blood relative in whose custody the child has been left by the natural parents. It seems there is a great potential in the provisions of section 101(c) for infringing parental wishes and rights.

There will also be difficulty in determining the jurisdiction where the only ground is the child's eligibility for tribal membership. If this criterion is to be employed there should be a further required showing of close family ties to the reservation. We do not want to introduce needless uncertainty into legal proceedings in matters of domestic relations.

There are several points with regard to placement proceedings on which we would like to comment. Tribal law, custom, and values should be allowed to preempt state or federal standards where possible. Thus we underscore our support for the provision in section 104(d) that the section is not to apply where the tribe has enacted its own law governing private placements. Similarly, the provision in section 102(b) stating that the standards to be applied in any proceeding under the Act shall be the standards of the Indian community is important and should be clarified and strengthened. The determination of prevailing community standards can be made by a tribal court where the court has jurisdiction. Where the tribal court is not directly involved the bill should make clear that the tribe has the right as an intervenor to present evidence of community standards. For cases in which the tribe does not intervene reasonable provisions could be devised requiring a nontribal court to certify questions of community standards to tribal courts or other institutions for their determination.

The presumption that parental consent to adoption is involuntary if given within 90 days of the birth of the child should be modified to provide an exception in the case of rape, incest, or illegitimacy. There appears to be no good reason to prolong the mother's trauma in such situations.

Section 103 establishes child placement preferences for nontribal agencies. Most importantly, the bill permits the tribe to modify the order of preference or add or delete categories. We

believe the tribes should also be able to amend the language of the existing preferences as written. The bill should state more clearly that nontribal agencies are obliged to apply the tribally-determined preferences.

The references in section 103 to "extended Indian family" should be amended to delete the word "Indian." The scope of the extended family should be determined in accord with tribal custom but placement should not be limited only to Indian relatives.

S. 1214 provides that upon reaching the age of eighteen an Indian adoptive child shall have the right to know the names and last known address of his parents and siblings who have reached the age of eighteen and their tribal affiliation. The bill also gives the child the right to learn the grounds for severance of his or her family relations. This provision should be deleted. There is no good cause to be served by revealing to an adoptive child the grounds for the severance of the family relationship and it is bad social practice. This revelation could lead to possible violence, legal action, and traumatic experiences for both the adoptive child and his adoptive and natural family. Further we do not believe it is good practice to give the adoptive child the right to learn the identity of siblings. This could result in unwarranted intrustion upon their rights and disruption of established social situations. In general, we recommend that the rights provided in section 104 not be granted absolutely, but rather that individual tribes be permitted to legislate on this question in accord with their custom.

Procedurally, the bill should be amended to make clear that children and parents appearing in tribal court shall have the right to representation by professional counsel as well as lay advocates, if the tribal court permits the appearance of professional as opposed to lay counsel in other proceedings. Finally, we strongly support the full faith and credit provisions of section 105 as a much needed step in the development of orderly tribal judicial process.

Title II of S. 1214 contains a welcome positive approach to child welfare problems. Resolution of jurisdictional questions as provided in Title I is a small part of the problem compared to the challenge of combatting poverty, substandard, overcrowded housing, child abuse, alcoholism, and mental illness on the reservation. These are the forces which destroy our families. With regard to the creation of family development programs and centers, however, we believe the bill is unduly restrictive. Tribes need not be authorized to create these programs. They should be regarded as eligible recipients or contractors for these programs. Section 202, authorizing these family programs should be more flexible, specifying that tribes are not limited by the terms of the statute but that other family development proposals may be funded at the discretion of the Secretary. The bill should expressly provide for planning of these family programs. Off-reservation programs (Sec. 203(d)) should specifically include counseling for adoptive or foster parents as well as the children and families facing disintegration.

We would delete paragraph 8 of section 202(a) providing for subsidization of adoptive children. We feel this would tend to undercut the parental responsibility necessary to the adoptive relationship and would provide an ill-advised incentive to adoption. We

suggest that if the provision is to be retained it should apply to exceptional cases involving difficult placement such as unusual medical care or educational requirements.

We are opposed to the provisions of Section 204 of the bill mandating a Secretarial study of all Indian child placements for the last sixteen years with the potential for initiation, with parental consent, of legal proceedings to restore custody of the child to the natural parent. We are sure that many placements in the past have been technically defective or even morally wrong but the illegality of a placement ten, twelve, or fourteen years ago does not necessarily mean present family relationships must be dismantled. As sad as past practices may have been a Secretarial probe of the kind described is not wise. We should look to the future. At the very least, a study of this kind should be limited to the very recent past. The record-keeping requirements imposed upon the Secretary also give us some cause for concern for the same reasons. The stated purposes for which the information could be released to adoptive children or parents are reasonable, but we see the potential for abuse in wrongful application of the information. We think it best to release to parties only the identification of the court having jursidiction. It would then be up to the court to make the information available under the provisions of section 104, as modified in accord with our earlier suggestions.

Mr. Chairman, this concludes our testimony. We support S. 1214 as being responsive to a critical problem and we look forward to progress in protecting and strengthening Indian families.

Thank you for inviting us to present our views.

STATEMENT OF RAMONA BENNETT, CHAIRWOMAN, PUYALLUP TRIBE

Ms. BENNETT. Thank you, Mr. Chairman.

I am Ramona Bennett, chairwoman of the Puyallup Tribe of Indians.

In reading over the bill, it is not perfect. There are three or four things that we would have a lot of trouble living with.

As the chairwoman of the Puyallup Tribe in Washington State, which considers itself a Public Law 280 State, we have found intolerable conditions operating without a bill similar to this. Our children are subjected to racism in the State court system. The number of Indian children that find themselves incarcerated in State institutions because there is a lack of Indian community resources is an outrage. No criminal activities have to occur. We have been judged by the social workers.

Throughout Washington State, some 20 percent of the youngsters find themselves under a social worker's control. There are foster placements, incarcerations, adoptions, and a variety of these kinds of situations.

Within the State of Washington, there are only two professional social workers that actually carry a case load that I am aware of. Most of the tribes in our area are making a concentrated effort to provide relief. We find ourselves using limited tribal government dollars, limited education dollars, alcoholism dollars, to provide unfunded services, bootlegging the necessary services from other areas.

Most of the tribes are using Comprehensive Employment Training Act dollars, which allows us to bring on trainees and then continue them in a public service employment position. This allows paraprofessionals and some people with good skills to get busy providing recreation counseling supports to family units. This is very often necessary for us to take into court so that the child will not just be swallowed up by a State institution.

We commit ourselves to provide supervision and supports. But, you see, those positions, under law, can only continue for 18 months. So, when people are well trained, then we are no longer able to keep them on staff.

When we appeal to the Bureau of Indian Affairs for social work dollars, the response is that this is a Public Law 280 State; you really do not have jurisdiction over your own juveniles. We respond by telling them that these are juveniles that are already in our community, and we want to keep them in our family units. We love them; we want to keep them with us. They tell us that most of the social work dollars for the Bureau of Indian Affairs must go to non-280 States.

I know of two other tribes besides our tribe that have been able to receive small grants for planning services and basic evaluation and orientation dollars, but not strictly the social work dollars that we need to bring professionals on staff to be securing any kind of license. There are no Federal standards for licensing.

Our tribe has worked with the Tacoma Indian Center. They have gone on ahead and gotten the State licenses that compromise this urban group's legal position. Tribes simply cannot go under State jurisdiction.

Our tribe has been able to develop and establish a group home. I believe in our State this is the only child care institution that is currently in existence and in operation. We have vacancies or slots for only 14 youngsters between the ages of 12 and 18 who are dependent or delinquent.

Six months before we opened our doors, we had a waiting list of 30 youngsters. Our staff, which is limited, is having to withhold an opportunity of placement for many youngsters who could really benefit from this opportunity. There is not enough space.

We have been able to establish this with a $150,000 State grant. Our tribe had to choose between having a community center or offices or classroom space or just a group home. We have prioritized child protection and felt that an example of Indian management of these problems was needed, at least in our community. That is a terrible choice for a tribe to have to make.

This was necessary because there were no Federal dollars available to meet these needs. The staffing, the space, the equipment have all had to come from sources that could have been used for other necessary purposes.

It has been our experience that the Indian mental health division has been very, very supportive. They see these alienations of Indian children to be a serious mental health problem. They are cognizant that, if you lose your children, you are dead; you are never going to be rehabilitated, or you are never going to get well. If there were problems, once the children are gone, the whole family unit is not ever going to get well.

As a chairwoman in an area very close to Seattle—in fact, in Tacoma—I have had many opportunities to do public speaking, to do television speaking on this subject. As a result of that, I have had many of these adopted ones come back to me. Some are our tribal members. Many of them are from Indian nations all over the country. They tell horror stories about the things that have happened to them, including their lack of identity, their loss of self-esteem; it is a real tragedy.

These kids are in foster care or out of Indian communities, and they find themselves never being appreciated and never measuring up. They are accepted only if they compromise themselves as Indian human beings, compromise themselves and alter their values. Our contact with them has resulted in increasing our efforts.

Without actual dollars to provide services and competent staff and permanent facilities, none of these tribes or communities have even a chance to stem this very crucial problem.

The schools that are needed are very expensive. I do not know if you have ever sponsored a ball team or have put on an activity to provide these community supports, but it is week after week. Every year you have to have things available for these family units.

So, I would just tell you that the Office of Child Development has not been helpful. Indian Health Services and the Bureau of Indian Affairs have been helpful within the constraints of limited budgets. No dollars are allocated specifically to meeting these needs.

I would urge you to continue your efforts on behalf of our families and our children to secure a final bill to be providing the reliefs that are so necessary. Thank you.

Senator HATFIELD. Thank you, Ms. Bennett. Your testimony is very helpful.

We are ready for the next witness. Let me again say that we have some time constraints; so, if you will all be brief, then we can hear everyone who has come to be heard today.

Mr. ISAAC. The next witness on the list is Mr. Bobby George.

Senator HATFIELD. Welcome, Mr. George. Before we hear from you, I will insert Ms. Bennett's prepared statement into the record.

[The prepared statement of Ms. Bennett follows:]

SENATE BILL 1214

TESTIMONY - PUYALLUP TRIBE - RAMONA BENNETT- CHAIRWOMAN

The Bill provides an opportunity for the development and implementation of a "National Standard" for child placement agencies, child care institutions, and foster homes for reservations and Indian people. I understand that many Tribes object this violation of their "self determination". The Puyallup Tribe sees this National Standard as an opportunity to provide relief to our members and individual Indian people who currently are subjected not only to the "State standards", but also to the racist application of those standards by non-Indian, non-sensitive social and caseworkers of "State agencies".

We are not the advocates of substandard sanitatary or unsafe homes being licensed, nor do we expect or appreciate an anglo value system being enforced by the removal or withholding of our children.

A reservation example: A singleton grandmother with a seventy year tradition of carrying water, boiling water, washing clothes, washing dishes, giving sponge baths, washing floors, cooking areas, generally maintaining an immaculate home. -- Will teach disciplines unavailable in a fully plumbed "modern" situation. Under the currently enforced "standards" any children she is raising are subject to removal and placement by State agencies.

Tribal input into "Indian Federal Social Work Standards" will result in recognition of this, and other situations currently existing throughout the Nation on reservations.

SENATE BILL 1214 - Puyallup ---2---

This bill insists that "all records be opened when the adopted one reaches eighteen". My experience would advise against this. Tribal social workers should be the first contact. A briefing with the natural parent(s) will very rarely result in a refusal to meet the adopted one. (one out of approximately 100 returning adoptees has faced this situation that I am personally aware of) Of these, approximately 30 had no surviving parents, and had to have assistance locating even distant relatives. (Once your children have been removed, the suicide by drinking, or suicide rate jumps tremendously.)

The bill requires such strict and unreasonable "causes for removal" that children would be left for years in semi dangerous, semi functioning family situations. There is absolutely no opportunity for Tribes, or Urban programs working with State or Tribal Agencies to intervene on the behalf of children who are receiving inadequate care. Some discretion must be incorporated into the final draft.

The provisions for "private housing assistance" invites confusion and abuse.

THE BILL PROVIDES "NO GUARANTEE OF FUNDING" FOR THESE DESPERATELY NEEDED SOCIAL SERVICE PROGRAMS, AND THE DOLLAR FIGURES BEING CONSIDERED ARE INADEQUATE.

Basic needs for Masters of Social Work and support staffs in each of these two hundred -plus- communities have never been met by any federal assistance program. A core budget of $40,000. to provide just this basic staff would absorb 1/5 of the proposed dollars. Tribes already planning or providing emergency care

SENATE BILL 1214 - Puyallup ---3---

would still be in difficulty.

Example; The Puyallup Tribe provides

Group home (childcare institution care for 14 delinquent/dependent juveniles between the ages of 12 and 18) Currently funded by C.E.T.A. positions with a very limited I.E.A.A. supplement. This provides good training, but all positions must terminate after 18 months.

Recreational alternatives to juvenile deliquency - Ball teams, heritage programs, camping trips, supervised dances and gatherings. Almost all of these efforts are voluntary, some equipment comes from the Bureau of Indian Affairs, some from Indian Health, some travel is provided by our alcoholism program.
WITHOUT THIS PROGRAM - MANY OF THESE YOUNGSTERS WOULD BE IN WASHINGTON STATE INSITUTIONS!!!

Crisis intervention and long term counseling supports - NOT FUNDED

Drop out prevention and special educational opportunities - Last year only funded by N.E.W. Title IV. We operated a full school program for 140 students with all counseling supports on a 150,000 grant.
WITHOUT THIS PROGRAM - MANY OF THE STUDENTS WOULD HAVE BEEN OUT OF SCHOOL AND IN STATE INSTITUTIONS!!!

There is no way all Tribes and Urban Indian Programs can even begin to meet just the current needs with the proposed dollars.

The only two agencies that have a demonstrated interest in Indian Child Development and protection are; Indian Health (H.E.W.), and the Bureau of Indian Affairs (Interior) within the the Federal Government system.

The Office of Child Development has played no role in assisting the Puyallup Tribe----

Without Indian Health providing emergency equipment and core social work staff our group home would not even be in operation.

Without the very limited dollars provided by the Bureau of Indian affairs for startup, we would not have been able to open.

STATEMENT OF BOBBY GEORGE, NAVAJO TRIBE

Mr. GEORGE. Thank you, Mr. Chairman, for the opportunity given us to present our testimony and our views in regard to Senate bill 1214.

Senator HATFIELD. Thank you for coming.

Mr. GEORGE. I would like to briefly state our tribe's position.

We are totally supportive of this bill. However, there are various questions that we do have. We have various recommendations that we would like to present before you for your committee's consideration.

Because of past abuses within our reservation and in regard to our children, it has been the policy of the Navajo Nation for over 20 years to require that any placement of our children be done with the consent of the courts of the Navajo Nation. By using Navajo courts to determine the appropriate place for raising Navajo children, we permit a Navajo institution sensitive to Navajo needs to make the critical determination.

Our tribal council has taken the position, almost 17 years ago, that we look with disfavor on the adoption of Navajo children by non-Navajos if the parents are living, are in good health, or if they have not abandoned or neglected the children. All this is in accordance with tribal definitions of any type of offense related to abandonment or neglect of children.

The ultimate preservation and continuation of Navajo cultures depends on our children and their proper growth and development. We support the efforts of Senator Abourezk and this committee to see to it that an institutional safeguard, such as a tribal court and its law, shall play a dominant role in protecting both the tribal interest as well as the interest of the child whose future residence is being determined.

We would like to submit for the record various materials which we are now assembling in Window Rock, the capital of our nation, together with certain technical suggestions for an amendment.

For instance, section 102 provides for only lay advocates. We license both attorneys and advocates to apply in tribal courts and thus we suggest the addition of the phrase, "or attorneys licensed to appear before tribal courts."

We would point out that we would prefer having the option to come within the coverage of this bill. We believe that title XX funding should not be the procedure to obtain funding for these purposes because of the difficulties already encountered and experienced with the several States' administration of these funds.

Also, we desire additional statutory language making it clear that this bill is not intended to diminish tribal sovereignty.

Additionally, we would like for your committee to consider this recommendation as far as an appropriation of funds are concerned under title II, section 201(d) and 204(d). After each one of these particular subsections, we would like to insert wording similar to what appears in Public Law 94–437, the Indian Health Improvement Services Act: "Prior to the expenditure of, or the making of any firm commitment to expend any funds authorized"—in the subsections I just mentioned, 201 and 204 under title II.

The Secretary shall consult with any Indian tribe to be significantly affected by any such expenditure for the purpose of determining and honoring tribal preferences concerning the size of activity, location of activity, type of activity,

and any other characteristics of any proposed projects on which expenditure is to be made; and, (2) be assured that such projects, not later than 2 years after its implementation and initiation, shall meet the standards of applicable tribal law.

Additionally, under title I standards, we would like to see, if possible, more emphasis on dealing with the governing bodies of tribes and their laws where this particular title may affect the Indian tribes and their citizenry.

Under title II, "Family Development," again, we would like more involvement of tribes in rulemaking and planning, particularly under sections 201 and 204.

Lastly, we would like to prefer the use of grants rather than contracts.

Again, I would like to invite your committee to render any questions that you may have of us.

We would also like at this time to make known to you that our staff from the Navajo Nation will be more than willing to participate in any type of written legislation, revisions to this act, or any other data information that may be relative in finalizing this very important act for our people.

Thank you very much.

Senator HATFIELD. Thank you, Mr. George.

Mr. Isaac?

Mr. ISAAC. Next we will have Gloria York from the Choctaw Tribe of Mississippi.

Senator HATFIELD. Thank you, Mr. Isaac.

Before we hear from Ms. York, I will insert into the record the full prepared statement of Mr. George.

[The prepared statement of Mr. George follows:]

CAMERA COPY—PLEASE SHOOT
(Hold Page Numbers Thruout)

STATEMENT OF BOBBY GEORGE,
ACTING DIRECTOR OF THE NAVAJO OFFICE OF RESOURCE SECURITY
BEFORE THE
SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

AUGUST 4, 1977

Indian Self-Determination Begins at Home

For many years, one of the controversial issues within the Navajo Nation, as well as other Indian nations, has been the removal of Indian children by non-Indians from their homes and families by both religious and non-sectarian groups.

There can be no question but that many religious groups have contributed much to the Navajo Nation, as well as other Indian nations. Religious groups have brought education, social services, health care and community development often when the Federal Government and state and local governments failed to provide these necessities to our people and other Indian people.

Other activities of religious organizations, however, have not been as beneficial to Navajo and other Indian people. Some religious organizations have not respected the traditional religious practices of our people. Some religious organizations in their zeal and commitment to their own beliefs have disrupted family relationships and separated children from their families under circumstances that were not in the best interests of either the children or their parents.

We recognize that there are circumstances under which temporary placement of Navajo children with off-reservation non-

Navajo families may be necessary. Because of past abuses, however, it has been the policy of the Navajo Nation for over 20 years to require that such placement be done with the consent of the Courts of the Navajo Nation.

By using Navajo courts to determine the appropriate place for raising Navajo children, we permit a Navajo institution sensitive to Navajo needs make this critical determination.

Our Tribal Council has also taken the position almost 17 years ago that we look with disfavor on the adoption of Navajo children by non-Navajos if the parents of the Navajo children are living, are in good health or if they have not abandoned or neglected the children.

The ultimate preservation and continuation of Navajo cultures depends on our children. We support the efforts of Senator Abourezk and this Committee to see to it that an institutional safeguard, such as a Tribal Court, shall assist in protecting both the Tribal interest, as well as the interest of the child whose future residence is being determined.

In saying this, we mean no criticism of the vast majority of institutions which have worked within the Navajo Nation and other Indian nations to improve the lives of Navajo children and other Indian children. We would suggest, however, that in the vast majority of cases it is far more appropriate for these religious and non-sectarian institutions to expend their time, effort and money in improving the lives of the Indian

families within Indian nations rather than removing the children to strange lands and strange people.

We think it would be appropriate that instead of providing that "The Secretary is hereby authorized and directed, under such rules and regulations as he may prescribe" to deny him the authorities to prescribe such regulations unfettered by the actual needs of the Indian communities. Thus, we would propose that language such as that found in Public Law 93-638, the Indian Self-Determination and Education Assistance Act, be inserted as follows:

> "The Secretary of the Interior is authorized to promulgate such rules and regulations as may appear to be necessary or appropriate to carry out the intent of this section: Provided, That prior to any revision or amendment to such rules or regulations, the respective Secretary shall present the proposed revision or amendment to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives and shall, to the extent practicable, consult with appropriate Tribal governments, national or regional Indian organizations and shall publish any proposed revisions in the Federal Register not less than sixty days prior to the effective date of such rules and regulations in order to provide adequate notice to, and receive comments from, other interested parties."

We would like to submit for the record various materials which are now being assembled in Window Rock, together with certain technical suggestions for amendment. For instance, Section 102 provides for only "lay advocates". We license both attorneys and advocates to appear in tribal courts and thus would suggest the addition of the phrase "or attorneys licensed to appear before tribal courts."

Lastly, we would point out that (1) we would prefer having the option to come within the coverage of this bill; (2) believe that Title XX funding should not be the procedure to obtain funding for these purposes because of the difficulties already encountered with the several states' administration of these funds; and (3) desire additional statutory language making it clear that this bill is not intended to diminish tribal sovereignty.

STATEMENT OF GLORIA YORK, MISSISSIPPI BAND OF CHOCTAW INDIANS, CHAIRMAN, CHOCTAW ADOPTION COMMITTEE

Ms. YORK. Thank you, Senator Hatfield.

I am Gloria York from the Mississippi Band of Choctaw Indians.

In regard to Senate bill 1214, we are in basic agreement with the premises set forth in this bill. But, we would like to see two changes.

The first of these is addressed to page 10, lines 23, 24, and 25. It implies that the natural parent or parents of an Indian child could not relinquish their rights to a child within 90 days of birth. It is felt that the 90-day period before the child could be relinquished would result in the child having to be placed in foster care if the parent or parents were not willing to care for the child during this period.

We feel it would be much better if a parent could relinquish the child 5 days after birth. This would provide that the child could be placed directly in a potential Indian adoptive home.

The second problem encountered is page 18, line 9, section 204(a). We feel this could be very disruptive of a child's life if he has already formed a relationship with his adoptive parents. We do feel that the child has a right to know who his natural parents are at any age that he requests; but that the proceedings initiated to return a child to his natural parents should carefully weigh the child's own wishes concerning this matter. We feel that the child's mental well-being could be seriously damaged if this aspect of the act is not entered into carefully.

The Mississippi Band of Choctaw Indians is actively working in the area of establishing a tribal policy on adoption and foster placement of Choctaw children. There are several barriers to this at this time. The first of these barriers is a lack of a tribal code to deal with juvenile matters or adoption or foster care matters. It is necessary that the tribal juvenile code be enacted with a procedure for termination of parental rights and procedures for adoption of Choctaw children by Choctaw people.

Another barrier to Indian handling of adoption and foster care is the fact that the State of Mississippi does not recognize the tribe and would not honor any tribal court order. Any action taken by the tribal court would be subject to review by the State court, and they do not recognize a tribal court order as valid.

The State Department of Public Welfare in Mississippi, through its adoption policy, will not allow Choctaw families to adopt Choctaw children. They say there is no confidentiality and there would be problems arising from this. This lack of recognition by the State of Mississippi raises the question as to how effective S. 1214 would be to the Choctaw Tribe since the State of Mississippi does not recognize the tribe.

The Mississippi Band of Choctaw Indians has a program, the child advocacy program, funded by the National Center on Child Abuse and Neglect, and is in the process of attempting to accomplish many of the goals set forth in S. 1214. The program has identified approximately 120 Choctaw children who are now in foster care placement either through the State Welfare Department or the Bureau of Indian Affairs.

There is also a small number of children who are in custody of the tribe since the child advocacy program began and obtained a tribal council resolution stating that the tribe would accept custody and planning for Choctaw children who required placement.

The main goal of the program is to return as many of these 120 children to their natural parent or parents or to the extended family as possible. In cases where it is not possible for children to be returned to their natural parents or extended families, the program is attempting to assist Choctaw families in adopting these children. It is in this area that it is necessary that a tribal code be enacted to allow the program to proceed along the lines of allowing Choctaw couples to adopt Choctaw children. It has not proved feasible to work through the State system on this area.

The third alternative—and the last desirable alternative—is to continue some of these children in a long-term foster plan. In this area, the child advocacy program is hopeful that standards for Choctaw foster care can be established and carried out as the Child Advocacy Program. It is a 3-year program. We are in our second year now. The program has only 1 year to run, but we are hopeful that it will continue through some other funding.

We feel that Senate bill 1214 is a step in the direction that Child Advocacy has been taking and would be of much assistance to the child advocacy program if it can be put into effect in time for the program to act on it or if the program can receive funding to continue its work.

We want to thank you for letting us participate. Thank you.

Senator HATFIELD. Thank you, Ms. York. We appreciate your testimony very much.

Your entire prepared statement will be inserted into the record.

[The prepared statement of Ms. York follows:]

TESTIMONY ON S1214
INDIAN CHILD WELFARE ACT OF 1977

Presented to:

SENATOR ABOUREZK
MEMBERS, SENATE SELECT COMMITTEE

Presented by:

THE MISSISSIPPI BAND OF CHOCTAW INDIANS
CHOCTAW ADOPTION COMMITTEE
ROUTE 7, BOX 21
PHILADELPHIA, MISSISSIPPI 39350

GLORIA YORK
CHOCTAW ADOPTION COMMITTEE CHAIRMAN

CALVIN J. ISAAC
CHIEF, MISSISSIPPI BAND OF CHOCTAW INDIANS

AUGUST 4, 1977

Senator Abourezk
Members of the Select Committee on Indian Affairs
Senators Humphrey and McGovern
Ladies and Gentlemen

I am Gloria York of the Mississippi Band of Choctaw Indians, Philadelphia, Mississippi. I am the Assistant Director of the Child Advocacy Program on the reservation and also Chairman of the Choctaw Adoption Committee.

In regard to Senate Bill 1214, 95th Congress, Senate of the United States of America, the Mississippi Band of Choctaw Indians is in basic agreement with the premises set forth in this bill; and the Mississippi Band of Choctaw Indians has been working for approximately two years to accomplish many of the objectives set forth in this bill. There are two areas in which the Mississippi Band of Choctaw Indians is in some disagreement with the act.

The first of these areas is addressed on page ten, lines 23, 24, and 25, which implies that natural parent or parents of an Indian child could not relinquish the rights to a child within 90 days of birth. It is felt that the 90 day period before the child could be relinquished would result in the child having to be placed in foster care if the parent or parents weren't willing to care for the child during this period. We feel it would be much better if a parent could relinquish the child five days after birth. This would provide that the child could be placed directly in a potential Indian adoptive home and that the parents would still be protected as, according to this act, the final decree for adoption could not be signed within 90 days of the consent. The parents would have the right within this 90 days to start proceedings to recover their child.

The second problem area encountered is page 18, line 9, section 204A. We

feel that this could be very disruptive of a child's life if he's already formed a relationship with his adoptive parents. We do feel that the child has a right to know who his natural parents are at any age that he requests but that proceedings initiated to return a child to his natural parents should carefully weigh the child's own wishes concerning this matter. We feel that the child's mental well being could be seriously damaged if this aspect of the act is not entered into carefully.

The Mississippi Band of Choctaw Indians is actively working in the area of establishing a tribal policy on adoption and foster placement of Choctaw children. The Choctaw Committee on Adoption and Foster Care has been established, and the tribe is attempting to set up its own adoption agency for Choctaw children. There are several barriers to this at this time. The first of these barriers is a lack of a tribal code to deal with juvenile matters or adoption or foster care matters. It is necessary that the Tribal Juvenile Code be enacted with a procedure for termination of parental rights and procedures for adoption of Choctaw children by Choctaw people.

Another barrier to Indian handling of adoption and foster care is the fact that the State of Mississippi does not recognize the tribe and would not honor any tribal court order. Any action taken by the tribal court would be subject to review by the state court, and they do not recognize a tribal court order as valid. The State Department of Public Welfare in Mississippi, through its adoption policy, will not allow Choctaw families to adopt Choctaw children as they say there is no confidentiality and there would be problems arising from this. This lack of recognition by the State of Mississippi raises the question as to how effective Bill S. 1214 would be to the Choctaw Tribe since State of Mississippi does not recognize the tribe. The Choctaw Tribe is involved in several

court cases seeking recognition of the tribe.

The Mississippi Band of Choctaw Indians has a program, the Child Advocacy Program, funded by the National Center on Child Abuse and Neglect and is in the process of attempting to accomplish many of the goals set forth in Bill S. 1214. The program has identified approximately 120 Choctaw children who are now in foster care placement either through the State Welfare Department or the Bureau of Indian Affairs (see BIA Adoption Policies attached). There is also a small number of children who are in custody of the tribe since the Child Advocacy Program began and obtained a Tribal Council Resolution stating that the tribe would accept custody and planning for Choctaw children who required placement. The main goal of the program is to return as many of these 120 children to their natural parent or parents or to the extended family as possible. In cases where it's not possible for children to be returned to their natural parents or extended families, the program is attempting to assist Choctaw families in adopting these children. It is in this area that it is necessary that a tribal code be enacted to allow the program to proceed along the lines of allowing Choctaw couples to adopt Choctaw children. It has not proved feasible to work through the state system on this area.

The third alternative, and the least desirable alternative, is to continue some of these children in a long term foster care ~~placement.~~ plan. In this area, the Child Advocacy Program is hopeful that standards for Choctaw foster care can be established and carried out as the Child Advocacy Program is a three-year grant from the National Center on Child Abuse and Neglect and has been in effect for approximately two years. The program only has one year to run. We are hopeful that the program can continue through other funding, as it will take more than a year to accomplish these objectives. We feel that Senate Bill 1214 is a step in the direction that Child Advocacy has been taking and would be of much assistance

to the program if it can be put into effect in time for the program to act on it or if the program can receive funding to continue its work.

Ladies and Gentlemen, the Mississippi Band of Choctaw Indians thanks you for giving us the opportunity to testify on this bill. I again feel that the intent of the bill is of great benefit to Indian tribes and sincerely hope that it will be implemented in a conscientious and concerned manner.

DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

THE ADOPTION OF INDIAN CHILDREN

Indian children, as other children, are adopted in accordance with the laws and procedures of the State where the adoption is to take place. Information about these laws and procedures, the names of authorized adoption agencies, and the availability of Indian children for adoption may be obtained usually from State welfare departments.

The Bureau of Indian Affairs is not an adoption agency, but collaborates with the Child Welfare League of America in an Indian Adoption Project. The Child Welfare League is located at 44 East 23rd Street, New York, New York 10010. The Indian Adoption Project is administered by the Adoption Resource Exchange of North America (ARENA), which is a unit of the Child Welfare League of America. The ARENA provides a central registry for the adoption agencies who do not have local resources for children needing adoption and the agencies who have families approved for adoption for whom children are not available locally.

Through the Project, homeless Indian children on reservations are referred by social workers to an adoption agency, usually the State or County Welfare Department. When an adoptive home for the child is not available in the State, the child is registered with the ARENA. Adoption agencies in other States register with the ARENA families approved for the adoption of an Indian child, but for whom there are no Indian children available in the State.

The ARENA officials attempt to bring together the agency which registers a child and the agency which registers a prospective adoptive family. The ARENA is not an adoption agency, and does not participate in placement arrangements.

A number of adoption agencies, as well as State departments of public welfare, have participated in the Indian Adoption Project. They are sources of further information about the Indian Adoption Project. Specific preferences or questions such as those regarding adoption procedures or fees, a child's age, sex, etc., may be discussed with the adoption agency at the time of application.

Senator HATFIELD. Mr. Isaac?

Mr. ISAAC. Mr. Chairman, we have other members of the panel who are not listed on the agenda. We have Ms. Mona Shepard of Rosebud Sioux Tribe, who wants to comment.

Senator HATFIELD. Welcome, Ms. Shepard.

STATEMENT OF MONA SHEPARD, ROSEBUD SIOUX TRIBE, ACCOMPANIED BY JANICE EDWARDS

Ms. SHEPARD. Thank you, Mr. Chairman.

I would like to introduce Ms. Janice Edwards.

Senator HATFIELD. Good morning.

Ms. EDWARDS. Thank you for this opportunity, Mr. Chairman. I will keep my comments brief.

My name is Janice Edwards. I am health services director at Fort Thompson, S. Dak.

I am one of a delegation of six representing tribes from North and South Dakota. It is our feeling that some of the language in the bill is unclear and misleading. Specifically, I am referring to section 3—declaration of policy. It states:

> The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligations to the American Indian people, to establish standards for the placement of Indian children in foster or adoptive homes which will reflect the unique values of Indian culture, et cetera.

We were concerned by that statement. In our opinion that statement indicates that Congress is establishing standards for the tribes. However, we have learned from Senator Abourezk's staff that the intent of the act was to set standards for the way in which States deal with Indian tribes. I hope that I have stated that correctly.

We wanted to clarify that for the record.

We do have some other comments, such as the impact on the tribal court system of processing every child welfare case through the court system. That is a concern to us, as to whether or not it would overtax the tribal court system.

These concerns will be included in a written statement for the record.

Senator HATFIELD. Thank you very much. We will welcome your written statement as well.

Senator HATFIELD. Mr. Isaac?

Mr. ISAAC. Senator, next we have Rena Uviller of the American Civil Liberties Union.

Senator HATFIELD. Welcome, Ms. Uviller.

STATEMENT OF RENA UVILLER, DIRECTOR, JUVENILE RIGHTS PROJECT, AMERICAN CIVIL LIBERTIES UNION

Ms. UVILLER. Thank you, Mr. Chairman.

My name is Rena Uviller. I am a lawyer, and I am the director of the juvenile rights project of the American Civil Liberties Union.

I am here today because one of the major concerns of the work that I do is to resist governmental tyranny into the lives of families and to resist State intrusion into the privacy and liberty interests that the Constitution bestows upon the family unit, as is pointed out by recent Supreme Court decisions.

Indian tribes, of course, are a special victim of this push toward foster home placement by State child welfare agencies. I think a previous witness has very eloquently described this tyranny of social work in which poor families are often subjected to the imposition of standards upon them in the rearing of their children which are wholly inappropriate, to say nothing of their questionable constitutionality.

I am going to be very brief today. I would like just to direct some observations to the actual text of the statute. Needless to say, the Civil Liberties Union does applaud this bill and supports it insofar as it does appear to strengthen the family autonomy and the tribal autonomy with regard to children.

One of my concerns is that I think there has been some literature about the extensive failure rate of the adoption of Indian children by non-Indian families. I think that some of the literature reveals that there is a disproportionately high number of Indian children who find their way into juvenile delinquency institutions and mental hospitals. These are children who have been separated from their culture. The crisis of identity, which was previously noted, becomes manifest.

I would think that there should be inserted into this bill a provision that would make it automatic that the tribe and/or the biological parents be notified at any point in which an Indian child previously adopted by others is relinquished from the care of that facility into any kind of hospital or institution or any other kind of foster care. They should be notified.

The second thing that concerns me is that there seems to be in this bill a failure to define what is meant by "temporary placement" in emergency situations. I think, indeed, temporary placement to a boy in imminent danger to life or health should be possible. However, it seems that temporary placement—which is the ruse I have found in my experience in litigating matters like this—is very often the means by which State officials or, in this case, nontribal authorities get initial hold of a child. Then, by increasing delays and a plethora of unnecessary studies and more studies, the separation of the child from the family occurs.

This bill does not make adequate provision for controlling the temporary, so-called emergency placement. Many of them, I think, upon inspection, turn out to be not emergencies at all. It is my view and my experience that temporary placement, even in exigent circumstances, should never last more than 48 hours without immediate notice both to the parents and to the tribal authorities, in this case, and with provision for an immediate hearing as soon after the placement as possible.

As I say, the bill does not presently contain this.

Then I have concern with another section, but I think some of my concern has been allayed by speaking to people who have been involved in drafting this bill. That is section 101(d). In its present form, on its face, it seems to authorize private persons, groups, or institutions to seize an Indian child for up to 30 days without even giving notice to the parent or to the tribal authorities.

I would have difficulty imagining how even a State agency would have justification for that. But to allow private groups and institutions to take a child for 30 days without any notice at all seems to me to be quite an egregious circumstance.

I gather that this section will be redrafted to provide that the private party or institution must give notice 30 days before taking the child. That would certainly be more consistent with the purpose of this bill than the way it is presently drafted.

Senator HATFIELD. Ms. Uviller, I must interrupt you at this point.

Any of these matters which you would like to submit, a redraft or an amendment to the bill, we would welcome any of your comments reduced to an amendment form or redraft form. So feel free—or anyone else here today, for that matter. This bill is a working draft, in a sense. We are welcoming any changes or suggestions.

It would be very helpful if you would draft the language that you think should be modified or clarified.

Ms. UVILLER. Thank you, Senator. I certainly will.

I think others have noted that, again, as the bill is written, there seems to be some confusion about whether intratribal placements are going to be regulated. I am sure that that is not the purpose of this bill. Therefore, actually just in the definitional section in 4G, child placement should be defined as placement of a child by nontribal authorities so that this bill is not viewed in any way as interfering with the tribe's desire to effect its own placement.

I would also finally say I have not heard anyone yet comment on the question of the opening of adoption records. Perhaps I came in a bit late and did not hear it discussed, and my written statement does not contain any reference to it.

Although I think that child welfare agencies have resisted the notion of the opening of adoption records out of concern for the privacy of the biologic parent, while that may have some relevance in the greater society, I think in this situation, where we are dealing with children taken from a tribal situation, that privacy concern is not nearly as great. I see nothing the matter with an Indian child at the age of 18 having access at least to the information about his or her tribe.

It seems to me that, then, the tribal authorities could make some sort of informal inquiry as to whether the specific, biologic parents should or should not be contacted. I am sure there are situations in which the decision might be made not to make that contact. But the resistance, I think, of some of the social work community to access to adoption records is very ill-founded in the context of this bill.

Thank you.

Senator HATFIELD. Thank you.

Let me add one other point. As you know, we have what we call a report record that goes with the bill when we finalize the bill in markup session. Sometimes things that may not necessarily belong in the act itself should be a part of the record for intent, clarification, and further extension of view.

So, bear in mind that there are things of this kind that you may feel the committee should have clearly established in the record that may not in itself be a part of the bill. We can certainly include that kind of material to show the intent of the committee in dealing with certain statements, phrases, or words in the bill itself.

I now place in the record your prepared statement, Ms. Uvilla, in its entirety.

Ms. UVILLER. Thank you.

[The prepared statement referred to follows:]

AMERICAN CIVIL LIBERTIES UNION
22 East 40th Street
New York, N.Y. 10016
212/725-1222

August 2, 1977

Statement of the American Civil Liberties Union in Support of S.1214 to the U.S. Senate Select Committee on Indian Affairs
August 4, 1977

My name is Rena Uviller. I am a lawyer and the director of the Juvenile Rights Project of the American Civil Liberties Union. One of the primary objectives of the Juvenile Rights Project is to guard the rights of both children and parents by resisting state encroachment upon the liberty and privacy protections which the Bill of Rights and Supreme Court decisions bestow upon family relationships.

S. 1214 is a commendable effort to counteract a recent and disturbing governmental tendency to intrude upon the family liberty and privacy of poor citizens. Using federal money, provided especially through title IV of the Social Security Act, state and local child care agencies have arbitrarily and unnecessarily separated thousands of children from their parents and placed them in institutions or foster homes. There they stay for years, frequently moved from one foster home or institution to another. This means heartbreak for both parents and children. And the instability thereby injected into the lives of the children has long been recognized as a primary cause of future maladjustment and juvenile crime.

It has been estimated that 400,000 American children live in the impermanent limbo of foster care. This high rate of family dissolution is in large part caused by the failure of federal laws to regulate out-of-home placements financed by federal funds. Federal law should make state grants for foster or institutional care dependent upon the provision of services to families that might avoid the need for such placements. Federal law should require fiscal accountability for state expenditure of federal foster care money, and should insist that involuntary separations of parents and children be restricted to cases of extreme neglect.

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Indian families have been especially victimized by the rush to use out-of-home placement by child welfare officials. In 1969 and in 1974, surveys conducted by the Association on American Indian Affairs in states with large American Indian populations revealed that approximately 25 to 35 percent of all American Indian children are separated from their families and reside in foster homes, adoptive homes, or institutions. In 1972, nearly one of every four American Indian children under one year of age was adopted. The studies showed that in Minnesota, for example, one of every eight American Indian children under 18 years of age was living in an adoptive home, a per capita rate five times greater than for non-Indian children. In Wisconsin, the per capita rate for foster care and adoptive placements is 16 times greater for Indian than for non-Indian children. The ratio of American Indian foster care placement in Montana is at least 13 times greater than for non-Indians, and in South Dakota it's nearly 16 times greater. In Washington, the American Indian adoption rate is 19 times greater, and the foster care rate almost 10 times greater than the rate among non-Indian children.

Equally as disturbing, in the 16 states surveyed in 1969, approximately 85 percent of all American Indian children in foster homes were living in non-Indian homes, and more than 90 percent of all non-related adoptions of American Indian children were by non-Indian couples.

This extraordinarily high placement rate of Indian children is not a reflection of a greater propensity by Indian parents to neglect or abandon their children. Rather, it is a reflection of ignorance on the part of non-Indian child welfare officials of the familial and cultural traditions of Indian life, and of insensitivity to the important psychological and cultural attachment Indian children have to their tribal community. The untoward number of extra-tribal placements results also from a failure to provide poor Indian families with the means to raise their children, and from too great a willingness by state officials to meet the growing adoption demands of childless white couples who find the number of white children available for adoption dramatically reduced.

The effect has been the destruction of Indian family life and has been aptly characterized as a form of genocide.

S. 1214 would reduce the number of inappropriate Indian-child placements by giving broad authority to Indian tribes to prevent such placements and to regulate, when they are necessary, their terms and conditions. It would also provide funds for services to poor Indian families that would avoid the need for foster care. For these reasons ACLU enthusiastically endorses the Bill.

Suggested Revisions

I have several modifications to suggest, however. Most of them are designed to enhance the Bill's purpose--i.e., to strengthen Indian tribal and family autonomy.

First, the definition of "child placement" in section 4(g) of the bill should be clarified. As written, it seems to include placements that have been authorized by the tribe. Because the purpose of the statute is to protect tribal judgments about child placement and to regulate only extra-tribal placements made by non-tribal officials, the definition of "child placement" should be limited to placements not authorized by the tribe. This confusion is also present in section 101(a). As written, it seems to regulate the authority of the Indian parent to make a voluntary placement within the reservation. Because the Bill is designed to regulate only placements made outside the tribe by non-tribal authorities, the language should be clarified to reflect that intention.

Second, the Bill does not adequately define the "temporary" placement state officials are authorized to make in situations of imminent danger. Although temporary placement to prevent imminent danger to life or health should be possible, its duration and exercise should be carefully circumscribed. Temporary placement should last no more than 48 hours, with immediate notice to both parents and tribal authorities, and with provision for an immediate hearing as soon after the placement as possible. In its present form, the Bill does not seem to contain these safeguards.

Third, section 101(d) seems to authorize private persons, groups or institutions to seize an Indian child for up to 30 days without even giving notice to the parent or to tribal authorities. I can think of no justification for giving such authority to state officials, much less to private persons or groups.

Fourth, the Bill does not require notice to the tribe or to the parents of the fact that an Indian child who was previously placed with or adopted by a non-Indian family has been relinquished by that family to an institution. Apparently, there is a high failure rate of adoptions of Indian children by non-Indian families. Especially during the difficult years of adolescence, there is a reportedly high incidence of Indian children previously adopted by white families who wind up in mental institutions, juvenile delinquency reformatories, or renewed foster care. When this occurs, the youth's original tribe and his or her biological parents are unaware of the situation.

Rather than allowing the children to languish in such institutions, the tribe should be notified automatically so that the possibility of reintegration into the tribe can be explored. Accordingly, I recommend the insertion into the Bill of a notice requirement to the tribe of origin and/or the biological parents whenever an Indian youth, previously adopted outside the tribe, is placed in foster care or an institution, including mental institutions and correctional facilities.

These suggestions would strengthen the autonomy of the Indian family and tribe. In one respect, however, I believe the Bill confers too much power upon the tribe over an Indian child who has never resided or been domiciled within the reservation. Section 103(a) requires that in offering an Indian child for adoption every non-tribal government agency must grant a preference to the members of the child's extended Indian family. Such tribal authority over the Indian child who has resided or at least been domiciled on the reservation is entirely appropriate. However, when section 103(a) is read together with section 101(c), it appears that the tribe has comparable authority over the Indian child who has never been a resident or domiciliary of the reservation. This might have unfortunate results.

For example, the child might be the offspring of an Indian parent who has long left the reservation and a non-Indian spouse. The child may have familial attachments to the extended family of the non-Indian parent. In the event of the death or disability of both parents, the child's tribe of origin would have greater claim to the child than would the non-Indian family with whom the child may have been raised. Absolute tribal authority in those circumstances,

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is not in the best interests of such children. Section 103(a) should, accordingly contain language similar to that in section 103(b); i.e., that a preference shall be given to members of the child's extended family, "in the absence of good cause shown to the contrary."

Conclusion

I hope this presentation of ACLU's views will be useful to the Committee. Thank you for the opportunity to speak with you today.

Senator HATFIELD. Mr. Isaac?

Mr. ISAAC. Mr. Chairman, the next panelist is Faye LaPointe of the Tacoma Indian Center, Washington State.

Senator HATFIELD. We are very happy to welcome you here, Ms. LaPointe.

STATEMENT OF FAYE LaPOINTE, TACOMA INDIAN CENTER, WASHINGTON STATE

Ms. LAPOINTE. Thank you, Mr. Chairman.

My name is Faye LaPointe. I am coordinator of the Tacoma Indian Center, which is a corporation in the State of Washington providing human services to Indian people around the country. We have a nine member board of directors. We are at this point operating a child placement agency. We have been in operation since March of this year.

Six members of our board of directors are foster parents. The board is aware, through experience of the past, of genocidal practices inflicted upon our families and our communities. They are aware of the damage that such practices have brought to our communities.

As individuals and as an organization, we have requested Federal standards or policies to assist us in providing child welfare in our area. We believe that we can work with S. 1214 if we are involved in the final drafts, and we will be providing amendments to this bill.

The Tacoma Indian Center is based on the Puyallup Indian Reservation. We do recognize and respect the boundaries of the Puyallup Indian Reservation. We respect the authority and the capability of the Puyallup Tribe in exercising jurisdiction over their reservation. The governing bodies of both the Indian center and the Puyallup Tribe have met and have discussed S. 1214.

The Tacoma Indian Center supports and endorses the position that the Puyallup Tribe has taken in Ramona Bennett's testimony today.

Thank you.

Senator HATFIELD. Thank you very much.

I want to thank each of you again. You have been an excellent panel, and you have complemented the statements of one another.

I want to express our deep appreciation for the time and effort that you have taken to be here.

Thank you very much.

Mr. ISAAC. Thank you, Senator.

Senator HATFIELD. Now, I would like to invite Mr. Lee, Mr. Brown, and Mr. Reeves to the witness table.

Mr. Reeves is the legislative director of the Friends Committee on National Legislation. I have sort of put together an ecumenical table here. Mr. Reeves, we are very happy to have your testimony.

Before we introduce the others, it is my real pleasure to introduce my colleague from the Northwest, Congressman Gunn McKay from Utah. I have worked with him on a number of occasions on northwestern problems. He has very graciously come over here to what they refer to as the other body this morning.

I am going to defer and invite the Congressman now to make a presentation of the other members of the panel with whom he has a special and direct relationship. We are very happy to welcome you here, Congressman.

Congressman McKAY. Thank you, Senator.

I appreciate your deference. As you may know, we are dealing with the energy package, and at the present time we are working on taxation. So, I may have to leave in the middle; but I am pleased to be here.

STATEMENT OF HON. GUNN McKAY, A U.S. REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Congressman McKAY. Thank you, Mr. Chairman.

I am pleased to be here and indicate to the committee that we have deep concern about the Indian community and what is happening. I think there is a problem here that needs to be addressed, and this bill is on its way to dealing with it.

We have particular concerns in Utah. I will introduce two guests who represent the Church of Jesus Christ of the Latter Day Saints, which has had a program for many years of outreach to assist and aid the Indian communities that they deal with in many ways. I have had some experience in that regard and would like to leave you with just a little story about a neighbor.

He is involved with an Indian placement program. This is an educational program; it has nothing to do with adoptions. But it could be affected by this bill in adverse or positive ways. That is where the concern comes in. They will detail the program and answer any questions relative to it.

These young people come at their own behest or that of their parents. In this one instance, my neighbor had a little Navajo girl in their home for 3 years during the school term. At the end of those 3 years, the relationship has been good; and she has been encouraged in the culture of her forebears and her tribe to be proud of that sort of thing. Since the termination of her education, she is now back on the reservation and is married. My neighbor goes down on the reservation periodically and looks her up to see how she is getting along, if there is any assistance to be had. They carry pictures of her and her family now and various things.

It has been a warm relationship. For example, she went back because her father was in ill health. Her mother was not in too good shape also. But, as a result of the training she got in that home, she has been almost like a foster mother to her own brothers and sisters to aid them in development and encouragement in their education.

So, I just leave that little story about some of the successes that they have had in that regard in trying to assist them and their own cultures.

Senator HATFIELD. Excuse me, Congressman. I want to welcome Chairman ABOUREZK back into the room.

Congressman McKAY. Very good.

I would like to introduce at this point, Mr. Chairman, Elder George Lee, who is a full-blood Navajo and also in the hierarchy of the LDS Church. He has been a subject of an Indian child placement program himself. So, he is fully aware.

He was educated in the public schools and State universities. He received a doctorate from Brigham Young University. He will describe a particular placement program and outline his concerns on how the bill being considered by the committee may impact on that program.

With him is Dr. Harold Brown, who will follow Elder Lee in his statement. Dr. Brown has supervisory responsibility for thousands of Indian child placements in the same program. As a professional placement worker, he will describe his perception of the proposed legislation.

Accompanying them is Mr. Robert Barker, who is legal counsel for the church in that regard.

Mr. Chairman, I appreciate your indulgence and would hope that the committee would give very urgent consideration to their recommendations. I think you will find that they applaud the things that you are trying to reach and to solve. I think we are generally in accord as far as direction.

Thank you very much.

Chairman ABOUREZK. Thank you very much.

I want to express my thanks to Congressman McKay, an old colleague of mine from the House, for coming over and expressing the interest he has.

I guess this group here pretty much has your congressional delegation whipped into line. Gunn has been over personally to see me about this question; he came over to introduce you. Senator Hatch called me this morning and berated me over the telephone that, if I didn't treat you with great deference as witnesses this morning, he was going to do something nasty to me.

So, I just want you to know that your congressional delegation is in full support of your objectives.

We are pleased to have you here. I welcome you to the committee.

STATEMENT OF GEORGE LEE, MEMBER OF THE FIRST COUNCIL OF SEVENTY, CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS

Mr. LEE. Senator Abourezk, I am very honored. It is a pleasure to be here to offer this testimony.

I would like to read my prepared testimony. I feel it is very important that I do so. If I do not, it will be an injustice to the Indian people and the LDS placement program and to myself.

Chairman ABOUREZK. I just might say, Mr. Lee, that the practice that we have undertaken in this committee since we established the committee is that we ask people to submit statements of whatever length into the record and that they highlight their testimony. I am not going to say that you cannot read it, but you can read it if you want to. Let me say it that way.

I would prefer that you just tell me what you think is important in it and then submit the entire statement for the hearing record. You can read it all if you would like. I am just telling you what my preference is.

Mr. LEE. For the sake of time, I will just highlight my statement.

Chairman ABOUREZK. Thank you.

Mr. LEE. I am a full-blooded Navajo from the Navajo Reservation. I have been on the Indian placement program sponsored by the Church of Jesus Christ of Latter-Day Saints for 9 years. I went on the placement program when I was 10 years of age. I stayed with a Mormon, white, Anglo family in Utah for that length of time.

I just want to say here that, in my estimation, the LDS placement program is the most progressive, the most successful program of any

child placement program that I know of. I have so much confidence in this program that I doubt if any other organization in the world can ever develop a similar program, because of what it is doing for my people and other Indian tribes throughout the country.

I have here some statements from various Indian tribes throughout the country that support this program. I would like to, if I may, share a few statements from these various tribes throughout the country.

Also, I have letters from parents and students of the placement program. I would like to submit these statements, if I can, and leave them with you.

Chairman ABOUREZK. They will be admitted into the record.

Mr. LEE. I have here a statement from the Cheyenne Tribe, the Northern Cheyenne Tribe. Here is what Mr. Joe Bear says:

For the past several years, I have had five of my children on the LDS placement program. It has helped my children to grow and develop and understand the outside world which they could not have found on the reservation. This has been a very good experience for both the children and the family because they have been exposed to both cultures and have come back and shared things with us. They have a better educational opportunity on the placement program than on the reservation. Our children learn how things work in the outside world which has helped them grow up and mature.

That is the Northern Cheyenne Tribe.

This next one is from a Pueblo Tribe tribal judge and his wife:

We have had two children of our own as well as grandchildren on the placement program. We feel that they are well educated by being out of the reservation. They not only get a good educational background, but also get good religious training. The education they receive on the reservation is fair, but the education they receive off the reservation is far greater.

Here is another statement from an Indian parent:

Six of my childrn went on placement and two graduated. I am so very thankful for this program which has helped my children to achieve in this world. The placement program has helped my children to understand the difference between two cultures, and has given them greater understanding of important truths. These truths will help them to have stronger families and will provide the foundation for a greater growth among our people.

Here is a student participant on the Indian placement program:

Being placed in an Anglo home brings a sense of unity between the two races instead of the hatred often the two have between one another. I learned to appreciate all that they have done for the Indian people. Therefore, we Indian students learn to love our fellowman, whereas, being on the reservation we develop a sense of prejudiceness because we are not exposed to the modern world. It is the best program because the family plays a very important role; it's like a "family away from home." No other school can offer us this important family way of life while getting an education away from home.

Another statement by a tribe, the Paiute Tribe:

I am chief of the Kanosh Band of Paiute Indians at Kanosh, Utah, and I am sad about bill 1214, which will hurt our Indian people. I am not a member of the Latter-Day Saints Church, but I know the good the LDS placement program does for our Indian people. I would like to request that this bill be amended so we can have the LDS program and give the Indian parents the right to decide where their children go.

Another tribe:

We are part of most of the Caddo Indian Tribe of Oklahoma, and we are not against the bill 1214; but we believe the parents and children, if old enough to choose how they want to attain their education and not the court or tribe.

The LDS Placement Program is wonderful as we know of several who completed their senior year in school then went on to college and are still going to college.

Then, another Indian tribe in the Midwest:

We believe it should be amended to protect such licensed agencies as the LDS Church Placement Program. We are very favorable of this program because it has helped many of our children. We appreciate the education and opportunities that our children have enjoyed through the LDS Placement Program. We very much want it to continue so that we have an opportunity to choose additional help for our little ones when we feel there is a need.

These are just some of the statements written by Indian tribes throughout the country, from parents, and Indian students.

I have here with me about 300 to 400 names, petitions, and also letters from tribes, placement students, and parents. There is a total of 600 to 700 names. They do not oppose the bill. They just want to protect the Indian placement program sponsored by the Church of Jesus Christ of Latter-day Saints.

This program is just a temporary placement. It is not a permanent placement. It is an educational program.

Chairman ABOUREZK. Mr. Lee, in this placement program, is it done with the total consent of the parents of the children?

Mr. LEE. Yes. It is at the request of the parents and the consent of the parents.

Chairman ABOUREZK. Is it your reading of the legislation that we are considering today that the legislation, if passed, would prevent the parents from putting their children anywhere they want to?

Mr. LEE. I did not understand your question, sir.

Senator ABOUREZK. Would this legislation, if passed, prevent Indian parents from placing their children in LDS homes, for example?

Mr. LEE. Well, not prevent; but it will make it difficult, if not impossible.

Chairman ABOUREZK. In what way?

Mr. LEE. Well, they have to go through a lot of policies and red-tape, courts, procedures. It will take time to place these children.

We would like to suggest that an amendment be adopted that was previously communicated to you, Senator Abourezk. This amendment would extend the child placement definition in a way that would preserve the placement program without affecting other provisions of the bill.

The amendment would change section 4 on page 5 of the bill by deleting the period on line 9 and inserting the following statement:

Provided that temporary residence for a period of less than one year at a time by a child in the home of another family without charge for educational, spiritual, cultural or social opportunities for the child, and with terminable written consent of its parents or guardian, shall not be considered a placement and shall not be restricted by this Act.

One of the rights that Indian families value most is self-determination. The proposed amendment would protect this important right without interfering with the functions of the tribe.

Hundreds of my people have benefited from the Indian placement program. We encourage you to preserve our right to self-determination through amending Senate bill 1214.

We are not opposed to the comments and viewpoints expressed this morning. We are not opposed to the provisions of the bill. We just

offer this amendment to protect the Indian placement program of the LDS Church.

Chairman ABOUREZK. I want to make this one comment. I read that section on page 5, section (g), as meaning that any proceedings would mean some sort of a legal proceeding and not just a voluntary placement done by the parent, not going through a tribal court or any other kind of court. However, I can see your desire to clear that up.

Mr. LEE. Yes.

Chairman ABOUREZK. We have not taken any testimony on this issue, at least while I have been here. But I would like to get some additional comment from the Indian people themselves just to see what they think about this. I have not heard any adverse comment about your program, but I think we ought to open it up and see if there is anybody who might be opposed to that.

I can see your point where this could be interpreted either way. But, to me, it is fairly clear that it does not affect the LDS placement program. But I can understand why you might want to make sure it does not.

Mr. LEE. My colleague here, Mr. Brown, is in charge of that program. He would like to say a few words.

Chairman ABOUREZK. Please do.

Before we hear from Mr. Brown, Mr. Lee's material will be inserted in the record.

[Material follows:]

Statement

of

Elder George P. Lee

Member of the First Council of Seventy
of The Church of Jesus Christ of Latter-Day Saints (Mormon)

(Former President of the College of Ganado, at Ganado, Arizona)

Before the
Select Committee on Indian Affairs

United States Senate on S. 1214

August 4, 1977

I am a Navajo Indian. I came from the reservation. My family was poor. There were few opportunities at home.

Now, I have a doctor's degree. I have been president of a college. I have worked in Washington, D.C., to help my people. I hold one of the highest positions among the governing councils of my church.

It is no mere coincidence that I have been able to rise to a position where I can truly help my people.

I was the first member of my family to participate in the Indian Student Placement Service sponsored by the Church of Jesus Christ of Latter-day Saints (Mormon). When I was 11 years old, my parents and I decided that participation would increase my chances for success in life. The following nine school

Years were spent in the Glen Harker home in Orem, Utah. While there I completed elementary school, was graduated from high school, and went to nearby Brigham Young University at Provo where I received a Bachelor's Degree in 1968.

The Indian Student Placement Service has been beneficial to me in many ways.

Placement did not rob me of my culture, as a few critics seem to fear. Instead, I gained a true perspective of myself—a true sense of identity. I learned that I could be proud of my heritage and rise above problems that have kept my people from progressing. One of my greatest discoveries was that the gap separating Indians from Whites could be bridged and that I coul d compete, excell, and be accepted in a white community while retaining my uniqueness and identity as an Indian.

Through placement, the uncertainty of the past was replaced with purpose, direction, and spiritual strength. I gained a tremendous desire and determination to succeed. I began to set goals for myself. My parents had struggled all of their lives. I wanted to be able to help them. I wanted to come back prepared to help my people as well. This was always in the back of my mind. This desire motivated me to continue my education at Utah State University, at Logan, Utah, where I received a Masters Degree, and at Brigham Young University, where I received a Doctorate in education.

After receiving my first degree at BYU in 1968, I began pursuing a career consistent with the desire to help my people. My first job was teaching school (kindergarten through eighth grade) at Rough Rock Boarding School in Arizona. Rough Rock was the first all-Indian controlled school in the nation at the time.)

George L.

The following year I helped set up an Indian studies program and counseling service for Indians at Utah State University. Through these efforts, enrollment of Indian students increased from five to sixty.

In 1970 I went to Washington, D.C., as a program specialist for the U.S. Office of Education . The U.S. Department of Health, Education, and Welfare offered me a fellowship to be trained in federal programs to assist colleges, universities, Indian tribes and State Department of education, throughout the nation. In this capacity I traveled across the country helping these organizations and groups in writing proposals to obtain federal funds for their special needs.

In 1972 I accepted the position of Executive Vice President and Dean of Students at the College of Ganado on the Navajo Indian Reservation at GAnado, Arizona. A short time later, I became president of that institution.

In July of 1975, I was assigned by the LDS Church to preside over the Arizona Holbrook Mission. In this position, I supervise approximately 250 Indian and Anglo missionaries who work among Indian and white communities in the 4 corners area - New Mexico, Arizona, Utah and Colorado. In October of the same year, I was also sustained as a member of the First Quorum of Seventy, one of the highest governing positions in the Church. With these added Church responsibilities, I have continued to serve my people as well as all people in general.

For the accomplishments of the past and for the efforts I will con tinue to make in behalf of the Indian people, I am indebted to the Indian STudent Placement Service. It is because of this program, that I received the

Direction and the will to achieve.

As a former placement student and as a Church leader who has recommended this program for many others, I know of the care and professionalism of those who administer this service. Staff members are highly trained social workers who are sensitive to the needs of Indian people. The Placement Service, itself, grew out of the requests of Indian families for educational, social, and leadership opportunities that were lacking on the reservation.

Indian families use this service on a voluntary basis, when needed. Children are placed under a voluntary agreement that can be terminated at any time by parents, students, or LDS Social Services. There is no force or coercion to participate.

Children live in homes of selected LDS Church members during the shcool year. The strengths derived from placement are taken with them when they return to their natural homes. Students often go on placement to gain skills to help their own families and tribal members. Foster parents are instructed to help participants grow in their ability and desire to help their own people. Foster families take our children into their homes on a voluntary basis, without pay. They participate out of love and a desire to help our people.

I have with me a number of significant statements by tribal leaders, parents, present and fromer placement participants, and many other individuals who have seen the benefits of the placement program. While I am only going to read a few of their comments, I wish to submit all of the statements with my written report. I would encourage the Committee members to become familiar with them.

(SELECTED PORTIONS)

"Six of my children went on placement and two graduated. I am so very thankful for this program which has helped my children to achieve in this world. The placement program has helped my children to understand the difference between two cultures, and has given them greater understanding of important truths. These truths will help them to have stronger families and will provide the foun dation for a greater growth among our people."

Rachel Thompson, parent
Sheep Springs Trading Post
Tohatchi, New Mexico

"Being placed in an anglo home brings a sense of unity between the two races instead of the hatred often the two have between one another. I learned to appreciate all that they have done for the INdian people. Therefore, we Indian students learn to love our fellow man, whereas, being on the reservation we develop a sense of "prejudiceness" because we are not exposed to the modern world. It is the best program because the family plays a very important role - it's like a "family away from home". No other school can offer us this important family way of life while getting an education away from home."

Greta Benally, student
Box 326
Chinle, ARizona 86503

For the past serveral years, I have had five of my children on the LDS Placement Program. It has helped my children to grow and develop and understand the outside world which they could not have found on the reservation. This has been a very good experience for both the children and the family because they have been exposed to both cultures and have come back and shared things with us. They have a better educational opportunity on the Placement program than on the reservation. Our children learn how things work in the outside world which has helped them grow up and mature."

Joe Bear
Tribal Councilman
Northern Cheyenne Tribe

"We have had two children of our own as well as grand children on the Placement Program. We feel that they are well educated by being out of the reservation. They not only get a good educational background, but also get good religious training. The education they receive on the reservation is fair, but the education they receive off the reservation is far greater!"

Mr & Mrs. J. G. Naranjo
Isabel Naranjo
Tribal Judge

"As the leader of the Paiute Indians in this area I would like to write concerning Bill #1214. I am concerned that one of the fine programs that have helped our Indian people would be in jeopardy, namely the LDS Placement Program.

We feel that this program has been very beneficial to our young people and has made possible excellent training and development and does not hinder their Indian identity.

...we would like to recommend that consideration be given to amend the bill to protect programs such as the LDS Placement program that is giving assistance to the Indian people."

Yetta Jake
Clifford Jake
Grant Pete
United Paiute Tribes

"As Leader of the Koosharem Piutes I am concerned about your Senate Bill #1214.

We believe it should be amended to protect such licensed agencies as the LDS Church Placement Program. We are very favorable to this program because it has helped many of our children. We appreciate the education and opportunities that our children have enjoyed through the LDS Placement Program. We very much want it to continue so that we have an opportunity to choose additional help for our little ones when we feel there is a need."

Ardean Charles
Chief of Koosharem Band Piutes

"I am chief of the Kanosh band of Piute Indians at Kanosh, Utah, and I am sad about bill #1214, which will hurt our Indian people. I am not a member of the Latter Day Saint CHurch but I know the good the LDS Placement program does for our Indian people. I would like to request that this bill be amended so we can have the LDS program and give the Indian parents the right to decide where their children go."

Earl Phyout
Chief of Kanosh Band Piutes

"We are part of most of the Caddo I ndian Tribe of Oklahoma are not against the Bill 3777 but we believe the parents and children if old enough to choose how they want to attain their education and not the court or tribe.

The LDS Placement program is wonderful as we know of several who completed their senior year in school then to college who are still going up.

Melvin Layham
Caddo Hearing Board

I know from my own experience that the Indian Student Placement Service is beneficial. It has helped many of my people. In discussions with tribal members and leaders, I have received numerous reports on its value to the Indian community.

Many Indian people join with me in strongly urging that Senate Bill 1214 be amended to protect the Indian Student Placement Service. We suggest that the amendment be adopted that was previously communicated to the Committee Chairman, Senator Abourezk. This amendment would extend the child placement definition in a way that would preserve the placement program without affecting other provisions of the bill. The amendment would change Section 4 on page 5 of the bill by deleting the period on line 9 and inserting the following statement:

"; provided that temporary residence for a period of less than one year at a time by a child in the home of another family without charge for education al, spiritual, cultural or social opportunities for the child, and with terminable written consent of its parents or guardian, shall not be considered a placement and shall not be restricted by this Act."

One of the rights that Indian families value most is self determination. The proposed amendment would protect this important right without interfering with the functions of the tribe.

Hundreds of Indian people who have benefited from the Indian Student Placement Service share in this request. We encourage you to preserve our right to self determination through amending Senate Bill 1214.

Thank you.

STATEMENT OF HAROLD C. BROWN, COMMISSIONER OF LDS SOCIAL SERVICES/DIRECTOR OF PERSONAL WELFARE SERVICES, CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, ACCOMPANIED BY ROBERT BARKER, COUNSEL

Mr. BROWN. Senator Abourezk, I will keep my comments brief and summarize the statement that I have prepared.

I would like to emphasize what Mr. Lee has said. We do not oppose the bill; that is not our purpose in being here today.

We want to be sure that the LDS placement program is protected.

I would like to summarize the following three or four points and then read a statement by Ms. Nora Begay, Miss Indian American of 1972, who requested that I read her brief statement.

First of all, I would like to emphasize the fact that the program is for LDS members only. It is not a program available for Indian children who are not members of the LDS Church. It is requested by the parents of LDS children. Before a child can go, it must be requested by his parents. That parent must give written consent. Part of that written consent is also that they can terminate that contract upon their request. Anytime a child who is participating in that program wishes to terminate, he can do so. Each year there are a number who request that, and they are freely, voluntarily returned to the reservations with that request.

I would like to say that the students receive professional casework and competent assistance. They are visited in their homes at least monthly by professional caseworkers who visit with the foster parents and the students. There are also caseworkers on the reservations who visit regularly the natural parents.

The caseworkers who visit the Indian students go to the reservation at least three times a year and visit with the natural parents. They report on the progress, the status of their children, and take back comments and concerns to make sure that the placement continues in a professional and acceptable way to the Indian parents.

May I just now read the brief statement offered by Miss Nora Begay, Miss Indian American of 1972:

I am a Navajo Indian from Kaibeto, Ariz., and have had the opportunity to participate for 8 years in the LDS Indian Placement Program.

For many years my Indian people have had dreams of having success and opportunities that all Americans have in this country. These dreams, I feel, can only be reached through a good education.

When I was a little girl, I was raised by my grandmother near Kaibeto, Ariz. My grandmother was determined that someday I would need to learn the tools of the non-Indians if I was ever to work effectively for my people, She always tried to remind me that I should never forget my Navajo heritage, my home and her teachings.

Later in life I was sent to various federally funded schools on the reservation, but my parents and grandmother worried that I would not be able to get the kind of education that it would take to go on to college.

After learning of the LDS Program, I was placed in the home of Mr. and Mrs. Leo Turner in American Fork, Utah. There were adjustments to be made, but the doors of communication and friendship were opened. I learned many things about myself and the non-Indians. My foster parents were patient, kind and willing to have me take my own time in learning new concepts and a different way of life. They also were interested in learning about me and my ways.

Participating in the placement program was something that was not forced upon my family or myself. I went on the program with the dream of making my grandmother and parents happy and proud of me. I can truly say that I fulfilled most of my grandmother's hopes. Since graduation from Brigham Young University (BYU) with a degree in communications, I have worked for the Navajo Tribe in a public relations program that I hope will help many of my Navajo people in securing land for their families and their future.

I want you to know that it was the LDS Placement Program that helped make my dreams come true.

Please help keep this program alive. Indian children need some place to turn for the opportunities that are sometimes lacking on the reservation.

I may also mention that Miss Christine Harvey, who is the present Miss Indian American, requested to testify. She indicated her desire to be here. She also participated in the placement program and wanted us to convey that.

So in summary, may I again say that we are anxious to let you know that we support the intent of the bill. We are not opposed to that. We just want to protect the rights of parents who want their children to have that opportunity to request it.

I might mention that we do presently have approximately 2,700 Indian children in the program. They are all LDS children, and nearly all of their parents are as well.

Mr. LEE. If I may, Senator, I would like to offer these letters and statements from tribes, parents, and students.

Chairman ABOUREZK. The letters will be accepted in the record. The petition, which just has signatures on it, will be admitted to the file of the record; that means it will not be reprinted in the hearing record, but it will be in the file. But the letters will be reprinted.

[Material appears in appendix.]

Mr. LEE. I would like to say in conclusion, Senator, that, as a product of this program, it has helped my family. It has helped me. It has helped my father and mother. It has helped my father overcome his alcohol problem. It has helped my brothers and sisters to achieve in life. It has helped me.

I learned a lot of things in that foster home. The foster families take these Indian kids as their own sons and daughters, and they love them. They feed them and clothe them. They do not get paid for taking all these Indian kids into their home. These foster families are unpaid for their services in helping these Indian students. It is all voluntary.

They love to do it. In fact, they want more Indian kids on the program. It is done with the consent of Indian parents.

My foster family has certainly taught me to appreciate my own heritage and also to have love for my parents and my tribal background.

Chairman ABOUREZK. Is there a certain age requirement for this program?

Mr. LEE. Yes.

Chairman ABOUREZK. What is it?

Mr. LEE. It is 8 through 18; anyone over 8 and baptized as a member of the Church of Jesus Christ of Latter-Day Saints, up to 18 years of age.

Chairman ABOUREZK. And after 18 they cannot take part, nor before they are 8 years old; is that correct?

Mr. LEE. That is correct.

Chairman ABOUREZK. Is the LDS Church required to provide certain information to State governments with regard to this program before you can bring children across a State line?

Mr. BROWN. We, as an LDS social services system, are licensed in the individual States in which we reside by the licensing agencies. We, therefore, comply with all the requirements of the interstate compact, and any other State, Federal, or local laws which are required to comply with.

Senator ABOUREZK. Which means that you provide information concerning the child and the address of the home and so on.

Mr. BROWN. That is correct.

Chairman ABOUREZK. Do you provide that, by any chance, to the tribal governments from which these children come?

Mr. BROWN. It has been our policy, Senator, to supply that to any tribe who makes a bona fide request. It has been our policy, and we plan to continue with it.

Chairman ABOUREZK. Would you have any objection to just routinely providing the tribe? If a child comes out of the Navajo Tribe, for example, would you have any objection to just routinely offering that information to the tribe? Just a photocopy or whatever you send to the State.

Mr. BROWN. I think, Senator, we have some difficulties in doing that. Some of the challenges we find is that some of the tribes are very scattered. Some of the minor tribes are very scattered. With some of the larger tribes it would not be a challenge.

Some do not have effective tribal councils; they would not know what to do with the information if it came. Some small bands may not be well organized, and we find some difficulty——

Chairman ABOUREZK. Excuse me.

I want to ask the audience to please try to keep order. We are trying to weed this thing out. I would be very grateful if the audience would not demonstrate at something they either agree with or disagree with.

Please proceed.

Mr. BROWN. Thank you, Senator. I appreciate that.

We do have a number of urban Indians at large metropolitan centers. I do not know where we would send that kind of information. It would be somewhat difficult. We find some challenges with this.

We also are somewhat concerned that any request be a bona fide request, one which will be used properly. I do not think we would be concerned about the information being in the hands of professional people or the tribe that would understand its use.

However, we would be concerned if it was used as a mailing list. If you have ever been on an inappropriate mailing list, you receive all kinds of information and improper requests. We would want to protect our parents from that. We feel that they have a right to privacy and confidentiality.

We would like to, as we have done in the past, provide those lists. However, we feel it would only be upon a bona fide request from that tribe that we would be willing to do it.

Chairman ABOUREZK. If, for example, the requirement would be that you furnish information to the tribe to which the child belongs, if it were an existing tribal government—I understand the difficulty in an urban Indian family in finding the tribal government—but if the child did live on a reservaton and that reservation had a tribal government, or whatever land entity that might be, if that had a tribal government, would you object to that kind of a routine requirement that you just furnish whatever information you furnish to the States to the tribe?

Mr. BROWN. I think, Senator, we would have no objection. However, we would like to discuss that with the tribal entities to be assured again of the confidentiality and the privacy of the Indian children.

Chairman ABOUREZK. I think that is only fair in that case. I think that, if there is such a requirement—and I am not saying there would be—I think that ought to be included: that confidentiality be protected.

Mr. BROWN. I have been reminded by our counsel that, upon occasion, we do have difficulty also with a family who might be multiple tribe in nature. The parents might be from separate tribes. The child, therefore, would be part from one tribe and part from another. That is something that would have to be worked out. It does present another difficulty.

Chairman ABOUREZK. It is another point to take into consideration. For example, if the father is Navajo and the mother is not, it would seem logical to deal with the tribe from the reservation that the child comes from. Wouldn't that be logical?

Mr. BROWN. I suppose we would have to give some thought to that, Senator.

Chairman ABOUREZK. But those are good points that you raise.

Mr. LEE. May I comment again?

Chairman ABOUREZK. Yes.

Mr. LEE. When I went on this program, of course, my parents were very poor. They could not afford us any clothes. So, all I had on was a torn T-shirt, Levis with holes, and no shoes. They gave me a soup-bowl haircut, put me on the bus, and away I went. From then on, my foster family picked me up, sent me through high school, sent me through college, paid for my college expenses. This is just typical of the foster parents that do this for Indian kids that go through their home.

Some critics have said that this program takes away the Indian child's Indianness or culture. But I find that it is not so. If anything, it enhanced who I am and what my responsibilities are to myself, to my family, to my tribe, to my country.

Also, my natural parents, I just love them dearly; and my foster parents are my second family. It is a family away from home. I still consider them my own family. Everytime I go to their home, I am accepted as one of their sons.

Chairman ABOUREZK. The program lasts for 1 year?

Mr. LEE. It lasts for 9 months during the school year. Then the students return to the reservation during the summer months. Then they go again in the fall when school starts.

Chairman ABOUREZK. What year did you go through the program, Mr. Lee?

Mr. LEE. I started in 1954, through 1962.

Senator ABOUREZK. You went back to the same family for a number of years.

Mr. LEE. Yes; I lived with the same family. I stayed with that same family through the 9 years.

Chairman ABOUREZK. I think those are all the questions we have.

We certainly appreciate your appearance and your testimony here today. We are glad that you brought up the points that you did.

Thank you very much.

Mr. LEE. Thank you, Senator.

Chairman ABOUREZK. The final witness is Mr. Don Reeves, legislative director for the Friends Committee on National Legislation.

Before we hear from him, I note that Mr. Brown's entire statement will be inserted in the record.

[The prepared statement of Mr. Brown follows:]

Statement
of
Harold C. Brown

Commissioner of LDS Social Services/Director of Personal Welfare Services
of The Church of Jesus Christ of Latter-Day Saints (Mormon)

Before the
Select Committee on Indian Affairs

United States Senate on S. 1214

August 4, 1977

Because of limited opportunities on reservations, many Indian people have requested help. Responding to their requests, The Church of Jesus Christ of Latter-day Saints (referred to as LDS, or Mormon) has provided the Indian Student Placement Service. Through this program, LDS Indian children, ages eight to 18, may be placed each school year for educational, cultural, social, spiritual, and leadership opportunities.

Placement is usually recommended to LDS Indian families by their ecclesiastical leaders--bishops and branch presidents--who are mostly Indians.

The decision to use this resource rests with the family. Children are placed under a voluntary, agreement that can be terminated at any time. Students return to their natural homes each summer with no requirement to

return in subsequent years. To repeat: The decision to continue on the program rests with each Indian family.

Supervising the program is LDS Social Services, a non-profit corporation staffed by licensed professional caseworkers who are trained in the behavioral sciences.

Before participating, LDS Social Services requires that a student: (1) be a member of the LDS Church; (2) submit an application; (3) desire placement and have the support of his parents, and, (4) be interviewed and recommended by his ecclesiastical leader and a caseworker.

Social workers screen each student to determine motivation, maturity, and the ability to adjust in a different home and community. Students who meet the requirements are accepted.

Participants are placed with carefully prepared and selected Latter-day Saint families who volunteer their time and resources. There are no paid foster families. Foster parents accept the responsibility of normal expenses including medical, dental, clothing and other living costs. Children remain for the school year, benefitting from a variety of educational, cultural, and other opportunities.

Agency caseworkers visit each foster home at least monthly. Students are brought together for group meetings, social activities, and youth conferences. During cultural events, children enjoy singing, dancing, and sharing their Indian heritage.

LDS Social Services conducts orientation meetings to strengthen foster parents in understanding and responding to cultural characteristics and needs of Indian children. Foster parents work closely with natural parents by: (1) inviting them to visit their homes; (2) visiting natural parents during summer months; (3) writing regularly to report the child's progress; (4) sending pictures, tape recordings, progress reports and other information. Foster families become partners with the natural families to give the best to Indian youth.

Caseworkers who supervise the foster parents and children visit natural parents three times each year to respond to their needs and to report on every child. Other caseworkers live on the reservations and work closely with natural parents to coordinate placement activities.

A primary objective of placement is to teach Indian youth skills so they can return to the reservation and help their own people. Participants are encouraged to continue their education after placement; to strengthen themselves and become prepared to offer that assistance.

An outcome is that children bridge the gap between Indian and anglo cultures. They successfully compete and excell in both worlds.

Studies document the program's success.

In 1960, Clarence R. Bishop, graduate student at University of Utah, found participants successful in competing academically with anglos.[1]

1 Clarence R. Bishop, Thesis: An Evaluation of the Scholastic Achievement of Selected Indian Students Attending Elementary Public Schools of Utah (Provo, Utah, 1960), pp. 75-76

In a 1973 study of Piute youth, Donald R. Lankford, and others, students at University of Utah, found LDS Placement children with a higher grade point average and better self-image than others in foster care programs studied. He attributed this to the quality of foster homes and the care given the children. [2]

During 1971-74 and 1976, Dale Shumway, LDS Social Services caseworker, studied 150 Indian students on placement in Southern Utah. He found their average grade point to be 2.64, almost a B-, which is the equivalent of the general school population.

In late 1976, without the knowledge of LDS Social Services, the Interstate Compact Secretariat in Washington, D. C., commissioned Robert E. Leach, Compact Administrator in Pierre, South Dakota, to study the attitudes of Indian parents toward the placement program. Questionnaires were sent to fifty Indian families. Of the 60% who responded, Mr. Leach shared this conclusion:

> ". . . I feel very confident that we had a good response from those families. As you can see, the questionnaire was very straightforward and you can also see that the comments are by and large very positive."

The results of key items on the questionnaire follow:

- Ninety-three percent of the parents responded to a question on whether participation was forced. All said that they and

2 Donald R. Lankford, et al., Thesis: Paiute Indian Youth (Salt Lake City, Utah, 1973), pp. 55-56

their children participated of their own free will.

- Eighty-seven percent of the respondents said their children were happy with their foster families. Ten percent did not respond to that particular question.
- Ninety-three percent of the parents responded to a question on education. All said their children received a better education as a result of placement.
- Seventy percent felt placement was helping their children identify with their heritage. Twenty percent did not respond to that question.

Other questions were answered with the same positive response.

In summary, the Indian Student Placement Service is a viable program which, upon request, helps meet the needs of some Indian families. The worth of the program is not only substantiated by studies, but by hundreds of testimonies offered by those who have seen its benefits. I would like to share one of these testimonies with you. It is from Nora Begay, Miss Indian America of 1972. Miss Begay called and asked if she could testify at these hearings. When we indicated that our time was limited, she asked us to read this statement in her behalf:

> "I am a Navajo Indian from Kaibeto, Arizona, and have had the opportunity to participate for 8 years in the LDS Indian Placement Program.

"For many years my Indian people have had dreams of having success and opportunities that all Americans have in this country. These dreams, I feel, can only be reached through a good education.

"When I was a little girl, I was raised by my Grandmother near Kaibeto, Arizona. My Grandmother was determined that someday I would need to learn the tools of the non-Indians if I was ever to work effectively for my people. She always tried to remind me that I should never forget my Navajo heritage, my home and her teachings.

"Later in life I was sent to various federally funded schools on the reservation, but my parents and Grandmother worried that I would not be able to get the kind of education that it would take to go on to college.

"After learning of the LDS Program, I was placed in the home of Mr. and Mrs. Leo Turner in American Fork, Utah. There were adjustments to be made, but the doors of communication and friendship were opened. I learned many things about myself and the non-Indians. My foster parents were patient, kind and willing to have me take my own time in learning new concepts and a different way of life. They also were interested in learning about me and my ways.

"Participating in the placement program was something that was not forced upon my family or myself. I went on the program with the dream of making my Grandmother and parents happy and proud of me. I can truly say that I fulfilled most of my Grandmother's hopes. Since graduation from BYU with a degree in communications, I have worked for the Navajo Tribe in a public relations program that I hope will help many of my

Navajo people in securing land for their families and their future.

"I want you to know that it was the LDS Placement Program that helped make my dreams come true.

"Please help keep this program alive. Indian children need some place to turn for the opportunities that are sometimes lacking on the reservation."

(I would also like to mention that Miss Christine Harvey, who last Sunday helped crown her replacement as Miss Indian America, also participated on the program and desired to be here to testify)

LDS Social Services has long been aware of feelings such as those expressed by Nora Begay, Elder Lee, and the many other tribal members who have seen the important role Indian Student Placement Service has played in meeting needs of Indian children.

Indian parents carefully consider the best interests of children before using the Placement Service. There is none more qualified in making family decisions than the family itself. In reading Senate Bill 1214, we have been concerned that although the intent of the bill is not to destroy the self-determination of Indian families, it would seriously limit or impede their choice in being able to voluntarily place their children for educational, spiritual or other opportunities. We feel it would be tragic if Indian families could not easily choose a placement setting for these advantages.

We therefore urge you to adopt the Amendment to Senate Bill 1214 that Elder Lee has submitted and referred to in his testimony.

The Indian Student Placement Service has provided a valuable resource to hundreds of Indian families, as testimony has already documented. We encourage you to exempt this service from the provisions of this bill by adopting the proposed amendment.

Thank you.

STATEMENT OF DON AND BARBARA REEVES, FRIENDS COMMITTEE ON NATIONAL LEGISLATION, ACCOMPANIED BY PHIL SHENK

Mr. REEVES. Thank you, Mr. Chairman.

I would like to introduce myself and Barbara together as Quaker parents from Nebraska. Probably the reason we are here in that context is that we are the adoptive parents of three children of Indian extraction, in addition to two children we hatched in the more conventional fashion.

I am clerk of the Nebraska Yearly Meeting of Friends. I am now on the Washington staff of the Friends Committee on National Legislation. Barbara has a background and training in home economics and child development and, more recently, qualified as a registered nurse.

We are accompanied here today by Phil Shenk, who is an associate on the FCNL staff.

We have a brief statement, copies of which are available. I will highlight from that briefly, and then expect that it may lead into some questions.

I think that, if we have learned anything out of 20 years of parenting, the No. 1 lesson would be the extreme importance of an early, stable, loving relationship in the development of children. I emphasize all three words: Early, from the very beginning; the stability of it; and the loving relationship.

I think our observations would be that the importance of that relationship is almost independent of any cultural or extra-family kind of circumstances. From the beginning, the family relationship is terribly important.

Anything which disturbs that family relationship can be traumatic—I do not think that is too strong a word—for the youngsters involved.

As regards temporary kinds of circumstances which might disrupt that relationship, we are very pleased at the strong emphasis in S. 1214 on the family services kinds of things which might help tide families over short-range types of problems and make it possible for this family relationship to be kept intact.

We do not see any necessary conflict between this strong emphasis on the individual personal relationship between a youngster and his parents and the cultural or community circumstances in which they live. In fact, in most circumstances, we would think of the community, the cultural or the tribal ties, as being supportive of this very important family relationship.

In some circumstances where it certainly is not possible for a family to take care of their own children, then we think it would be most appropriate for the people closest to the family—the extended family, the community, or the tribal arrangement, whatever that may be—to be the primary party involved in the decisions regarding the welfare of that child.

This whole complex area of the family relationship and the family in a community ought to have very high consideration when compared to somewhat loftier kinds of criteria which probably have been

adopted by the white community and are the basis on which most Indian child placements have been made over the last 100 years or so.

I think that a general observation can be made about Federal Indian policies. They have vacillated. Generally, they have looked toward the assimilation of Indians into the larger community. For a considerable period of time, they have been very explicitly directed at breaking down and overcoming traditional Indian values and systems.

Much of what can be termed, in a narrow sense, as the causes of instability in a home or of a judgment that families cannot take care of their children are a result, direct or indirect, of Federal policies that are aimed at breaking down the Indian traditions and values.

I think we make that observation based on what little we know about the original families of the youngsters that we adopted. You cannot say that the Federal Government and its policies were the direct cause of their not being able to take care of these youngsters; but, indirectly, it is fairly easy to trace those links.

So, we welcome S. 1214 on two points.

First is the renewed sense of capability and desire of Indian communities to strengthen the family and to deal with the child placement problems within their own traditions and value systems. Likewise, we are encouraged by the initiative shown by Congress in considering this measure.

I think the final comment as part of our testimony has to do with the financing section of the bill. We concur with the intent of the bill. We do offer some minor kinds of comments in our written testimony; we suggest some minor change.

Even if the bill is passed, it does not make much sense unless there is adequate financing. Without having all that much background to talk about specific numbers, we would raise a question about whether the amounts mentioned in the body of the bill are adequate to reinforce the families and to do everything possible to keep these families intact.

The substance of what we want to say is this. We would call for early passage of S. 1214, at least in its major substance, coupled with full and adequate financing in subsequent years.

I think maybe we would want to respond very briefly to parts of the testimony offered by the Bureau of Indian Affairs, particularly as regards placement of youngsters in boarding school situations.

It sounds suspiciously to us like a continuation of existing policies. We see some of the problems that we have dealt with as an individual family growing out of those policies. So, we would raise real questions about anything that sounds like, "Keep on doing what we're already doing," because it obviously has not been working.

Finally, we would like to request your permission to read part of a resolution authored by the National Congress of American Indians. I think probably it has already been submitted for the record. It has been their request, which we concur with, that we would like to have it as part of the oral testimony of this hearing.

Chairman ABOUREZK. Please do.

Mr. SHENK. "Whereas the interstate placement of Indian children out of their own homes and into the homes of others, especially non-Indians, whether for foster care, adoptive, educational, and other purposes is of grave concern to tribal governments in particular, and

Indian people in general, because of the effects of such placements on the family life of the Indian people and the unique legal, social status and rights of Indian people derived from tribal sovereignty, treaties, the U.S. Constitution, and Federal law; and

"Whereas the Church of the Latter-Day Saints Social Services program operates an Indian education program which caused approximately 2,300 Indian children from reservations to be sent across State lines in September, 1976; and other church-affiliated programs and public agencies are also causing an indeterminate number of Indian children to be sent across State lines for any number of reasons; and

"Whereas the Church of Latter-Day Saints Social Services program has requested the Interstate Compact Organization to be exempt from the existing compact regulations or that simplified procedures be adopted with respect to the handling of Indian children sent from one State to another, and to the knowledge of this convention, there are no compact regulations requiring documentation to the sending or receiving State or the signed consent of the Indian parents of children to be moved from their homes; nor is there any documentation that such placements are done with the knowledge and support of tribal governments;

"Therefore, be it resolved that the 1976 NCAI convention authorize the executive Director of NCAI to immediately organize a method to protect the rights of Indian children, families, and tribes by offering evaluation by Indian people designated by the child's tribe to assert the child's social well-being.

"Be it further resolved that the Commissioner of the BIA, Secretary of Interior, the Secretary of the Department of Health, Education, and Welfare, President Ford, and Governor Carter, and Senator Mondale receive telegrams from the Executive Director requesting their direct intervention and support."

Chairman ABOUREZK. I read that resolution. I did not quite understand what they were getting at, to be honest with you.

What do you understand that resolution to be?

It sounded like they wanted to take a swipe at the Latter-Day Saints Church, but they did not quite get to it.

Mr. SHENK. I cannot, of course, speak for NCAI; although I want to compliment them on their efforts.

I think, in part, they were responding to the LDS testimony previously as to whether or not they want to notify tribal bodies. I think that would be an NCAI position that notification of such interstate placements is something which the tribal bodies would appreciate.

Senator ABOUREZK. They have said that they have no objection to it, provided they can find that it is an organization that exists. I think that is reasonable. I do not think we ought to ask anything unreasonable of them. Certainly, if there is an existing tribe, yes; I believe they ought to notify. I think they have agreed to it.

Mr. BARKER. Mr. Chairman, might I ask whether it is the position of his organization that Indian parents should not be allowed to give consent to their children going to the school of their choice, if they make a bona fide, honest, written consent and ask that their children be placed someplace? Is it your position that Indian parents should be deprived of that right?

Mr. REEVES. I think that a related question is: What are the real choices for Indian families? It may be, in the short range, that off-reservation, non-Indian circumstances may be all that is available.

I think of our own situation. Fifteen years ago, the reason that the three Indian youngsters were available for adoption in our home is that there were not any other options.

We ought to be somewhat wary of hanging on to existing programs if they are not viable options for Indian people.

This is not a hearing on the system of the Bureau of Indian Affairs schools. But I think that there are some comments in that area, you see, which might open up alternatives for Indian families. In the short range, I think that Indian families certainly ought to have this right, if it is done on a well-informed basis. I find no fault with that.

I might offer a general observation. The Society of Friends has been working with Indians and on behalf of Indians since before this was a nation. It is interesting to note that one of the first Quakers who came to Nebraska as permanent residents came as the superintendent of an Indian reservation not far from where we live.

Looking back, I think it is clear to many of us within the Religious Society of Friends that we assume some things, particularly in the realm of values, in a kind of arrogant way; that we have insights and values which Indians ought to adopt. Our programs were based on these insights and values with not enough regard for traditional Indian values. Today, the character of some of our programs has changed. With it comes a certain degree of humility about the kinds of judgments that we have made in past times.

So, it is out of that milieu that we need to reevaluate the kinds of efforts that we extend toward the Indian community and on behalf of the Indian community.

Chairman ABOUREZK. By way of response to that, I think, for example, the LDS program is extremely well-intentioned. Mr. Lee has testified, as you have heard, of the benefits that he believes he has derived from it. I have no reason to question that at all.

I grew up on an Indian reservation in South Dakota. I can remember going through stages in my life where I thought, "Well, the Indians aren't very well off, and they probably ought to act like those of us who are not Indian. If they could act like the whites, maybe they would be very well off."

But I have changed my views a great deal in the past number of years. I am not entirely sure that we ought not to emulate the Indian people because I do not think that we have had such great success in what we have done. We do things and we call it progress and we call it success, but that is only because we, as the dominant society, have put the label on it. We can make the label stick, but I am not certain that it is true.

I would have to say that I agree with you that I do not believe we have all the answers. I think the attitude I used to take personally was a very arrogant one. I certainly do not take it today. But I think a lot of people living out around the reservations and, in fact, in cities away from the reservations probably still have the same attitude I used to have before I began to see things from a different perspective.

Mr. LEE. Mr. Chairman, I might say that, because of this program, I went through and finished college. I got my bachelor's degree. I got

my master's degree in education. My foster parent's helped me through all those years of getting my education degrees. Then I got a doctor's degree in education and spent 2 years here in Washington, D.C., area working for HEW.

They offered me a fellowship to work with State departments of education throughout the country and work with Indian tribes and other minority groups who need help, and to set up workshops to help them write proposals so they can obtain Federal funds for their special needs. So, I am well acquainted with the workings of the Government here. Because of the Indian placement program, I had all these opportunities. Now I am presiding over what we call a mission, which encompasses parts of the Four Corners States of Arizona, Utah, Colorado, and New Mexico. I preside over all those people in those areas—Indians and non-Indians. This is not just an Indian mission, but it is a mission also to help the whites and the blacks and the Mexican as well as Indians. I preside over all those areas.

I have 250 Indian and Anglo missionaries working under me, working in Indian and Anglo communities. It is a tremendous program. All those that came after me in the program are now in graduate schools. We have lawyers and doctors and dentists coming up. Full-blooded Indian students that went through this program are now coming up and being trained professionally. They are coming back to help their own people.

I have also had a chance to preside over a college, the College of Ganado in Arizona. So, I have been a college president. I worked with the Government and have worked with all kinds of people throughout the country because of this program.

Chairman ABOUREZK. Mr. and Mrs. Reeves, your prepared statement will be inserted into the record.

[The prepared statement of Mr. and Mrs. Reeves follows:]

TESTIMONY BY DON AND BARBARA REEVES,

ACCOMPANIED BY PHIL SHENK,

ON BEHALF OF THE FRIENDS COMMITTEE ON NATIONAL LEGISLATION

BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

ON S.1214, INDIAN CHILD WELFARE ACT OF 1977

AUGUST 4, 1977

We are Don and Barbara Reeves, Quakers from Central City, Nebraska. I am currently legislative secretary for the Friends Committee on National Legislation, here in Washington, D.C. We are accompanied by Phil Shenk, an associate in the FCNL assignment.

We appear today in support of S. 1214, the Indian Child Welfare Act of 1977, and to raise certain very minor questions. Our support is both personal and on behalf of the FCNL. No individual or group can speak for all Friends (Quakers).

Barbara and I are the parents of three adopted children, in addition to two hatched in the normal fashion. Our oldest son, Randy, is of Omaha Indian background; Rick and Evelyn, natural siblings, are of mixed Indian and non-Indian background. They were adopted at two and a half to four years of age after state courts had judged that their natural families could not care for them. So far as we were concerned, their "Indianness" was not any direct cause of their coming to our home.

It would seem likely, however, that the difficult straits of these three youngsters derived indirectly from national policies toward Indians as individuals and as identifiable communities.

EARLY STABLE LOVING RELATIONSHIPS

If we have learned from twenty years of parenting, the chief lesson would be the importance of stable, loving relationships during the earliest years of a child's life. Our best guess is that this relationship is nearly independent of cultural or other extra-family circumstances. We would probably add as quite significant an adequate, nutritious diet during these early formative years.

Children deserve to be born into families who want to receive them. The relationship should be interfered with as little as possible during the developmental process. Family stability is probably much more important, and separations probably more harmful, to a child than any benefits derived from being removed to a "healthier environment."

Hence, we are encouraged by the strong emphasis in this bill on being supportive of Indian family stability. If temporary, correctable problems render families

unable to care for children adequately, there should be available supportive community services to enable families to stay together--support payments, homemaking services, family counseling, health care, day care, etc.

COMMUNITIES, TRIBES, CULTURAL VALUES

Such a strong emphasis on family strength and stability does not preclude, and is almost certainly enhanced by, pride in a particular cultural background. We hold in very high regard, and have tried to share with all our children, many values which grow out of the traditions of the various Indian cultures and endorse efforts of Indian communities to preserve and extend those traditions and values. Being encouraged and enabled to keep children in their own communities is certainly part of that process.

In instances in which children's immediate family may not be able to adequately care for them, we see as most appropriate that decisions regarding their welfare be made by those closest and most concerned for them--the extended family and the tribal community.

While the policies of the United States have vacillated, they have generally looked toward assimilation of Indians into the larger body, and have for considerable periods of time been openly directed at destruction of distinctively Indian traditions and values. Much of what have been termed "causes" of Indian family instability are more correctly judged symptoms of the destruction of the Indians' value systems and tribal structures and of the often direct attacks on Indian family life as part of this process. The suffering of separated Indian families is immeasurable.

We welcome, then, a renewed sense of capability and desire of Indian communities to strengthen families and to deal with child placement problems within their own traditions and value systems.

Likewise, we are encouraged by the Congressional initiative shown by consideration of this measure.

SPECIFIC COMMENTS

SECTION 101. It is our understanding that paragraph (a) will not alter present civil jurisdiction in P.L. 83-280 states. In light of this, we feel that paragraph (b) ought to be clarified to state that (b) is applicable in the case of an Indian reservation which does not have a tribal court which exercises jurisdiction over child welfare matters and domestic relations.

We suggest that paragraph (e) be made to state clearly that its guidelines be applied in paragraphs (b), (c), and (d), so that it is clear that it is the duty of the party seeking a change of the custody of an Indian child to serve the written notice to the tribe.

SECTION 104. What effect would the granting of a child's right to learn the names and last known address of his or her natural parent(s) and siblings have on past commitments of confidentiality made to the natural parent(s) when they surrendered the child? Perhaps the proper forum in which

to balance past commitments made to natural parent(s) with current rights of the child involved would be the appropriate tribal body rather than this Federal body.

SECTION 202. The functions of the family development programs in paragraph (a) should include but not be limited to the eight listed there, in order to allow tribes to expand and/or mold such programs to their own unique situations and priorities.

SECTION 204. In the study by the Secretary provided for in paragraph (a), we think Secretarial discretion should include case by case consideration of the long-range emotional and psychological impact which restoration of custody might have on the child.

We feel paragraph (a) should be strengthened by including provision for the party requesting the Secretary to return a child to appeal the decision in the appropriate U.S. district court in the event of Secretarial refusal to carry out the request, with the Secretary having the burden of sustaining the findings upon which the request was refused.

Further, we feel paragraph (a) ought to include some sort of provision to inform all tribal members of such Secretarial authority. As with all changes in Indian policies, attempts should be made to inform all persons affected of their new or regained rights and responsibilities.

CONCLUSIONS

But, most important, we remind this Committee and this Congress that legislation such as S. 1214 is utterly worthless without adequate funding. The transfer of jurisdiction and accompanying responsibilities effected by S. 1214 will cause an increased work load for tribal governments and court systems. Indian tribes, parents, and children must be guaranteed that the quality of child welfare service they receive does not drop with such a transfer of jurisdiction and responsibility because of Congressional refusal to provide the necessary funds.

In raising this point, we by no means want to imply that questions of justice (e.g., Indian child welfare jurisdiction) should be linked tenaciously with economic considerations. Instead, we mean to remind Congress of its special trust relationship with Indian people and strongly urge Congress to carry out the ensuing responsibilities with complete faithfulness.

We feel this responsibility requires quick passage of S. 1214, coupled with full and adequate funding in subsequent years.

Chairman ABOUREZK. Those are all the questions we have.

We certainly appreciate your testimony and I am very grateful for your appearance.

I have a large number of prepared statements, letters, and other material to be included in the record which I will place in the appendixes.

The hearings are in recess, subject to the call of the chair.

[Whereupon, at 12:35 p.m., the hearing was recessed subject to the call of the chair.]

APPENDIX A—PREPARED STATEMENTS FROM TRIBAL AND INDIAN ORGANIZATIONS

Absentee Shawnee Tribe of Oklahoma

Post Office Box 1747
Shawnee, Oklahoma 74801
Phone 275-4030

July 20, 1977

Senator James Abounezk
United States Senate
Select Committee on Indian Affairs
Washington, D.C. 20510

Dear Senator:

We the representatives, duly elected by the membership of the Absentee Shawnee Tribe, wish to submit the following comments on S. 1214 (Indian Child Welfare Act of 1977) for the record.

But first let us say, thank you for your interest in the American Indian. Throughout Indian Country your name and interests have reached the ears of our people. We cannot fully express our gratitude utilizing this type of communication. But thanks again for your efforts.

Comments:

1. Page 4, line 18, after the word reservation, add; "or Tribal lands in Oklahoma."
   We the Oklahoma Indian, have been considered ineligible too many times because of the wording of Congressional Bills which leave out wording that would include Oklahoma Tribes. As you may recall, our Tribal lands in Oklahoma are not considered reservations.

2. Page 4, line 22, after the word state, add; "Tribe" to prevent misunderstanding of jurisdiction of any non-tribal agency, both enities must understand the authorities of each. We would argue that the tribe should license a non-tribal agency to perform functions and exercise responsibilities in the areas of social services, welfare, and domestic relations, including child placement when such non-tribal agency deals with members of a tribe.

3. Page 5, line 20, after the word "reservation," add "or tribal and/or trust lands in Oklahoma" again the Oklahoma tribes are being left out...

4. Page 6, line 1, same as above. "Must word to include Oklahoma Tribes."

5. Page 6, line 4, after the word reservation insert wording to include tribal lands in Oklahoma or recognize the tribal lands in Oklahoma as reservations.

6. Page 6, line 5, after the word reservation, "include wording for Oklahoma Tribes." (same as items 3, 4, & 5)

7. Page 6, line 10, after the word reservation, include wording for Oklahoma Tribes as in No.'s 3, 4, & 5.

8. Page 6, line 18, comments same as No.'s 3, 4, 5, & 6.

9. Page 7, line 8, comments same as No.'s 3, 4, 5, 6, 7, & 8.

10. Page 12, line 1. Same as above.

11. Page 13, line 4, after the word reservation. Same as above.

These Senator, are our comments and recommendations. We would urge you to give our comments every consideration because a bill as important as this, must be concise enough to include the Indian Tribes of Oklahoma.

In closing, we appreciate the opportunity to comment and would like to state for the record, that we support this bill (S-1214) fully with our recommended changes.

If we can be of any further assistance, please advise.

Sincerely,

Danny Little Axe
Tribal Administrator

John Sloat
Governor

Kenneth Blanchard
Lt. Governor

Darlene Perryman
Secretary

Ruth Musick
Treasurer

Bertha Johnson
Representative

cc: Senator Bellmon
Senator Bartlett
Congressman Jones
Congress Risenhoover
Congressman Watkins
Congressman Steed
Congressman Edwards
Congressman English

AL-IND-ESK-A
1800 Westlake Ave. N., Suite 201
Seattle, Washington 98109
(206) 283-8430

August 3, 1977

Senator James Abourezk
Senate Committee On Indian Affairs
c/o Tony Strong
Room 5331
Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Abourezk:

Attached you will find prepared testimony which I would at this time like to submit for hearings on Senate Bill 1214.

Sincerely,

Gregory W. Frazier
Executive Director

GWF/mp
Enc.

Presentation For:

SENATE SELECT COMMITTEE

ON

INDIAN AFFAIRS

SENATE BILL 1214

Presented By: Gregory W. Frazier
Executive Director
AL-IND-ESK-A

Senator Abourezk, Members of the Committee, and Staff Members, my name is Gregory Frazier and I am the Executive Director of the AL-IND-ESK-A Corporation. The AL-IND-ESK-A Corporation is the non-profit arm of the 13th Regional Corporation, one of thirteen such corporations formed under the Alaska Native Claims Settlement Act. I sincerely appreciate this opportunity to address the Senate Select Committee on Indian Affairs regarding Senate Bill 1214.

We would strongly encourage the Senate to pass this much needed piece of legislation and make available to the Indian tribes and organizations throughout the United States and Alaska monies so that they may carry out the intents of the Act. I believe the hearings of April 8th & 9th, 1974, chaired by Senator Abourezk, pointed out the necessity of such a piece of legislation and the problems confronting the Native American and Alaska Native families in the absence of such. The States are not addressing this problem in a realistic manner and the federal responsibility should not be placed upon the States.

I personally administered a Research and Demonstration project carried out under a grant from the Office of Child Development. This project was to research and demonstrate an alternative to foster care for Indian children within the Seattle area. That project was highly successful in that we were able to maintain the family units of nearly one hundred families under the alternatives program. I feel fairly confident in saying that had such a program or project not been available to these

families, better than eighty per cent of them would have been broken up on a permanent basis. As the project neared an end, like all research and demonstration projects do, we turned to the State of Washington under Title XX and asked that the Indian organization, in this case the Seattle Indian Center, be allowed to contract with the State of Washington under Title XX funds to carry out a similar activity on an on-going basis. In our proposal to the State of Washington, we were able to show that the State would be able to save money by having a family maintenance program and that Indian families would be able to find the needed services in order to maintain their family units. Over an eighteen month period the Indian Center was given the bureaucratic shuffle between the local Administrative Offices of the Dept. of Social and Health Services and the State Offices in the State capitol. We were told to re-write the proposal seven times and the State directed us to submit the proposal to the local office and the local office in turn suggested that we should deal with the State office.

While the Indian Center jumped through the hoops being presented by the State, and dealt in good faith, it is not my opinion that the State ever intended to re-direct funds that it was currently utilizing to maintain staff in their foster care offices for the purposes of contracting with an urban Indian organization, regardless of the merits of the project or its projected outcome. We were given verbally some of the reasons for this, such as state employees' unions would not allow the State to lay off staff therefore freeing up the funds to contract with

an outside organization to provide much the same services. We were also given the argument that the State was at ceiling with respect to its Title XX fund. Therefore, to contract with the Indian Center to provide this particular service would mean the State would have to cut bakc some of its services to free up the available dollars. No new Title XX dollars could be expected from HEW because of the limitations placed upon the State.

The Indian Center. recognizing the paper exercise we were going through with the State of Washington, started to pursue private areas for funding of our project for foster care placement, foster care home licensing, and counseling activities. We were successful in eventually securing funding from a private foundation to develop such a capacity within the Seattle Indian Center, and thereby became one of the first Indian child placing agencies that was licensed by the State office to recruit and license Indian foster homes and place children in such within the Northwest. The Indian Center currently has such a license and is actively recruiting and licensing foster homes that meet or exceed State standards. After the project was developing the State started to hire some Indians to work within the State offices to go out and recruit Indian foster homes which I believe is still on-going.

How the State can justify these activities is difficult to comprehend when they originally said they had no funds by which they could contract, but they then in turn hired additional staff within their offices for the same such service. I often got the feeling that the State was

embarrassed by the fact that an Indian organization was able to seek out funds to develop and activity that the State should justifiably be doing itself and we thereby necessitated the State's actions. The long range question is whether or not the State would maintain such an activity if the Indian Center did not continue in its function as competition down the street. Of course, such is reality if the funding were to be reduced or disappear for the Indian Center's project.

As pointed out in the hearings held by Senator Abourezk, Indian children are faced with an incidence of placement rating anywhere from five to twenty-five times higher than non-Indian children in the United States. Approximately 250 Alaska Native children within the 13th Regional Corporation's membership are now not residing with their natural parents. These children are spread throughout the United States and are currently subject to the varying policies and activities of a wide variety of State agencies throughout the country. Without funding, as would be provided by Senate Bill 1214, there is little if anything that we as an organization can hope to do to prevent the break up pf these non-resident Alaska Native families or to re-unite the families. By allowing these things to happen the federal government has ignored its responsibility as a trust agent for Natives and assumed that the States would assume that responsibility. Such has not been the case; just the opposite has happened, and in many cases the States have become over-zealous in an effort to break up the families and assimilate the Natives into the non-Native culture. I believe Senate Bill 1214, if passed and

amply funded, would facilitate the return of that trustee-ward relationship and take the opportunities away from the States to impose their value judgments and policy. Again, I would strongly recommend the passage of Senate Bill 1214.

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
P. O. BOX 248
BETHEL, ALASKA 99559
TELEPHONE 543-2238

8/10/77

Senator James Abourezk
Chairmen
United States Senate
Select Committee on Indian Affairs
Washington,D.C. 20510

Dear Senator,

I have just returned to my office after a month long absence to find a copy of Senate Bill 1214 and your letter requesting information on the removal of indian children from the custody of their family or relatives. I prepared some comments about the bill as it applies to the area of Alaska served by our law office. I hope you will consider them when pondering alterations of the Bill even though they are submitted late. The comments are enclosed with this letter.

Sincerely,
Alaska Legal Services Corporation
Daniel N. Branch
Daniel N. Branch
Attorney at Law

General Comments

The Bethel Office of Alaska Legal Services Corporation provides free legal services to all people coming within our economic guidelines in Bethel and the surrounding Yukon-Kuskokwim delta area. Almost all of our clients are Yupik Eskimos or Athabaskin Indians; people directly effected by Senate Bill 1214. A good deal of our cases concern child custody disputes, adoptions, and attempts by agencies to terminate parential rights. Senate Bill 1214 will therefore have a tremendous effect on our practice, our clients, and the rest of the people of the Yukon-Kuskokwim delta.

Overall, the bill should have a favorable effect upon the people of the area, especially the provisions of title two. However, much of title one assumes the existance of an effective tribal structure in the native villages that simply does not exist in the Yukon-Kuskokwim delta. In general the Yupik people rely upon cooperation among extended families for decision making. Today, the village council is usually the focus of this cooperation. But the village councils and the villages themselves are creatures of the American settlement of Alaska, and are of relatively recent origin. They were formed when the territorial government built schools and forced native children to attend them. The conflicts created by forcing together several extended families still exist in many villages today. Even when these conflicts are overcome or resolved, the village council would not have the resources to protest the illegal or improper placement of an indian child even if notice of the placement were served on it by the placement agency as required by sections101(c) and 101 (d) of the bill. Therefore it is very important that Section 202(a) of the bill be enacted. Without it, the goals of the bill cannot be accomplished in the Yukon-Kuskokwim delta.

In addition, the bill should also provide funds for legal counsel for each village. At present these villages lack legal counsel and can not afford to pay a private lawyer. Alaska Legal Services Corporation does not represent villages because of the possible conflicts of interest such representation would create.Without legal representation, the village council would not be able to intervene on behalf of the parents in a placement.

Specific Comments on Sections of the Bill

Section 101(c): This is an important provision that should be enacted. However, for reasons mentioned above, it will not be effective unless section 202(a) is enacted.

Section 101(d):Positive section.

Section 101(e):Positive section

Section 102(a): The Yupik eskimo people have traditionally recognized informal native adoptions, in which the natural parent of a child will give the child to another family to

raise. Sometimes the expressed intention of the natural parent is that the arrangement should only be considered temporary. In other cases the natural parent intends the arrangement to be permanent. In almost all cases, the child knows it's natural parents as well as his adoptive parents. In most cases both sets of parents remain interested in the child and contribute to its upbringing. Both the natural parents and the adoptive parents would be adversely effected by the placement of the subject child. Section 102(e) of the bill would only protect the adoptive parents of the child if he/she is a blood relative, and not the natural parents. Conversely, if the adoptive parent were not a blood relative, only the natural parent of the child would receive the protections of the section. The wording of the bill should be corrected to prevent this discrimination.

Section 102(b): This is an excellent provision.

Section 102(c): Excellent provision.

Section 103(a): This is an excellent provision. In Alaska, where there is a great difference between urban and rural native life-styles, placement agencies tend to favor placements in urban settings where they feel the child will receive more opportunities. This reflects a cultural bias on the part of the social workers staffing the placement agencies who, for the post part are non-natives. The legal requirement of Section 103(a) will help nullify this bias.

I was involved in one particular case where my client's daughter went from a native village on the Bering Sea coast to a institutional home in Anchorage.

The reason why the daughter was placed in the home was because she was mentally retarded. While there, she became pregnant. She told her mother that she would bring the baby back to the village after it's birth. The mother waited patiently for the baby's arrival. In the meantime, the institution's counselor apparently talked her into giving the baby up for adoption to a state adoption agency for placement with a non-native home. The daughter agreed with the counselor and gave the baby up. By the time the mother contacted our office the adoption had been entered and it was too late to do anything. Section 101 and 103(a) would have help avoid this result. My client, who was prepared to offer the child a good home, was very disappointed.

Section 103(b): Excellent provision.

Section 202(a): Overall this is an excellent idea. It is necessary if the goals of the bill are to be obtained.

Section 202(c)(2): I think that a provision should be added to this to provide for a shelter for battered wives and children.

In Alaska and the Yukon-Kuskokwim delta, alchoholism is a major cause of family problems. Often, native parents are only binge drinkers. When one or both of the parents go on a drinking binge the children need a place to stay. This is especially important during the cold winter months. The wife of a binge drinker also needs a shelter to escape her husband when he is on a binge. When sober the parents are usually not a threat to their children or each other, and indeed show the children great affection and love. The establishment of such centers will help preserve the intergrity of the native family.

Section 204(b): This is a necessary provision if the goals of the Bill are to be satisfied. Our office has only five lawyers to service the city of Bethel and 57 outlying villages. Often we represent one of the sides in a custody dispute. Due to the ethical rules concerning conflicts of interest we cannot represent any other party to an action. Since the other parties to a custody dispute often cannot afford a lawyer, or have no way to find a private lawyer, they lose by default. In a child placement situation the child and parents may have different opinions about what should be done. Therefore conflicts are sure to arise.

Inuich Ikayuqtaat Siitigulliqaa Pitqurakun

LAW OFFICES OF
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BARROW, ALASKA 99723
TELEPHONE 852-2300

August 3, 1977

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

Re: S. 1214, Indian Child Welfare Act of 1977

Dear Senator Abourezk:

Greetings from the Top of the World. You and your staff are to be commended for making the effort to make so many people acquainted with this legislation and to try and get comments from them. You have even reached this office, which is the most northerly that exists. We serve the North Slope of Alaska. Our clients are almost all Inupiaq Eskimo people. Barrow itself has a population of over 2000, and there are also six villages I serve, which I get to by bush airplane. The nearest law office is over 500 miles south in Fairbanks. In Barrow, the Midnight Sun is shining still.

The Brooks Range forms a great boundary for both geography and the culture of the people. Beyond the Brooks Range are communities of Athabascan Indians and the large, white, towns like Fairbanks. The Arctic conditions on the North Slope make it difficult to provide social services up here. As a result the foster homes, group homes and special schools for children facing personal or family problems are located, for the most part, south of the Brooks Range.

The result is frequently severe problems of cultural adaptation for the kids, and for the foster parents or counsellors. A white professional may see a child as overly shy, when actually the child is displaying the traditional behavior of his culture. The child of one of my clients has been in the Fairbanks area for three years now. We are trying to carry out the wishes of both the parents and the child to bring him back to Barrow for school this year. The father has told me often of his concern about his son: he wants him to be an ESKIMO and not be trained into something else by the well-meaning foster care in Fairbanks. Another boy from Barrow was detained in the Fairbanks jail pending a psychiactric examination. I have been told that it was the first time he had ever been in that kind of facility. And, last week, that boy hung himself in that jail cell. Can't we prevent this kind of tragedy?

Senator James Abourezk
August 3, 1977
Page Two

I was particularly impressed by the language of Sec. 102(b). It is so good to make the standards of parental fitness be those of the native community in which they reside, and not what the white professional books might require. The social expectations in Barrow are vastly different from those in Fairbanks. And the judges and the administration of the social workers involved in these cases are based in Fairbanks.

The Bill as drafted is oriented heavily toward the tribal government and tribal reservation system of the Lower 48. Your staff will need to take some time to include language that will make the Bill more applicable to the situation in Alaska. Perhaps the Regional Corporations or Village Corporations set up under the Alaska Native Claims Settlement Act could be used in place of the Tribal Governments mentioned in the bill. Or, perhaps the Councils set up under the Indian Reorganization Act could be used for this purpose. The Bureau of Indian Affairs uses these IRA Councils in Alaska as the recipients of funds from the federal programs it administers.

I am glad to have been given a chance to make some contribution to the consideration of this legislation by your Committee. I hope it is only the beginning of a dialogue between us!

Sincerely yours,
ALASKA LEGAL SERVICES

Michael I. Jeffery
Supervising Attorney

Boston Indian Council, Inc.
105 SOUTH HUNTINGTON AVENUE
JAMAICA PLAIN, BOSTON, MASS. 02130
Telephone 232-0343-44

September 1, 1977

Senator James Abourezk
Select Committee on Indian Affairs
Room #1105
Dirkson Senate Office Building
Washington, D.C. 20510

Dear Senator Abourezk:

The Boston Indian Council expresses its qualified support for S. 1214, the "Indian Child Welfare Act of 1977" and its vigorous opposition to S. 1928, the "Child Welfare Amendments of 1977."

The qualification affixed to our support of S. 1214 is directed towards the administration and eligibility components of the legislation rather than towards the substantive portions. We are most enthusiastic concerning those sections which insure tribal court, tribal council and family participation at all levels of decision making, since the present system in most instances excludes family members and Indian governing bodies from exerting any influence concerning the future of our children when foster care and adoption determinations are made.

Also, we specifically approve of those sections that provide for the involvement of Indian organizations in the areas of family development and child protection. In a geographic location such as Boston where most of the Indian people come from reservations hundreds of miles away, the local Indian organization is frequently the only place to which an Indian family can turn in time of need.

Although we agree with the program provisions outlined in S. 1214, we must object to S 4 (a), (b) and (c) and S 201(c) which, if enacted, would constructively deny benefits of the bill to those Indian people currently living in Boston. Of the approximately 4,000 Indian people presently residing in the Greater Boston area, 75% are Mic Mac people who have come from reservations in Eastern Canada. These people are highly cultural with most being able to speak the Mic Mac language, yet because their original homes are in Canada, they are not eligible for services provided by the U.S. Bureau of Indian Affairs. Were the

(2)

Secretary of the Interior to administer this program, a group of Indian people who are particularly vulnerable to the state welfare system because of their citizenship status would be ignored. To deny the protection which this legislation affords to Mic Mac people who have suffered greatly is unconscionable, therefore, we recommend that the legislation be altered giving the Secretary of Health, Education and Welfare the authority to implement the act through the Administration for Native Americans. Such a change would abrogate the jurisdictional barriers which the bill in its present form creates and permit access to all Indian people who suffer from discriminatory child welfare practices.

Noting that the Administration gave assurances in its testimony before your Committee that its bill would be amended to "Formally recognize the role of tribal courts and tribal governments" in the child welfare processess, we still find S.1928 to be inadequate to meet the severe and very unique difficulties that Indians encounter with the current system. As badly as the present system needs a general overhaul to better meet the needs of all children, any legislation which fails to recognize that Indian children are taken away from their families at a higher rate than non-Indian children, and neglects to emphasize the development of a comprehensive program to insure that Indian people have the capacity and the authority to provide better care for our children, will have little impact upon the crisis which now exists.

Sincerely,

Clifford Saunders,
Executive Director

Central Maine Indian Association Inc.

95 Main Street

Orono, Maine 04473

(207) 866-5587 — 866-5588

18 July 1977

Senator James Abourezk, Chairman
Senate Select Committee on Indian Affairs
Senate Office Building
Washington, D. C. 20510

Dear Senator Abourezk:

The Central Maine Indian Association and Boston Indian Council have jointly developed a Research and Demonstration proposal dealing with child welfare practices, particularly aimed at foster care in Maine and Massachusetts. A copy of the program proposal in attached for your review and dissemination.

The data and facts outlined in the program narrative bear out the seriousness of the problems Indian people have encountered in foster care here in Maine and Massachusetts.

Also, C.M.I.A. has enclosed comments on your bill (Senate Bill 1214) titled "The Indian Child Welfare Act of 1977," which I understand is going to a committee for public hearing on 28 July.

C. M. I. A. would ask that you consider these comments and any data we present in the program proposal as part of your presentation and documentation.

Yours in Brotherhood,

Mike Ranco

Mike Ranco
C.M.I.A. Program Coordinator

MR/dlr

MEMO: INDIAN CHILD WELFARE ACT OF 1977 - S 1214
Legislation sponsored by Senators:
Abourezk, Humphrey, and McGovern

TO: Senator Abourezk

FROM: Mike Ranco, Program Director
Central Maine Indian Association
95 Main Street, Orono, Me. 04473

David L. Rudolph, Planner & Reviewer

DATE: 20 July 1977

The Indian people of Maine greet with much appreciation this proposed legislation. Pages 9 and 11 contain extremely important materials in that non-Indian standards are the standards applied in the determination of abuse, foster housing, etc. Also, it is now a very important factor that the child will be represented, as well as the parent, but especially by an Indian counsellor.

It is also appreciated that off-reservation Indians (organizations) receive considerable emphasis. This is especially true when 62% approximately of the Indian population lives off-reservation. There are some reservations regarding this matter which are clarified below. Several other pluses are reviewed with considerable interest:

1. Indian family development program.
2. Indian family defense program.
3. Enrollment of adopted child into own tribe; etc.

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(e) "American Indian or Indian" means any individual who is a member of a descendent of a member of a North American tribe, band, or other organized group of native people who are indigenous to the continental United States or who otherwise have a special relationship with the United States or a State through treaty, agreement, or some other form of recognition. This includes any individual who claims to be an Indian and who is regarded as such by the Indian community in which he or she lives or by the Indian community of which he or she claims to be a part. . . .

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Any definition falling short of that included in the O.N.A.P. regulations is discriminatory and therefore in violation of the U. S. trust relationship established for all Indians. (Cf. Jay Treaty, 1790 Non-Intercourse Act, etc.), especially due to the inclusion of such language as "federally recognized."

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care application, indicates that in Maine the vast majority of placements occur among members of this population.

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One other thought: missing is any mention of family reunification. This is rapidly becoming a major emphasis of all family/child welfare and this language should be included.

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MEMO: S 1214 - Page 6

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EDMUND S. MUSKIE
MAINE

United States Senate
WASHINGTON, D.C. 20510

August 2, 1977

Mr. Mike Ranco
Program Director
Central Maine Indian Association, Inc.
95 Main Street
Orono, Maine 04473

Dear Mr. Ranco:

Thank you for your letter of July 22, 1977 regarding the Indian Child Welfare Act of 1977, S. 1214.

The Select Committee on Indian Affairs has scheduled a hearing on the Act for Thursday August 4th. I have asked Senator Abourezk to include your comments in the hearing record.

I appreciate your bringing this legislation to my attention and will give your comments very careful consideration.

Sincerely,

Edmund S. Muskie
United States Senator

cc: Senator James S. Abourezk

MEMO: INDIAN CHILD WELFARE ACT OF 1977 - S 1214
Legislation sponsored by Senators:
Abourezk, Humphrey, and McGovern

TO: Senator Abourezk

FROM: Mike Ranco, Program Director
Central Maine Indian Association
95 Main Street, Orono, Me. 04473

David L. Rudolph, Planner & Reviewer

DATE: 20 July 1977

The Indian people of Maine greet with much appreciation this proposed legislation. Pages 9 and 11 contain extremely important materials in that non-Indian standards are the standards applied in the determination of abuse, foster housing, etc. Also, it is now a very important factor that the child will be represented, as well as the parent, but especially by an Indian counsellor.

It is also appreciated that off-reservation Indians (organizations) receive considerable emphasis. This is especially true when 62% approximately of the Indian population lives off-reservation. There are some reservations regarding this matter which are clarified below. Several other pluses are reviewed with considerable interest:

1. Indian family development program.
2. Indian family defense program.
3. Enrollment of adopted child into own tribe; etc.

However, the members of this off-reservation group have significant concerns regarding several major provisions. These occur specifically in Section 4 (a), (b), and (c) definitions.

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SENATE BILL 1214
HEARING: August 4, 1977, Washington, D. C.

As I have been called upon by the Cheyenne River Sioux Tribe of South Dakota to testify in these proceedings regarding Senate Bill 1214 known as the Indian Child Welfare Act of 1977, the Cheyenne River Sioux Tribe then presents the following:

When a law is made encompassing Indian people and Indian Tribes on a national level it appears to be an enfringement and erosion of Tribal sovereignty. Also when a national law is passed the Congress of the United States then in effect is saying that all Indian people and Tribes are the same. This has gone on for generations. All Indian people and all Indian Tribes are not the same and this should be taken into consideration in every law that effect Indian people and Indian Tribes. The Cheyenne River Sioux Tribe reaffirms and believes in the concepts set forth in Senate Bill 1214, but not until reaffirmation that Tribal sovereignty will not be infringed upon. It is then the recommendation of the Cheyenne River Sioux Tribe that the Bill should state that Tribal sovereignty will not be infringed upon and that Tribal standards and Tribal laws will take precedence over Senate Bill 1214. If the above can be accomplished the Tribe will therefore accept with the following revisions the passage of this bill:

Within the section, Declaration of Policy, Section 3: it states "to discourage unnecessary placement of Indian children in boarding schools for social rather than educational reasons". We feel that children should remain with their natural parents but in some cases this cannot be accomplished. However, the attendance in boarding schools for the Indian people has been a long standing tradition for many Indian families. This sentence in the Bill must be clarified

as to whether all attendance at boarding schools should be disapproved. Finally, it may be an enfringement upon the rights of the parents to send their children to schools they choose and it may also be an enfringement upong the rights of the student to attend a school that they want to attend. We believe too many times Agencies and parents utilize boarding schools as institutional placements, as emergency child care centers, etc., and for one reason or another want their child to attend a boarding school. These reasons can be from too many children in the home, not enough subsistence to go around.

On another level it would not be necessary to send children to boarding school if proper schools were available on a local level. As a result students will not want to attend boarding school or have the necessity to attend boarding school.

Under Title I Child Placement Standards Section 101: (d) the bill should make very strong statements regarding the Tribes ability and capability of self-determination. Line 16, 17, 18 & 19, "This section should not apply if the Tribe has enacted or will enact its own law governing private placements. Section 102: (b) Line 3, 4, 5 the bill addresses itself to testimony in court, it states in part that evidence including testimony by qualified professional witness is required. We have experienced instances when the Indian Health Service personnel has refused to testify in cases involving child abuse, citing an antiquatedIHS policy. We recommend that the names of these agencies involved with Child Protection be specified including the BIA, Indian Health Service, State, local, and Tribal agencies.

Under the same Section 102: (b) Lines 13 through 17 we disagree with the statement relative to evidence presented to the Tribal Court regarding misconduct and alcohol abuse of the natural parents. Furthermore, it states that it shall not be deemed primary evidence that serious, emotional damage to the child has

occured or will occur. We disagree with the section alcohol abuse or misconduct caused by alcohol abuse should not be utilized as evidence in child protection cases. It is not the consumption of alcohol but the abuse of such substances and the subsequent effects of the abuse. An illustration would be when a family on a fixed income utilizes substantial portion of that income on the purchase of alcohol. The result of such purchases being the deprivation of subsistence of the children in the home.

Under Title 1 Child Placements Standards Section 101: this section implies that all Indian Child Welfare activities must go through the Tribal court. We feel that if all matters pertaining to Indian welfare must go through the Tribal court then our Tribal court system must be shored up in terms of more funds to hire juvenile staff, more juvenile judges and probation officers, etc.

Under Title II Indian Family Development, Section 201: it is postulated that children in long term foster care placements will be returned to their natural families if legal system was not properly utilized.

We would object to this because of the possible tramua that would be experienced by the foster child. If it can be proven that the child wants to return to the natural home and that no irreparable emotional or physical damage would occur, then it is acceptable.

Lastly, we firmly believe and support the concept of Indian family development and concur wholeheartedly with the funds that will be appropriated for such activities.

Testimony of Mr. Virgil Gunn, Chairman of the Health, Education, and Welfare Committee of the Colville Business Council, before the Senate Select Committee on Indian Affairs, on S. 1214, a bill "To establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes".

Mr. Chairman, and members of this Committee, we appreciate the opportunity to offer our comments on the "Indian Child Welfare Act of 1977". My name is Virgil Gunn, and I'm presently the Chairman of the HEW Committee for the Colville Reservation. Within the framework of our Tribal Council form of government, the HEW Committee has responsibility for matters such as those outlined in S. 1214.

If enacted into law, the Bill would accomplish the following:

(1) Procedures would be established and standards would be set which would govern the placement of Indian children in foster or adoptive homes to allow the children to grow up in settings that uniquely reflect the cultural values of a Tribal or Indian heritage, AND

(2) Tribes would be assisted in the establishment, operation, and management of programs aimed toward the promotion and <u>maintenance</u> of viable Indian family structures.

History bears testimony to the situations found within Indian Country which S. 1214 attempts to remedy: The removal of Indian children from their natural homes and cultural settings which is a crisis of national proportions that adversely affects Tribal long-term survival and produces damaging social/psychological effects on many Indian children;

with few, if any, exceptions, the non-Indian public and private agencies and state courts have no sympathy for, nor any understanding of, the Indian culture and it's unique role in Indian family relationships; and the full magnitude of the problem cannot be appreciated given the present idadequate record keeping system.

SECTION BY SECTION ANALYSIS:

(1) The removal of Indian children from their cultural setting has severe and long-lasting impacts not only on a tribe's ability to survive, but, too, it adversely affects the child's social and psychological well-being; and

(2) Non-Indian public and private agencies lack the werewithal in most instances to deal with the various "intangibles" which embrace the Indian family and tribal relationships.

S. 1214 attempts to rectify that situation in the following manner:

Title I, entitled "Child Placement Standards." requires, among other things:

(a) placement of a child pursuant to an order of a tribal court where such courts do exist:

(b) in cases where no tribal courts exist, placement can take effect only if the affected tribe is given written notice and has been provided the right to intervene in any proceedings;

(c) where the child is a non-resident or is not domiciled on a particular reservation, the placement cannot take effect unless the Indian tribe of which the child is a member or

is eligible for membership, has written notice and has the right to intervene in any proceedings;

(d) removal of a child from parental custody or from the custody of adoptive Indian parents or blood relatives cannot take place absent written notice to the tribe of which the child is a member or is eligible for membership;

(e) a party seeking to change the custody of an Indian child must provide written notice to the appropriate tribal official.

Section 102 requires that no placement of an Indian child can take effect unless 30 days written notice as well as a right to intervene and to be represented by counsel or a lay advocate is granted to the natural parents or blood relatives.

The burden is on non-tribal agencies to show that alternative remedial and rehabilitative programs and services designed to prevent the break-up of the Indian family have been made available and have proved unsuccessful.

Additionally, it must be shown beyond a shadow of a doubt, supported by clear and convincing evidence, that continued custody of a child in his parents, adoptive parents or blood relatives will result in emotional or physical damage--the standards to be applied in making that determination shall be those of the Indian community in which the affected parties reside.

Where consent has been given for the loss of custody either permanent or temporary, placement cannot take effect absent a judicial determination that consent was freely and knowingly given.

In adoption of non-adoptive placement, consent can be withdrawn and render that placement ineffective.

Adoption decrees cannot take effect until after ninety days have lapsed following the initial grant of consent.

Placement of an Indian child cannot take effect unless the child has been represented either by counsel or a lay advocate.

Section 103 establishes the order of preference non-tribal agencies must follow in placing an Indian child up for adoption.

Section 104 grants an adoptive Indian child, upon reaching the age of majority, the right to know the name and last know address of his natural parents and siblings as well as the tribal affiliation.

Section 105 states that full faith and credit must be extended to the laws of any Indian tribe involved in a proceeding under this Act and to any tribal court orders issured in such proceedings.

Title II, entitled "Indian Family Development," authorizes the Secretary of the Interior to make grants or to enter into contracts with Indian tribes to assist them in establishing and operating Indian family development programs and in the preparation and implementation of child welfare codes.

The Secretary of HEW is authorized to cooperate in the establishment, operation, and funding of off-reservation family

development programs.

Section 204 authorizes the Secretary of the Interior to undertake a study of the circumstances surrounding Indian child placements which have occurred during the sixteen years preceding the effective date of this Act where such children affected are under 18 years of age.

Where placement is determined to have been done invalidly, habeas corpus proceedings may be instituted on behalf of the natural or adoptive Indian parents or blood relatives.

Indian family defense programs are authorized.

The Secretary is authorized and directed to collect and maintain records in a single central location of all Indian child placements are affected after the date of this Act or are the subject of the study required under subsection (a) of this section.

The Secretary of the Interior is authorized and directed, after consultation with the tribes, to promulgate such rules and regulations as are necessary to implement the provisions of this Act.

In its present form the bill attempts to vest the authority in the concerned tribal governments to decide whether the Indian child needs to be removed from his or her home and the manner in which that child should be raised.

Presently, these decisions are being made by a combination of public and private social service agencies and court systems which are inherently biased to reflect the cultural setting of the decision maker.

Federal courts, and to a certain extent, some State courts, have tended to recognize the crucial place which the issue of child custody hold in the framework of tribal self-determination:

"If tribal sovereignty is to have any meaning at all this juncture of history, it must necessarily include the right within its own boundaries and membership to provide for its young, a sine qua non to the preservation of its identity." Wisconsin Potowatomies of Hannaville Indiana Community v. Houston, 396 F. Supp. 719, 730 (W.D. Mich., 1973).

That issue of maintaining tribal identity is the controlling one.

In a recent New Mexico case concerning a Navajo child situated off the reservation in Gallup, N. Mex., it was argued that the Navajo tribal court is the appropriate forum to determine custody:

"Child rearing and maintenance of tribal identity are 'essential tribal relations.' By paralyzing the ability of the tribe to perpetuate itself, the intrusion of the State in family relationships * * * and interference with a child ethnic identity with the tribe of his birth are ultimately the most severe methods of undermining retained tribal sovereignty and autonomy." (In re the Adoption of Randall Nathan Swanson, Amicus Curae Brief No. 2407).

In Fisher v. District Court -US.-, 47 L.Ed 2d 106 (1976), the United States Supreme Court affirmed the jurisdiction of the N Northern Chyenne Tribal Court to make custody determinations in the face of a challenge to have such jurisdiction taken by Montana State courts. Since Montana had not acquired jurisdiction over Indian country pursuant to Pub. L. 83-280, and the action arose on the reservation, the Supreme Court characterized the tribal court's jurisdiction as exclusive.

This extension of jurisdiction over the reservation to a State is by no means fatal to a tribe who wished to undertake the child placement and family development programs on its own.

In Bryon v. Itasca County, -U.S.-, 48 L. Ed 2d, at 712, n.14, the court noted that Federal policy focused upon strengthening tribal self-government, citing in its support the Indian Financing Act of 1974, 18 Stat. 77, 25 U.S.C. § 450, et seq.

Nowhere is there a more clearer expression of Federal policy regarding Indian self-government where Congress found that:

"* * * the prolonged Federal domination of Indian service programs has served to retard, rather than enhance, the progress of Indian people in their communities by depriving Indians of the full opportunity to develop leadership skills crucial to the realization of self-government, has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities." (25 U.S.C. § 450 (a)(1)).

*Additionally, Congress noted that " * * * the Indian people will never surrender their desire to control their relationships both among themselves and with non-Indian governments, organizations and persons." (25 U.S.C. § 450 (a)(2)).*

In that same section Congress made a declaration of policy to "respond to the strong expression of the Indian people for self-determination" and declared its commitment "to the maintenance of the Federal Government's unique and continuing relationship with a responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy."

In consideration of the foregoing we think it reasonable to assume that the implication lies strongly in favor of a tribe to establish, operate, and maintain its own child placement program, if it so desires, notwithstanding the existence of state jurisdiction over domestic affairs and family relations within an Indian reservation.

If not overtly clear on its face, we feel that controls of some sort are needed to insure that state courts and private groups and agencies comply with the provisions of the bill regarding child placement and adoption proceedings. The tribe stands ready, as I am sure other tribe and Indian organizations are, to work with the Committee to draft language to strenghen the provisions to insure compliance with S. 1214 so that the intent of this bill is fully implemented.

The following are some of my personal comments on S. 1214 in relation to Indian children that would be under the Bill should it be passed and made into law.

I am a Social Work Assistant for the Colville Indian Agency, Bureau of Indian Affairs, at Nespelem, Washington. I have worked in the Branch of Social Services, BIA, since mid-1969. Due to my employment with the social service area, I have become quite aware of the situation which our Indian children have been through and are still going through under the implementation of PL 280 status.

There needs to be some standards set by which States would have to abide by in their work with Indian children. With PL 280 status being a reality here on the Colville Reservation, we seem to be caught in a conflict where the end result is that our children are the ones getting the dirty end of the stick. Specifically, the agency responsible for seeing to the well-being of our Indian children, do so with the general criteria of what works best with their concept. Until recently, our children were treated like all other children and placed in foster homes or adoption, without the consideration of their cultural backgrounds and the need for the propagation of their culture. With the passing into State law of the WAC (Washington Administrative Code) inclusion for Indians section, we are just beginning to realize what this really means to us. That the State of Washington, and specifically the Department of Social & Health Service is big enough in their hearts to acknowledge that there is something in this cultural thing the Indians are talking about, is certainly

a giant, if not tremulous, step for anyone to take. As the State goes along through the coming years, the implementation of this new WAC section, will indicate to other states whether this will be a success toward betterment of Indian children; or a big fluke, with our children being the pawns.

S. 1214 passage into law would strengthen Indian tribes as to the responsibilities toward their children's futures. This S. 1214 would put the burden on the states to work hand-in-hand with Indian tribes in placements for foster care or adoption. Too long have various states been ignoring the fact that Indian children do have a culture, do have the right to Indian parents (whether natural or adoptive), and do have the inherent right to grow in their cultural atmospheres without interference from outside forces. Going by past experience, when are the forces-that-be going to realize that we, Indian people, do have a right to be considered as unique, human entities, vested with qualities, psychologically and physiologically, that set us apart from the usual references for other people? Do we have to go for another 200 years struggling to make the peoples of the United States aware that we cultural-based Indians cannot possibly be blended into the "melting pot" of America without losing forever that which makes us unique?

S. 1214 is a positive step toward assurance that there is something in the tribal stance for protection and/or preservation of culture. It is agreed by many tribal leaders and people that our children are our future and our hope that cultural values and aspirations

go on to future generations. Without the acceptance and assurance of cultural continuity, then we will surely see a faltering within this generation of Indian cultural values, this last to the detriment of all, especially our children who are now in foster care and adoptive circumstances, and those in the future, if this isn't looked at closely by everyone.

I don't think I have to go into statistics of Indian children here on the Colville Reservation who are in foster care and adoptive circumstances, to make a clear point as to the urgency of S. 1214 to be implemented. Out of 136 Colville enrolled children placed within the last ten years, 20 known placements went to Indian (enrolled) parents for adoption. There were of the 136 count, 31 KNOWN out-of-State adoptive placements. One of the out-of-State adoption placements has been rescinded. The non-Indian parents (adoptive) could not cope with the Indian children, and so thereby cancelled the adoption! The above numbers are of just the cases our branch is aware of. Through various ways, the State of Washington public assistance and private placing agencies can completely go around the issue and place without contact to that child's tribe, until the action is completed and irreversible. Only on stressing tribal rights and benefits to that tribal enrolled child, have we been able to get cooperation on whether the child is adopted or not. Only within the last few years, have I seen a gradual change to seeing that a child is adopted by their respective tribal people, to where the number of children going to Indian homes is increasing, but still

not as fast as it should be, if the various states were indeed abiding by their new awareness. Right now, here in the State of Washington even with the passage of the addition to the WAC's, we still have a long way to go in resting assured that the State and everyone connected to it and private agencies are honestly and generously giving us back our children by letting the Indian people make the decisions on placements and final decisions.

There are some kinks in S. 1214, but the overall concept is a good one. This could be worked out among the many tribes concerned and with the law-making body as to what could and could not be done. To resist and haggle over various language in S. 1214, would surely cause it not to be passed and we would be trying again within a year or more to get legislation into effect for the protection of our Indian children. There needs to be some legislation come down from Washington, D. C. to impart once and for all the importance of involvement from tribes as to the decisions on the futures of their Indian children, be it foster care, adoption, court wardship, or whatever. The involvement from tribes should be the first thing a state should be required to have before passing a decision on any Indian child.

The assurance to the tribes that they will be assisted in setting up programs toward the protection the tribal familial structures is another positive aspect to S. 1214. Perhaps if this could be done for the tribes, the high rate of Indian children going into foster care or adoption would surely drop considerably. Thank you.

ESTABLISHED BY THE
TREATY OF JUNE 9, 1855
CENTENNIAL JUNE 9, 1955

CONFEDERATED TRIBES AND BANDS
Yakima Indian Nation
POST OFFICE BOX 151
TOPPENISH, WASHINGTON 98948

GENERAL COUNCIL
TRIBAL COUNCIL

RECEIVED
AUG 19 1977

August 12, 1977

Senator James Abourezk, Chairman
Senate Select Committee on Indian Affairs
1105 Dirkson Senate Office Building
Washington, D. C. 20510

Dear Senator Abourezk,

Enclosed, please find the Yakima Indian Nation's statement on S. 1214 which is submitted for the record.

Your consideration of this Statement is appreciated.

Sincerely,

Watson Totus, Chairman
Yakima Tribal Council

Enclosure

STATEMENT OF THE YAKIMA
INDIAN NATION REGARDING THE
INDIAN CHILD WELFARE ACT OF
1977, S. 1214

We would like to take this opportunity to present our views on S. 1214.

Initially we appreciate the efforts of all those involved that have made possible the introduction of this Legislation.

We cannot agree with the classification of Indian Children into three catagories as provided in Section 101. (resides within an Indian reservation; domiciled within an Indian Reservation, or who resides within as Indian Reservation which does not have a Tribal Court; and not a resident or domiciary of an Indain Reservation). The plenary power of Congress is an undisputed axiom and we urge that Congress vest exclusive and original Jurisdiction of Child Placements involving Indian Children with a Tribal Court or the Tribal Governing Body.

This Jurisdiction is the only way a child placement proceeding can accomplish the following:

1. Maintenance of the internal integrity of an Indian Tribe; and
2. Recognition of the Extended Indian Family; and
3. Rendering a determination regarding the rights of a child based upon the records that are maintained at the local level, (realty, IIM, Enrollment and others).

Therefore, we recommend and urge consideration of amendments of the Act.

Title I of the Act should be as follows:

TITLE I CHILD PLACEMENT AUTHORITY.

(a) Original and exclusive jurisdiction of Child Placement Proceeding involving an Indian Child shall be vested with the Tribal Court on the reservation where the Child is member or is eligible for membership.

(b) Original and exclusive jurisdiction of a Child Placement Proceeding involving an Indian Child whose reservation does not have a Tribal Court shall be vested with the Tribal Governing Body where the Indian Child is a member or is eligible for membership.

(c) In recognition of the Sovereign Authority of an Indian Tribe, full faith and credit shall be given to the laws of an Indian Tribe or to the appropriate action of a Tribal Governing Body.

Title II would remain essentially unchanged.

We thank the Senate Select Committee on Indian Affairs for any consideration given to the proposed amendments contained herein.

Crow Creek Sioux Tribe

FORT THOMPSON, SOUTH DAKOTA 57339
TELEPHONE NO. 245-4791
245-4781

ELNITA M. RANK,
CHAIRPERSON
AMBROSE McBRIDE
VICE-CHAIRMAN
NORMAN THOMPSON
SECRETARY
RONNIE KIRKIE
TREASURER

COUNCIL MEMBERS
TERRY BIG EAGLE
MIKE RED WATER
DONNIE McGHEE

August 11, 1977

Senator James Abourezk
U. S. Senate
Washington, D.C. 200

Subject: Senate Bill 1214

Dear Senator Abourezk:

Pursuant to reading the above referenced bill and in accordance with conversations with Janice Edwards, our Tribal Health Services Director who attended the August 4 hearing, the Crow Creek Sioux Tribe would like to offer the following testimony to be included as part at the official record of S1214.

The Crow Creek Sioux Tribe fully recognizes the need for good legislation dealing with the welfare of Indian children. We do, however, have several concerns with S1214 as originally presented.

First, Section 3, Declaration of Policy, should clearly state that the standards being set forth are to govern the manner in which a state interacts with an Indian Tribe in the management of Indian children. Second, with regard to Section 204 (a), by whose standards is the Secretary to determine if a child placement "...was or may be invalid or otherwise legally detective ..."? Additionally, this section, although the intent is good, would not only be difficult to administer but does not provide for Tribal input nor make reference to pursuing the course of action determined to be best for the child.

Contingent upon clarifying the above concerns, the Crow Creek Sioux Tribe heartily supports S1214 and thanks you for your continued concern for the well being of our Indian children.

Sincerely,

Ambrose McBride, Acting Chairman

DNA - PEOPLE'S LEGAL SERVICES, INC.
POST OFFICE BOX 306
WINDOW ROCK, ARIZONA 86515
TELEPHONE (602) 871-4151

PETERSON ZAH
DIRECTOR

NORMAN RATION
DEPUTY DIRECTOR

2 August 1977

Senator James Abourezk
United States Senate
Select Committee on Indian
Affairs
Washington, D.C. 20510

Re: Indian Child Welfare Act
of 1977 S. 1214

Dear Senator Abourezk:

Thank you for your letter of July 18, 1977, requesting comments on the captioned bill. I regret that the press of business has prevented an earlier response, but trust that my comments will be received by you prior to the August 4 hearing on the bill.

Before proceeding to specific comments on the bill, I would like to make the following general points:

1. While the bill obviously has been developed from the best of intentions, it would be yet another insensitive and unwarranted infringement upon Tribal sovereignty. In order to avoid this result there should be a provision which makes it abundantly clear that the Tribes retain their plenary sovereign power to formulate and adopt their own laws relating to questions of child custody in particular and domestic relations law in general. Further, the act should be optional, with its coverage only applying if a Tribe expressly so elects.

2. Based on my experience here in the Navajo Nation, much of the bill is unnecessary. If Congress were to simply enact section 105, then most of the legal questions surrounding child placements would be resolved in favor of the laws of the Navajo Nation and most, if not all, of the abuses would be halted.

3. Similarly, Title II seems to be wholly superfluous. Funding to accomplish the goals of Title II is currently available through Title XX of the Social Security Act. Of course many Tribes are unable to obtain sufficient Title XX funding because of the requirement that these funds be state administered. Thus, it would seem to make more sense to amend Title XX to provide for direct grants to the Tribes themselves. Further, it seems foolhardy to include provisions for new money in this act when it is clear that such new money means almost certain defeat for the act under current federal budgetary restrictions.

As to specific comments, suggestions and criticisms, I offer the following:

1. Section 3 - Declaration of Policy. When will Congress get around to a recognition of Tribal sovereignty over domestic matters? Does the Congress intend to adopt a family law code and impose the same on each tribe. Section 3 needs to deal with these questions in a straightforward fashion by making the act optional and by expressly disclaiming any intent to erode the sovereign power of the Tribes to regulate their own domestic affairs.

2. Title I - Child Placement Standards - The repeated use of the language "except temporary placements under circumstances where the physical or emotional well being of the child is immediately threatened" invites abuse in the interpretation of this bill. Anglos ascribe one meaning to the words while Native Americans ascribe another meaning. Some Navajos might find, for example, that breathing the polluted air of Washington, D.C., presents a far greater danger to a child's physical and emotional well-being than does being left alone in a hogan for several hours. Needless to say, residents of Washington, D.C. will find greater harm in the latter situation.

I understand the reasons for including this exception in Title I, I am merely suggesting that new language be formulated lest you codify the very abuses which you seek to remedy.

3. Section 102. The repeated use of the phrase "in a tribal court, through a lay advocate," both in this section and others, is a mistake. At least here in the Navajo Nation, both attorneys and lay advocates are licensed to practice in the Tribal Courts. The effect of this act would be to require natural parents to use lay advocates even though it may be more appropriate for them to retain an attorney.

4. Section 102(b) contains an inherent contradiction. If the standards of the Indian community are to govern proceedings under this act, why do you enumerate certain kinds of conduct, eg. alcoholism, which are to have lesser importance in determinations made under the act? Why not just let the community itself set the standards. Further, what standards are being referred to in lines 18-21? Social, political, cultural or legal? If legal, what is the role of tribal custom and tradition? Further, this section purports to use an evidentiary standard which does not exist. What is the "overwhelming weight of the evidence"? Why not use "clear and convincing" as the standard throughout the bill?

5. Section 104. I realize that this section simply tries to codify the more modern or enlightened view of adoption law. Nonetheless, there are many people in this community who object strongly to any information being turned over to adopted children at any age. This section also serves as another example of an unwarranted and unnecessary infringement on the sovereign power of the Navajo government to establish and adopt its own law on this delicate issue.

6. Title II - Section 201(a). Why are you using the alternative form "to make grants to, or enter into contracts with"? Recent attempts to ascertain the effectiveness of the so-called Indian Self-Determination Act should more than amply demonstrate the humiliating and destructive nature of federal-Indian "contracts." If there is to be money under Title II, it should be in the form of grants.

7. Section 202. Of course every tribe is "authorized to establish..." They are already authorized to do so by virtue of their inherent sovereign powers. The use of this language here creates the impression that the Tribes can only do these things because this bill allows them to do so. Why not allow the Tribes to determine what programs they need and how those programs should be structured?

8. Section 204(a) raises false hopes. What is the legal standard which will be used to determine if an adoption is "invalid or legally defective." Presumably, the adoption would not have been granted if the process were defective. Does state law govern the inquiry? Tribal law? There is no standard by which the determination is to be made.

My overall feeling about this bill is that it tries to do too much for too many in an inappropriate way. Each Tribe is a distinct entity facing distinct problems. I suspect that the level of support for the bill will vary depending upon which state government a given Tribe confronts on the adoption issue. Hence, my view is that the adoption of Title I, Section 105 along with the amendment of Title XX of the Social Security Act is all that should be done for the moment. If future events indicate a continued need for federal intervention, then it should only be done with the greatest sensitivity for the cultural and developmental diversity of the Tribes as well as the principle of Tribal sovereignty.

I thank you for this opportunity to comment on the bill. Moreover, the community here thanks you for your tireless concern for the well being of Native American people.

Please do not hesitate to contact me if you have any questions or comments about my views on this legislation.

Sincerely,

Eric D. Eberhard
Attorney at Law

EDE/lby

NEZ PERCE TREATY JUNE 11, 1855

NEZ PERCE INDIAN TRIBE OF IDAHO

Nez Perce TRIBAL EXECUTIVE COMMITTEE

Box 305
LAPWAI, IDAHO
83540

Chairman 843-2362
Tribal Office 843-2293
843-2294

JULY 27, 1977

HONORABLE JAMES ABOUREZK
SENATE COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE
WASHINGTON, D.C. 20510

DEAR SIR:

WE ARE SUBMITTING A BRIEF STATEMENT IN RELATION TO OUR SUPPORT FOR SENATE BILL S-1214 WHICH WOULD SET FORTH STANDARDS FOR THE PLACEMENT OF INDIAN CHILDREN IN FOSTER OR ADOPTIVE HOMES AND TO PREVENT THE BREAK-UP OF INDIAN FAMILIES, ETC.

THE NEZ PERCE TRIBE HAS ALWAYS BEEN CONCERNED WITH THE STRINGENT REGULATIONS THAT HAVE BEEN IMPOSED ON INDIAN FAMILIES WHO WISH TO BE LICENSED FOR FOSTER HOME CARE, ESPECIALLY IN CASES WHERE INDIAN CHILDREN ARE INVOLVED, BUT BECAUSE OF THESE REGULATIONS MANY OF THE INDIAN FAMILIES COULD NOT QUALIFY. CONSEQUENTLY, INDIAN CHILDREN ARE MISPLACED AWAY FROM INDIAN HOMES AND THUS TEND TO LOSE THEIR IDENTITY.

THIS ALSO HOLDS TRUE IN CASES OF ADOPTION PROCEDURES. WE HAVE HAD THE EXPERIENCE OF CHILDREN NOT KNOWING OF THEIR ANCESTRY UNTIL THEY BECOME OF LEGAL AGE, AT WHICH TIME THEY LEARNED OF THEIR IDENTITY AND PARENTAGE.

TOO MANY TIMES THE STATE OR FEDERAL AGENCIES HAVE MEASURED INDIAN FAMILIES ON THE SAME BASIS OF NON-INDIAN FAMILIES WITHOUT TAKING INTO CONSIDERATION THEIR CULTURAL BACKGROUND AND VALUES, THUS THE CHILD TENDS TO LOSE NOT ONLY HIS IDENTITY BUT THE PRIDE OF BEING A MEMBER OF THE FIRST AMERICAN.

SO, ITS WITH THIS THOUGHT IN MIND, WE ARE SUBMITTING UNDER THIS LETTER TWO TRIBAL COUNCIL RESOLUTIONS, NP 70-86 AND NP 76-149, WHICH SUPPORT OUR POSITION IN THIS IMPORTANT PROPOSED LEGISLATION.

INASMUCH AS WE HAVE NOT HAD ADEQUATE TIME TO FULLY REVIEW THE CONTENTS OF THE BILL, THIS LETTER AND RESOLUTIONS ARE BEING SENT EXPRESSING OUR CONCERN IN RELATION TO FOSTER HOME AND ADOPTION OF INDIAN CHILDREN. WE WOULD APPRECIATE IF THE SAME COULD BE ENTERED INTO YOUR RECORDS. THANK YOU.

SINCERELY,

ALLEN P. SLICKPOO, CHAIRMAN
HEW COMMITTEE

APS:MS

RECEIVED
NOV 21 1975
NORTHERN IDAHO AGENCY

NP 76-149

RESOLUTION

WHEREAS, the Nez Perce Tribal Executive Committee has been empowered to act for and in behalf of the Nez Perce Tribe, pursuant to the Revised Constitution and By-Laws, adopted by the General Council of the Nez Perce Tribe, on May 6, 1961 and approved by the Acting Commissioner of Indian Affairs on June 27, 1961; and

WHEREAS, the Nez Perce Tribe has always been concerned with the alarmingly high percentage of Indian children, living within both the urban communities and Indian reservations being separated from their natural parents through the actions of non-Tribal Government and State Agencies and being placed in foster or adoptive homes, usually with non-Indian families; and

WHEREAS, the separation of Indian children from their biological families generally occurs in situations where one or more of the following circumstances exist:

(1) The natural parent does not understand the nature of the documents or proceedings involved.

(2) Neither the child nor his natural parent are represented by counsel or otherwise advised of their legal rights.

(3) The government and state officials involved are unfamiliar with, and frequently disdainful of Indian cultures and society; and

(4) The conditions which led to the separation are remediable or transitory in character; and

(5) Responsible tribal authorities are not consulted about or even informed of the non-tribal governmental actions; and

WHEREAS, the Nez Perce Tribe recognizes that the separation of Indian children from their natural parents, including especially their placement with non-Indian families, is socially undesirable, viz., causing the loss of identity and self-esteem, and contributes directly to the unreasonably high rates among Indian children for school drop-out, alcoholism and drug abuse, suicides and crime, not to mention the loss of self-esteem of the parents, and the aggravation of the conditions which initially causes the family break-up, and contributing to the continuing cycle of poverty and despair; and

WHEREAS, the tribe admits that such placement practices by the government and state and other non-tribal agencies subvert tribal jurisdiction and sovereignty.

NP 76-149

NOW, THEREFORE, BE IT RESOLVED, that the Nez Perce Tribal Executive Committee does hereby notify the State of Idaho, Department of Health and Welfare that the Executive Committee will assume the special responsibility of establishing standards and selecting Indian homes for placement of Indian children for foster or adoptive care, and that such state agencies are hereby requested to lend their cooperative efforts toward alleviating the aforementioned problems or conditions, thereof.

C E R T I F I C A T I O N

The foregoing resolution was duly adopted by the Nez Perce Tribal Executive Committee meeting in regular session November 18, 1975, in the Tribal Conference Room, Lapwai, Idaho, all members being present and voting.

ATTEST:

By: Walter L Moffett
Walter L. Moffett, Secretary

Richard A. Halfmoon
Richard A. Halfmoon, Chairman

NOTED:
Superintendent, Northern Idaho Agency
November 26, 1975

NP 70-86

RESOLUTION

WHEREAS, the Nez Perce Tribal Executive Committee has been empowered to act for and in behalf of the Nez Perce Tribe, pursuant to the Revised Constitution and By-Laws, adopted by the General Council of the Nez Perce Tribe, on May 6, 1961 and approved by the Acting Commissioner of Indian Affairs on June 27, 1961; and

WHEREAS, the Nez Perce Tribal Executive Committee has expressed its concern regarding state policies on foster homes and adoption of Nez Perce Indian children; and

WHEREAS, many Indian children tend to lose their true identity and the heritage of the Nez Perce Indians as well as being displaced from their family and blood relatives who are known to be or determined to be responsible and reliable persons in raising a family; and

WHEREAS, it has been noted over the more recent years that there has been an increase of interest in providing foster homes of Indian children and adoptions by non-Indians, especially since initial per capita payments have been distributed to tribal members.

NOW, THEREFORE, BE IT RESOLVED, that the Nez Perce Tribal Executive Committee hereby re-affirms its position in opposition of over looking such Indian families by providing foster homes in non-Indian families.

BE IT FURTHER RESOLVED, that the adopting out of Indian children to non-Indian families is hereby opposed.

RESOLVED, that the appropriate state agencies, the office of the Governor and the office of Bill Childs is hereby respectfully requested to give every favorable consideration in providing foster homes for Indian children with Indian families or the adoption thereof, by Indian families be given priority and that any state policies made contrary thereto, be made flexible with regards to Indians.

NOTED: DEC 19 1969
Acting Superintendent
Northern Idaho Agency

C E R T I F I C A T I O N

The foregoing resolution was duly adopted by the NPTEC meeting in regular session December 9, 10, 1969, in the Tribal Conference Room, Lapwai, Idaho, a quorum of its members being present and voting.

ATTEST:

Jesse Greene
Jesse Greene, Secretary

By: Walter L Moffett
Walter L. Moffett, Chairman

Oneida Tribe of Indians of Wisconsin, Inc.

ONEIDA WISCONSIN 54155

September 8, 1977

Patricia Marks, Staff Member
Senate Committee on Indian Affairs
Room 5331 Birksen Senate Office Bldg.
Washington, D. C. 20510

Dear Ms. Marks,

Enclosed is our tribal statement in support of S.1214, "Indian Child Welfare Act of 1977". It was approved by the Oneida Business Committee on September 7, 1977. I hope it is not too late to be considered.

Sincerely,

L. Webster/dc

Loretta Webster
ONAP Coordinator/Administrator

LW/dc

Enclosure

869-2364 **Community Action Program** 869-2342

Oneida Tribe of Indians of Wisconsin, Inc.

Oneida ROUTE 1 Wisconsin 54155

STATEMENT IN SUPPORT OF S. 1214, "INDIAN CHILD WELFARE ACT OF 1977".

Oneida Tribe of Indians of Wisconsin
Rural Route 4
De Pere, Wisconsin
Purcell Powless, Chairman

With the winning of independence by the New Americans in 1783, the independence of Indian nations, such as the Oneidas of Wisconsin, gradually diminished to its lowest ebb only a few decades ago. And yet, after 200 years, the Oneida people have maintained their identity in spite of social and geographical changes and debilitating government policy--whether prompted by misdirected humanitarianism or poorly disguised greed for our land and resources. Since 1934, when the Indian Reorganization Act was passed and the Oneidas of Wisconsin formed our present government, we have assumed increasing responsibility for the implementation of tribal actions. We have ascertained our own needs and managed federal, state, private and tribal resources and funds available. If it is necessary for us to prove our right and capability to govern ourselves, we have done so through these efforts.

When Indian tribes are not involved in certain decision making processes, the slightly warped view of American Indians, by non-Indian people, has a tendency to increase the injustices committed in the provision of needed services. Youth statistics in Wisconsin will give an indication of what results when misguided assistance is given.

There are 1,343,543 under 21-year olds in the State of Wisconsin. There are 10,456 under 21-year olds who are American Indian

in the State of Wisconsin. Indian youth represent .6% of the total youth population in the State. There are 771 Indian children who are adopted out to non-Indian parents, and 545 Indian children in foster care in non-Indian homes. There are 266 Indian children from Wisconsin in boarding shcools outside the State (schools run by the BIA). There are 443 Indian children in correctional institutions. There are, therefore, a total of 2,225 Indian children under the care of persons outside the Indian community, or 21% of the total youth population in Wisconsin.

With few exceptions, the decision to remove these children from their homes and place them under non-Indian care has been made by non-Indians. It is unlikely that Indian systems would make decisions which would result in 1/5 of its youth being removed from the reservation and placed in situations where quite often their tribal heritage is belittled and the self-esteem of the Indian child is destroyed.

The issue of who decides whether an Indian child needs to be removed from his or her home, and who decides where and how that child is to be raised are basic jurisdictional questions. They are positively answered in S. 1214. Only the tribes themselves can best determine the social needs of the tribe. And only through tribal jurisdiction of social services, such as child placement, will the uniqueness of each tribe's culture be given due consideration.

S. 1214 is composed of two programs--Title I, Child Placement Standards, and Title II, Indian Family Development.

Title I establishes three categories of Indian children: a) Indian children living on an Indian reservation where a tribal

court exercises jurisdiction over child welfare matters and domestic relations; b) Indian children domiciled or living on an Indian reservation which does not have a tribal court, which is the case with the Oneida Tribe of Wisconsin; and (c) Indian children not domiciled or living on an Indian reservation. Our comments only relate to b) above.

1) The Oneida Tribe has no tribal court. Although committees have discussed various alternatives for gaining input into the Child Placement process, no formal procedures or regulations have been designed or accepted by the Tribe. For those Tribes, such as Oneida, that wish to control their Child Placement procedures, it should be required in the legislation that, as a condition to the Federal Funding they receive, non-Indian social service agencies:

- -work with Tribes to develop a plan for transition of Child Placement services to tribal governments;
- -provide training concerning Indian culture and traditions to all its staff who may temporarily or permanently be working in any phase of Indian Child Placement;
- -immediately establish a preference for placement of Indian children in Indian homes;
- -evaluate and change all economically and culturally inappropriate placement criteria so that Indian homes more readily can be licensed.

2) Oneida people already provide unlicensed "foster care" as part of their concern for friends and relatives. Section 101(a) as it is written, might deny parents' rights to make placements of their children , whithout the intervention of a court. Hopefully, this section could be clarified so as not to interfere

with a parent's placement of his/her children with friends or relatives.

Title II, Indian Family Development, provides for the funding of Indian Tribes to establish and operate Indian family development programs. Funding is further authorized to upgrade housing when 1) the housing of Indian foster and adoptive homes is sub-standard; 2) inprovements would enable Indian persons to qualify as foster or adoptive parents under tribal law and regulation, and (3) where improved housing of a disintegrating family would significantly contribute to the family's stability. All of these provisions are relevant and necessary to the Indian Community, and we support them.

We would like to make some final comments on the administration of this legislation. As presently written, the "Indian Child Welfare Act of 1977" would be administered out of the Department of the Interior. Although the services provided by the Bureau of Indian Affairs have long been targets of criticism by the Indian Tribes and Congress, it still is the proper place to administer this program.

With the selection of a new Assistant Secretary for Indian Affairs to head the Bureau, an important step has been taken to resolve management and organizational problems which have blocked efficient provision of services to Indian Tribes. Although the results of this move cannot be felt at the local level, it is hoped that more of the recommendations on BIA reorganization which were put forth by the American Indian Policy Review Commission will be carried out; and that the quality of life services for Indian people will receive proper attention.

PENOBSCOT – PASSAMAQUODDY
TRIBAL PLANNING BOARD
173 MAIN STREET • CALAIS, MAINE 04619 • 207 454-7161 – 454-7162

August 15, 1977

Mr. Anthony Strong
Senate Committee on Indian Affairs
U.S. Senate
Dirksen Senate Office Bldg., room 5325
Washington, D.C. 20510

Dear Tony,

This agency has reviewed the comments of the Central Maine Indian Association on, "The Indian Child Welfare Act of 1977' (S. 1214). We fully endorse the comments and recommendations and urge their acceptance be reflected in the final version of the bill.

Sincerely,

Andrew X. Akins
Executive Director

AXA:cr

Quinault Indian Nation
POST OFFICE BOX 1118 □ TAHOLAH, WASHINGTON 98587 □ TELEPHONE (206) 276-4445
Human Resource Division (206) 276-4417

November 23, 1976

Friends Committee on National Legislation
245 Second Street N.E.
Washington D.C. 20002

ATTENTION: Phil M. Shenk
Student Intern

REFERENCE: S. 3777

Dear Mr. Shenk:

The Quinault Tribe is strongly supportive of the above legislation. As you are probably aware, we reside in a state that has assumed jurisdiction under P.L. 83-280.

Since social service funds are channeled through states for the provision of social services on reservations it is difficult for Indians to compete for federal funds. The provision for family development programs is essential to carry out the intent of the legislation.

The Quinault Tribal Social Service Department and other Indian tribes have played an active role in developing Indian child welfare standards in the State of Washington. These were passed into law on October 27, 1976. I am enclosing a copy so that you may review the sections on Indian Child Welfare Advisory Committees. This is one of the fundamental parts of this piece of legislation. One may want to consider some type of monitoring mechanism being included in S. 3777.

We will be preparing specific testimony prior to the public hearings and will share this with you at a later date.

Sincerely,

Goldie M. Denney
Director, Social Services
Quinault Indian Nation

GMD:et

Enclosure

The SHOSHONE-BANNOCK TRIBES
FORT HALL INDIAN RESERVATION
PHONE (208) 237-0405
FORT HALL BUSINESS COUNCIL
P. O. BOX 306
FORT HALL, IDAHO 83203

August 1, 1977

Senator James Abourezk
Select Committee on Indian Affairs
Washington, D. C. 20510

Dear Senator Abourezk:

The Shoshone-Bannock Tribes strongly support S1214 that was introduced by yourself and Senator Humphrey, Senator McGovern and with Senator Haskell's support the Indian Child Welfare Act of 1977.

Your statements on the bill are accurate in that the Federal Government, under the auspices of the Bureau of Indian Affairs and the Department of Health, Education, and Welfare, have not been active enough in supporting and protecting Indian families.

We have that very situation here on the Fort Hall Indian Reservation, although efforts are being made to correct the matter S1214 will bind the agencies into enforcing necessary regulations in protecting Indian families.

Again, we support your efforts in introducing the Indian Child Welfare Act of 1977 as it is a need by all Tribes thoughout the United States.

Very truly yours,

FORT HALL BUSINESS COUNCIL

Lionel Q. Boyer, Chairman

LQB/vrd

cc: SENATORS: H. H. Humphrey
F. K. Haskell
J. A. McClure
G. McGovern
F. Church

North American Indian Women's Association

720 East Spruce Street
Sisseton, South Dakota 57262
July 25, 1977

Honorable George McGovern
United States Senate
Washington, D. C. 20510

Dear Senator McGovern:

At the 7th Annual Conference of the North American Indian Women's Association in Chilocco, Oklahoma, on June 13-15, 1977, the enclosed Resolution No. 1-77 was adopted regarding S. 1214, to be known as the Indian Child Welfare Act of 1977, if enacted.

Our Association, a non-profit educational organization, was founded in 1970 and two of its stated purposes are: "Betterment of home, family life and community" and "Betterment of health and education." Among our immediate concerns is the welfare of our children. Indian women are increasingly becoming involved in the decision-making process so that we can be supportive of national efforts to better the lot of all Indian people. We are concerned that the proposed Federal standards for the placement of Indian children would impose undue limitations on tribal sovereignty. The standards proposed in the bill would be applicable to all tribes regardless of varying customs and traditions.

The North American Indian Women's Association requests your careful consideration of this and other issues. I was just elected President of this organization and I look forward to working with you on matters that affect the lives of our people across the nation.

Sincerely,

Hildreth Venegas

Hildreth Venegas
PRESIDENT

August 1, 1977

Senator James Abourezk, Chairman
Senate Select Committee on Indian Affairs
Room 5331 Dirksen Senate Building
Washington, D.C. 20510

Dear Senator:

The following recommendations and comments of the proposed Senate Bill 1214 bill result from the joint discussion of the following organizations:

The Phoenix Indian Center
The Indian Adoption Program, Jewish Family Services of Phoenix

The intention of the bill is positive by recognizing the need for consistant tribal jurisdiction over Indian child placements. We support the Indian Family Development--Title II because it provides needed measures to prevent family destruction.

We thought there were several specific issues which were not considered and thought out.

We urge your consideration of these following comments and specific points in question.

Very truly yours,

Syd Beane
Executive Director
Phoenix Indian Center

Ruth R. Houghton
Member, Board of Directors
Phoenix Indian Center

I. DEFINITIONS:

Child Placement.

There are several difficulties with this definition. As it includes both the biological parent and the child's Indian adoptive parent, it may result in conflict between the two sets of Indian parents. Under sections of this bill it could be argued that neither had the right of permanent custody.

Natural Parent

Implies that adoption is an unnatural state. "Biological" parent, if defined separately would be more precise. There is need for a separate definition of the Indian adoptive parent, or in effect a child may have two sets of natural parents.

Temporary Placement

It is possible that temporary placement can exist without the emergency conditions implied in this bill. If only emergency conditions are addressed it may be subject to flagarent abuse, thus subverting the interest of the bill.

Foster Care / Adoption

These two concepts are not addressed separately. Since legal distinctions between the two are usually made in tribal courts and other courts, these should be addressed separately.

Indian / Indian Tribe

These two definitions define each other. There could be difficulties in applying this definition to urban Indians who are full-bloods but whose tribal mixture does not meet the requirements of any one tribe and so are not eligible for membership in any tribe. Although, these definitions project a reasonable attempt to resolve this on-going difficulty.

II. TITLE I. CHILD PLACEMENT STANDARDS.

Section 101 (a) Except for problems identified in the definitions, no real problem.

Section 101 (c) This seems difficult to implement. Would the Supreme Court uphold such an indirect extention of rights of the tribes on to non-reservation lands, to non-reservation court proceedings, and to Indians choosing not to participate in any way in tribal affairs?

Section 101 (d),(e) Toward the end of section (d) tribal enactment of its own law or code are given precedent, which is excellent. Perhaps if this fact were addressed in a separate section emphasizing the sovereignty of tribes, it would complement those tribes with extablished codes. Such a section might be incorporated into or from Section 101 (e).

Section 101 (b) Notification of the tribe, may result in difficulties as indicated earlier in the critique of the definitions of Indian tribe and Indian.

Section 102 (a)

1. What are the rights of the parents in relation to the tribe
2. What are the rigths of privacy? Particularly when the parents do not wish to be identified to the tribe in any way?

Section 102 (b)

1. "Overwhelming weight of Evidence". Should this concept be changed to one of the three usual legal burdens: Perponderance, Clear and Convincing, Beyond a reasonable doubt?

2. "Including testimony by qualified professionals," this phrase may have the effect of minimizing the evidence from non-professionals. "Professionals" should be explained more specifically.

3. "Misconduct, Alcohol Abuse." Definitions for these need to be clarified, perhaps in terms of frequency of occurance and future likelihood.

4. "Standards of the Indian community." This section may prove valuable in involving Indian input, but appears intangiable for law. Some designation of which entities will be involved in determining this might be included.

Section 102 (c)

"Withdrawal of Consent." Too broad, need a compromise. Suggesttion reduce 90 day period. This section is likely to draw dissatisfaction as it may affect the child's likelihood for adoption and especially affect his emotional growth at a crucial time of personality development.

A child's right to have stable and secure parental setting with undue threat of withdrawal of affection must be protected.

Section 102 (d)

1. "Lay Advocate"--add "where so authorized by the tribe."

2. Need a concise distinction of counsel of the child and counsel of the natural/adoptive parent. Is the intention that both of these be one and the same?

Section 103 (b)
Priority placement should favor personal care (by a family) before institutional care. Priority, to be based upon specific recommendations of the tribe. Suggested priority:

To the extended family
To a foster hm of child's tribe, on then off the reservation.
To a foster home of adoptee's race, on then off the reservation.
To a foster home of a non-Indian family on the reservation or in an Indian community.
To a foster home of a non Indian family, off reservation
To an Indian operated institution
To a non-Indian operated institution

It might be in the interest of the tribal courts, where they exist to make a case by case determination, in light of these priorities.

Section 103 (c)
Can this section be upheld? "Pursuant to tribal court order," seems to allow for jurisdiction for foster care, but there are difficulties for any court to extend jurisdiction in adoptions.

Section 104.

Good clause, however, some parents do not wish to have a reunion with the child. If this section is found unacceptable, the authorization of the use of an intermediary to identify and negotiate such a reunion etc. may be an alternative.

III. SUMMARY: Concerns Regarding Title I.

1. Questional extention of tribal jurisdiction: especially in 101 (c) and section 103 (c)

2. Need for more definitions and distinctions: especially between foster care and adoption; and natural and biological parents.

3. What are the rights of the parents when they conflict with that of the tribe? Particularly what assurance can be given parents regarding their rights of privacy.

4. There is need to give more discretion to tribes. The tribal rights of sovereignty should be addressed early in the bill and in a separate section. This concern gives rise to a questioning of the avenue this bill wishes to take. Should authority be given the Secretary of Interior To what extent will this become BIA policy? What kind of governmental unit will end up directing these activities? These questions lead us to the evaluation of Title II of the bill.

IV. TITLE II, INDIAN FAMILY DEVELOPMENT

Section 201 (a) (b) (c). Excellent ideas, concrete and sound.

Section 201 (d) Who will be funded? How are they accountable to the tribes? Who will the applicants for the funding have to compete with--other departments under Interior?

Section 202. Tribes need these activites to facilitate their particular programs. It should enable them to use models from existing programs: Navajo grandparent foster care, Salt River Adoptive Foster Care Program, Phoenix Indian Center Family Services Program, the Indian Adoption Program, and others from throughout the country.

How will tribes be given the best assurance of cultural relevancy in program operation? Will this be guranteed? encouraged? Tribes need to know they can implement the program differently due to vast eco. and social differences.

Item 8, Subsidies. Expand commitment to this section. Allow subsidy for families who might not otherwise adopt, thus expanding beyond foster care subsidy.

Add authorization to use tribal codes for formulating priorities and allow traditional tribal practices to receive a valid role in regulations.

Section 203
Include service delivery programs both on and off reservations who have demonstrated successful work with Indian children and their parents. Also encourage the development of licensed child agencies which are tribally operated and developed, to ease the participation of off-reservation parents and children using state courts.

Section 204 (a) (b)

Eliminate! This section is destructive, harmful and will cause blacklash in identifying parents for Indian children.

"Good cause" Define, it appears that there are few, if any good causes to break up a home after 16 years regardless of the race of the child.

Although this section has a series of "ifs" that place at least five conditions that must be met before a child taken from a home, the opposition to this section is enormous.

To uproot after 16 years is horrible and unjust! The adoption which indicate failure will come to the attention of social service agencies anyway because of the unhappiness and problems. But to unnecessarily uproot children in families is unfair to the family identity, to say the least destroy the children's feelings of self worth, integrity and permanence.

Section 204 (c)

Search for biological parents after age of majority is appropriate and should be given authorization.

Section 204 (d)

By what priority will these funds be expended? Will funds be available to social workers, tribal judges, lay advocates, case aides etc.

V. SUMMARY AND ADDITIONS: Concerns Regarding Title II

1. This section in addressing Indian Family Development, in encouraging the development of Indian programs, and tribal resources as well as Indian community resources is highly commendable.

2. Clarification as to the role of Indians in determining their policies, needs to be made, particularly in allocation processes.

3. Subsidy should be made families wishing to adopt.
(a)

4. Section 204 should be eliminated.

5. Add: Procedures for establishing foster care tracking systems that will assure that children are planned for with the appropriate input from the various Indian communities, and assure that timely and fair action is taken. This would eliminate the dangers of having one person exercising too much discretion in any one case.

6. Add: Some type of regional organization of Indian child advocates, assuring that they are representative of regional differences and tribal variations. These are needed because of high mobility of

Indian families between reservations, Indian communities, and urban Indian centers. The distances between reservations etc. also need to be taken into consideration, along with concerns for individual privacy--these should begin to identify the role of the advocate. The advocates can work with the an Indian placment desk in coordinating and facilitating Indian children in permanent and culturally secure homes.

end.

[illegible]
[illegible]
121 [illegible]
SEATTLE, WA 98101
(206) 624-8700

August 1, 1977

EXECUTIVE DIRECTOR
RONALD W. BONOS

Mr. Tony Strong
Senate Committee on Indian Affairs
Dirksen Senate Office Building
Room 5331
Washington, D. C. 20510

Dear Tony,

Enclosed is the written testimony Seattle Indian Center is submitting in support of S. B. 1214. I would appreciate your efforts to ensure that this testimony is brought to the attention of the Senate Hearing Committee.

Thank you.

Sincerely,

Michael Ryan
Social Services Director

MR/dle

Enclosure

DEAR Senator Abourezk and Committee Members

I welcome with gratitude and pride the opportunity of presenting testimony to this Honorable Committee in support of S. B. 1214 on behalf of Native American people in the State of Washington. We support and endorse S. B. 1214 for the following reasons.

Essentially this Bill directly addresses long standing and unresolved cultural and value conflicts that exist between Native Americans and non-Native Americans in the area of child welfare. This Bill suggests an answer to this dilema and provides the necessary legal and financial mechanisms to implement such an effective solution.

At issue is the fact that Native American child rearing practices and procedures differ culturally, traditionally and philosophically from those supported, sanctioned and imposed upon them by the law of the dominant majority. In practical terms, this means that today Native Americans are forced to accept white anglo-saxon child rearing practices and procedures as the price of keeping their children.

The devastation that the imposition of white anglo-saxon child rearing practices on Native American's has wrought, is among one of the most shameful and disgraceful episodes in the history of America.

Cultures and traditions that were held sacred were uprooted and destroyed wantonly in the name of "progress." A free and proud people had their lands taken away, their sacred traditions trampled underfoot and irreparable damage done to their psyche in all too many instances.

Fortunately today this Committee is attempting to undo past wrongs and repent in the name of their constituents and decent people everywhere for past errors and outrages.

Native American people all over the country are looking with hope and pride to the passage of S. B. 1214 as a vital and necessary step in restoring to the country's first citizens the very basic human rights guaranteed them by the constitution and enjoyed by free people everywhere.

S. B. 1214 simply asks Congress to provide Native American tribes and organizations with the funds necessary to implement their own child welfare programs for their own people in "the light of their own culture and traditions and experience." Our support of S. B. 1214 is based on this concept of self determination. We do not imply that anglo child rearing practices are inferior to Native American methods, we simply contend that a rich diversity of experience and traditions in this area are valid, viable and enriching to the total community.

While we endorse and support the passage of S. B. 1214 in its entirity we are especially pleased with the Bills recognition of the special needs of urban Indians. However, in order to ensure that the growing needs of urban Indians are met we respectfully suggest the introduction of the following two amendments.

1. See 213 be amended "to specifically direct the Secretary to contract with and enter into service agreements with legitimately incorporated off reservation urban Indian organizations for the establishment of Family Development Programs."

2. We also respectfully suggest "the establishment of a monitoring Committee to ensure the equitable implementation of S. B. 1214's intent to meet the needs of both reservation and urban Indians" for the following reasons.

For the past several years Native Americans like other have been forced to leave their reservations to find work in the nations cities. Often, such persons are unskilled, untrained, and unqualified to take their rightful places in a very competitive job market. In addition the trauma of adjustment from reservation to urban living and life styles wrecks its own havoc with the personal and family life of the Native American. Often, frustration with the job market, lack of knowledge of resources and despair causes the head of the household to resort to drink and in effect the abandonment of his responsibilities as head of the household. From circumstances such as these family disruptions begins. Normally in such circumstances state and city courts as well as non-Indian public or private child caring agencies enter the picture. Indian parents are deprived of the custody of their children and the cycle of despair continues. In the State of Washington currently where Native American constitute almost 2% of the populations there are 1200 Native American children in foster care and only one out of every 20 of these children is placed in a Native American foster home. Why?, you may very well ask and the answer is simple. Native American organizations do not have the funding to recruit, license and develop Native American foster homes to meet this need and so the subtle, but effective destruction of Native American people.

In the above contest I am taking the liberty of citing a few examples of what has and is currently happening to some Native American families with whom we have professional contacts. Names and places have been changed to protect the identity of those involved and preserve confidentiality.

> Mary X a 19 year old Indian girl from Eastern Washington had a baby out wedlock. A local non-Indian court in that area deprived her permanently of her child, on the basis of parental incompetence - on the recommendation of a local DSHS worker. This worker further told the girl she would have to leave the reservation and live in Seattle in order to qualify for Public Assistance. This broken girl now walks the streets of Seattle. She is withdrawn, and an alcoholic without hope.

Judy X, now 18 was taken from her mother at age four by a non-Indian court. The mother needed and received residential mental health therapy. Judy was adopted by a single white parent. She is now 18 with the mental aptitude of a 12 year old. She is grossly overweight, a poor achiever in school, has no friends, and is receiving psychiatric therapy, following a suicide attempt. She was led to believe her mother was deceased, which is untrue, but this girl is so involved in attempting to resolve a deep rooted identity crisis that the prognosis for her future is not good.

Kathryn X diagnosed as mentally retarded by a state institution at age 11, was subsequently institutionalized and separated from her reservation family. She had an out of wedlock child at age 15. She then married and had another baby. The court deprived her of both children and they are now adopted by non-Indian families. Kathryn now walks the streets in despair. What does the future hold for this girl?

We present these situations to demonstrate to this Committee the great need that exists for adequately staffed functioning Family Development Programs, in both urban and reservation settings.

In the cases cited decisions both legal and social were made for Native Americans by non-Indian institutions and personnel who did not appreciate Indian family traditions and values. In all these situations a number of Cardinal Indian Cultural values were violated.

1. Parents were deprived of their children without tribal involvement.
2. The extended family concept-sacred to Indians was violated.
3. The persons involved were cut off from their tribe and its support mechanisms.
4. They were subjected to value judgements totally alien to their traditions.
5. When the family and tribal ties were effective severed hope disappeared, despair, futility and rage set in. Indian

lives were introduced to a slow death, but death nevertheless.

In the light of the afore mentioned examples and hundreds of others we could cite from Seattle Indian Center alone, we respectfully suggest that Sec. 103 of S. B. 1214 be amended to ensure "the same order of preference for non-adoptive placements be applied to adoptive placements."

Native Americans both urban and rural need funds to develop and administer Family Development Programs that will meet the personal, social, basic human needs of the Native Americans, while respecting their cultural and traditional values and practices. By the same token any Bill that meets such needs on reservations, but ignores the large urban Native American populations, is deficient in that it will in effect be ignoring the basic human needs of approximately 50% of the Native American population of the country.

Personally we would recommend any strengthening S. B. 1214 to articulate and give to the Secretary the authority and finances to implement Family Development Programs in every urban setting in the nation. We make this recommendation because traditionally Federal offices have contracted with tribes and reservations for such Family Development Programs, while being legally incapable of entering into similar contracts with urban Indian organizations.

A case in point is Seattle Indian Center. The Center was established years ago to meet the social and education needs of urban Indians. Despite the fact that the Center is incorporated as a non-profit organization in Washington State, and has a functioning Board of Directors and by-laws we find ourselves ineligible for Social Services Funds, contractually available to tribes, simply because current laws generally ignore the growing needs of urban Indians, whose population is increasing today and whose needs demand attention.

Seattle Indian Center is a haven of hope for the Social Services needs of a

population of upwards of 17,000 urban Indians who need, foster care, adoptive family planning, emergency assistance, legal, educational, mental health, job training and career planning services.

These Native Americans come to the Center for a multiplicity of services to meet basic humans needs. They know, trust and feel a kinship with the Centers personnel.

What greater demonstration of need for urban human services can we present to this Committee than to tell you that in 1976, the Center serviced directly, and indirectly over 25,000 people. Like migrating ethnic groups over the world. Native Americans always turn to their own people to serve their needs for basic human services. We respectfully ask you to help us who staff Urban Centers all over the country meet this great need by passage of S. P. 1214 and amending it to include the specific needs of urban Indians as outlined above.

Respectfully,

Donald W. Bonds
Executive Director
Seattle Indian Center

DWB/dle

Our People know full well that many of our Indian Children are taken from their families and relatives on the various reservations and from Indian communities in the United States. We also know that most of these children are placed in non-Indian adoptive homes by non-Indian social workers. These Indian Children are being robbed of their culture. Only an Indian family of the same Nation as the child can raise the child in his/her proper cultural ways. Our Indian Children are suffering from this immoral situation of being removed from their People.

I am in basic support of Senator Abourezk's Indian Child Welfare Act of 1977 (S.1214). The Act looks to the immediate welfare of these Indian Children as well as to the protection of their cultural rights. The Act also provides for Indian control over Indian lives. Indian families, Tribal Governments, Tribal Courts, and Tribal and Inter-Tribal organizations would assume the appropriate authority over and responsibility for their children, as it should be. Legal safegards have been written into the Act so that no child can be taken from his/her community and relatives without proper consent. Needed provisions have been made in the Act to help the Tribes provide healthy environments for the children.

However, the Act does not address itself to all Indian People living in the United States. I strongly urge that the bill be amended as follows:

1. Section 4 (a) - "Secretary, unless otherwise designated, means the Secretary of the Department of Health, Education and Welfare." - With this change, the bill would not go through the Bureau of Indian Affairs. Therefore, the BIA criteria would not be used to exclude particular Tribes.

2. Section 4 (b) - The definition on "Indian" should read as follows: "American Indian or Indian" means any individual who is a member or a descendent of a member of a tribe, band or other organized group of native people who are either indigenous to the Untied States or who otherwise have a special relationship with the United States through treaty, agreement or some other form of recognition. This includes any individual who claims to be an Indian and who is regarded as such by the community in which he or she lives or by the community of which he or she claims to be a part.

3. Section 4 (c) - The definition of "Indian Tribe" should read as follows:

"Indian Tribe" means a distinct political community of Indians which exercises powers of self-government.

(over)

4. Section 4 (d) - The definition of "Indian Organization" should read as follows:

"Indian Organization" means a public or private nonprofit agency whose principle purpose is promoting the economic or social self-sufficiency of Indians in urban or rural non-reservation areas, the majority of whose governing board and membership is Indian.

Keeping our Indian Children in their Indian communities protects their cultural and human rights. Therefore, I urge you to give your support and your vote to the Indian Child Welfare Act of 1977 (S.1214) and the proposed amendments in the best interests of our Indian Children.

Thank you,

Jessie R. Gauthier Jr.
name

1901 Jerome A. #4
address

Helena Mt. 59601
city state zip

Chippewa Cree
Tribal affiliation

Ernie
Pete

MAUNELUK ASSOCIATION

P. O. Box 256
Kotzebue, Alaska 99752

Phone
(907) 442-3311
or
(907) 442-3313

August 15, 1977

Mr. Ernest L. Stevens
Staff Director
United States Senate
Select Committee on Indian Affairs
Washington, D.C. 20510

Re: S. 1214
The Indian Child Welfare
Act, "Alaska"

Dear Friend Ernie:

It has been a long time since I last communicated with you or met with you regarding Indian Affairs.

My cousin Buzz Graham used to tell me about you when he was at the Los Angeles Indian Center. Buzz died in Seattle.

I am writing regarding the above reference, S. 1214 "The Indian Child Welfare Act." I have received the copy of the letter sent out by Senator Abourezk today, August 12th, written July 21, asking for comments and recommendations, on S. 1214.

I have read the draft of S. 1214 and concur with the stipulations therein whereby the native children have some voice in their situation.

My prime concern is that in addition to the broad and protective terms of S. 1214, I would request that a specific insertion or amendment be made to embrace the specific needs of Alaska and its natives, because heretofore, the Alaska Natives were included under the terms designed for the natives in the lower-48.

We are faced with another problem here in Alaska, which involves the shortage or limitation of game to the Alaska Natives. By new State Legislation, the Alaska Natives are limited to the number of caribou, deer, moose and black whale. Fires have further deleted the large game.

There will very likely be a food shortage for the natives. Some emergency food supply for the natives this winter is going to have

Mr Ernest L. Stevens
Page 2
August 15, 1977

to be considered and implemented. The natives who are traditionally subsistence providers are forced into a dollar economy and is undergoing some unusual hardship.

Broad accommodations are made for the oil and gas industry and for the sportsmen, at the expense of the Alaska Native and the loss of his natural resources and his land.

Ernie, please do what you can for us.

I came up from Nebraska to operate the Social Services Program for the Mauneluk Association on a contract with BIA.

Sincerely,

MAUNELUK ASSOCIATION

Dennis J. Tiepelman, President

Robert B. Mackey
Social Worker

RBM/bmm

cc: Chuck Greene, Health Director
Mauneluk Association

Dear Senator Abourezk;

Our People know full well that many of our Indian Children are taken from their families and relatives on the various reservations and from Indian communities in the United States. We also know that most of these children are placed in non-Indian adoptive homes by non-Indian social workers. These Indian Children are being robbed of their culture. Only an Indian family of the same Nation as the child can raise the child in his/her proper cultural ways. Our Indian Children are suffering from this immoral situation of being removed from their People.

I am in basic support of Senator Abourezk's Indian Child Welfare Act of 1977 (S. 1214). The Act looks to the immediate welfare of these Indian Children as well as to the protection of their cultural rights. The Act also provides for Indian control over Indian lives. Indian families, Tribal governments, Tribal Courts, and Tribal and Inter-Tribal organizations would assume the appropriate authority over and responsibility for their children, as it should be. Legal safegards have been written into the Act so that no child can be taken from his/her community and relatives without the proper consent. Needed provisions have been made in the Act to help the Tribes provide healthy environments for the children.

However, the Act does not address itself to all Indian People living in the United-States. I strongly urge that the bill be amended as follows:

1. Section 4 (a) - "Secretary, unless otherwise designated, means the Secretary of the Department of Health, Education and Welfare." - With this change, the bill would not go through the Bureau of Indian Affairs. Therefore, the BIA criteria would not be used to exclude particular Tribes.

2. Section 4 (b) - The definition of "Indian" should read as follows: "American Indian or Indian" means any individual who is a member or a descendent of a member of a tribe, band or other organized group of native people who are either indigenous to the United States or who otherwise have a special relationship with the United States through treaty, agreement or some other form of recognition.

3. Section 4 (c) - The definition of "Indian Tribe" should read as follows:

"Indian Tribe" means a distinct political community of Indians which exercises powers of self-government.

4. Section 4 (d) - The definition of "Indian Organization" should read as follows:
"Indian Organization" means a public or private nonprofit agency whose principle purpose is promoting the economic or social self-sufficiency of Indians in urban or rural non-reservation areas, the majority of whose governing board and membership is Indian.

Keeping our Indian Children in their Indian communities protects their cultural and human rights. Therefore, I urge you to give your support and your vote to the Indian Child Welfare Act of 1977 (S. 1214) and to the proposed amendments, in the best interests of our Indian Children.

Please write your comments and letter of support concerning this Bill and the proposed amendments directly to Senator James Abourezk, Chairman, Senate Sub-Committee on Indian Affairs, Room 1105, Dirkson Senate Office Building, Washington, D.C. 20510. I would appreciate it greatly if you would send me a copy of your letter to Senator Abourezk as well as a copy of his reply to you.

Thank you for your support.

W. L. Wiebauer
name

N. H. INDIAN COUNCIL
~~83 HANOVER STREET~~
address 2ND FLOOR - SUITE 3
MANCHESTER, N. H. 03101

city state zip

Tribal affiliation

North American Indian Women's Association

No. 1-77

RESOLUTION

WHEREAS, the North American Indian Women's Association has, since it was founded in 1970, gathered information on the concerns of Indian people regarding the placement of Indian children, and

WHEREAS, this information evidences the need for continued, concentrated and concerted efforts to provide for the betterment of the total Indian child and families, and

WHEREAS, S. 1214, to be known as the Indian Child Welfare Act of 1977, is now before the Congress of the United States, and

WHEREAS, S. 1214 proposes standards which Indian people should consider as to whether they would impose undue limitations on Indian tribal sovereignty, and

WHEREAS, the proposed standards would be applicable to all tribes without regard to the customs and traditions of the various tribes for the placement of Indian children: Now, therefore, be it

RESOLVED that the North American Indian Women's Association urge tribal leaders to review very carefully the contents of S. 1214 and to testify at Senate hearings to request amendments to provide acceptable standards and the necessary special services which should be included in the Indian Child Welfare Act of 1977.

CERTIFICATION

I, the undersigned, as Secretary of the North American Indian Women's Association, do hereby certify that the foregoing resolution was duly adopted on June 15, 1977, at the 7th Annual Conference in Chilocco, Oklahoma.

Mildred I. Cleghorn
SECRETARY

Attest:

Hildreth Venegas

Hildreth Venegas
PRESIDENT

NATIONAL INDIAN HEALTH BOARD, INC.
BROOKS TOWERS BUILDING—ROOM 4-E
1020-15TH STREET · DENVER, COLORADO 80202
303/534-5482

3 August 1977

Senator James S. Abourezk
Chairman, Senate Select Committee on
Indian Affairs
New Senate Office Building, Room 5241
Washington, D.C. 20501

Mr. Senator:

The National Indian Health Board has been viewing with great interest the proposed legislation, S.1214 entitled the "Indian Child Welfare Act of 1977". Enclosed you will find written testimony by the Board in support of the passage and enactment of S.1214.

We would like this testimony to be included in the record of hearings on the bill. We would further appreciate receiving a copy of the published record of testimony on this bill when it is published.

We sincerely hope that the proposed legislation in S.1214 is soon enacted. We thank you personally for all of your efforts on behalf of the native peoples of this country.

Respectfully,

Howard E. Tommie,
Chairman
National Indian Health Board

HET/mh

NATIONAL INDIAN HEALTH BOARD, INC.
BROOKS TOWERS BUILDING—ROOM 4-L
1020-15TH STREET · DENVER, COLORADO 80202
303/534-5482

STATEMENT OF HOWARD E. TOMMIE;
CHAIRMAN, NATIONAL INDIAN HEALTH BOARD
TO THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS,
ON S.1214, THE INDIAN CHILD WELFARE ACT OF 1977

Mr. Chairman and members of the Committee, I greatly appreciate the opportunity to submit this statement for the National Indian Health Board for the Committee's consideration in support of S.1214, the Indian Child Welfare Act.

Since its formation in 1972, the major programs and activities of the National Indian Health Board, Inc. (NIHB) have advocated that "health care services delivered to Indian Americans and Alaska Natives should be of the highest quality and of sufficient quantity so that Indian Americans and Alaska Natives attain in equal or better health condition than other American citizens". As a means of achieving this, NIHB is organized to review and comment on all national policies proposed by the Indian Health Service and other federal agencies which serve or should be serving American Indians and Alaska Natives and recommends services provided by those agencies to American Indians and Alaska Natives. Thus the basic thrust of NIHB activities has been an interest in developing projects related to Indian health programs and provision of advisory, consultative and guidance functions for the Indian Health Service.

We wholeheartedly support the need for legislation in this area, and we endorse the passage of the Indian Child Welfare Act of 1977. We

feel that if enacted this specific legislation could play a key role in the strengthening of Indian families and returning the major voice in placement of Indian children for adoption and foster care to Indian people themselves.

It has been documented that past and present methods of placement of Indian children have created an alarming situation in Indian communities. For example, in a nationwide study conducted less than a year ago, the Association on American Indian Affairs found, that Indian children in both North and South Dakota, are placed in foster care at a rate 20 times the norm for non-Indian children. Several other states, including Maine and Minnesota, approach that same rate.

Adoption figures are deplorable as well. In Idaho, Indian children are adopted at a rate 11 times that for non-Indian children.

In making such placements, many social and welfare agencies feel that children are not taken involuntarily until an attempt is made to help the family with its problems. Indian people feel that in judging the fitness of a particular family, many social workers, ignorant of Indian cultural values and social norms, make decisions that are wholly inappropriate in the context of Indian family life and so they frequently discover child-desertion, neglect, or abandonment, where none exists.

For example, Indian extended families are far larger than non-Indian nuclear families. An Indian child may have scores of, perhaps more than a hundred, relatives who are counted as close, responsible members of the family. Many social workers, untutored in the ways of Indian family life and assuming them to be socially irresponsible,

consider leaving the child with persons outside the nuclear family as neglect and thus as grounds for terminating parental rights.

Notably, very few Indian children are removed from their families on the grounds of physical abuse.

Poverty, poor housing, lack of modern plumbing, and overcrowding are often cited by social workers as proof of parental neglect and are used as grounds for beginning custody proceedings.

Ironically, tribes that were forced onto reservations at gunpoint are now being told that they live in a place unfit for raising their own children.

Other reasons why some Indian families find themselves in stress and in danger of losing one or all of their children include:

1) Environment: Conditions which are generally poor tend not to help the stressful family. Along with such conditions as poor housing and relative scarcity of any facilities; are schools which do not meet the needs of parents or fit into their value system, nor, meet the needs of children. Also, meaningful employment and vocational opportunities are absent.

2) General attitudes of the white community: Prejudice, bigotry, and ignorance are recurrent themes in any causal explanations.

3) Alcoholism: A high percentage of disintegrating families have problems stemming from excessive drinking patterns. Negative attitudes and behavior of white society appear to have brought this about or made the family member more susceptible.

Although the agencies feel children are not taken involuntarily until an attempt is made to help the family with its problems, many Indian people feel the family-welfare crisis in American Indian communities is attributable not only to abusive practicies by child-

welfare and court officials but also to the absence of adequate preventive and rehabilitative services for families in trouble.

The policies and programs of the Bureau of Indian Affairs and state welfare departments are, for the most part, directed at crisis intervention. A family is rarely assisted until an acute crisis has arisen. Then, they feel, welfare agencies rapidly mobilize to provide the only remedy that seems practical to them--termination of parental rights.

And in an overwhelming number of instances, as shown by further statistics of the Association on American Indian Affairs, along with termination of parental rights comes placement of the Indian child in a non-Indian home. In 1975 (the most recent year for which figures are available) in North Dakota, 75 per cent of those Indian children in foster care were placed with non-Indian families. In Montana, the figure rose to 87 per cent and in California, which has the third highest Indian population of any state in the nation, the figure reached 93 per cent.

Non-Indian foster and adoptive parents are not particularly educated about Indians. The children are placed in those homes which can in no way approximate the type of native homeliving experience that the Indian children need. The children are torn away from their family life, their community, and their culture. The removal of the children not only adversely affects them but also their families and in fact is one of the greatest instances of harm done to Indian life.

Yet, these non-Indian parents are given priorities in adoption and foster care consideration while there is a far from adequate effort

on the part of the agencies to place homeless Indian children in Indian homes. Indians have problems in applying as adopting and foster parents and in effect are often discriminated against in protection cases and in court hearings.

One immediate problem is that adoption agencies, which are included under most social and welfare service agencies, do not make public to any great extent the availability of their servies. They do not have consistent or substantial contacts with individuals, tribal councils or organizations, or publications with an Indian readership. Naturally without this contact, Indian parents who may wish to adopt Indian children are not apprised of their availability.

Another problem is that when Indian parents go to the appropriate agencies, having been unable to obtain legal counsel, they are immediately confronted with complex rules, procedures, and red tape which are confusing, exasperating and discouraging.

For example, welfare departments throughout the United States set standards intended to guide agencies in choosing foster broading homes and to set goals for both foster parents and agencies in their work together. Before recommending that a home be licensed or that a license be renewed, the supervising agency must have considered each portion of the standards in relation to a particular family and the recorded evaluation must fully support the recommendation.

Typical provisions for licensing may include: the number of children to be cared for in one foster boarding home shall not exceed five including the foster family's own children. The foster boarding home must meet the requirements of the appropriate health and fire

prevention officials with respect to sanitation, sewage disposal, water supply, protection against fire, and other hazards to children's health and safety. Homes may be subjected to inspection of the premises by health and fire prevention authorities. Income of the foster family from private employment or other resources must be reasonably steady and sufficient to maintain an adequate standard of living so far as essential needs are concerned.

Met with such discouraging requirements and because of seeming assumption, that Indian parents would not quality anyway, due to their income level, social staus, etc., on the part of those agencies (social and welfare service), Indian parents do not get the Indian children, and subsequently, others are not encouraged to apply with those agencies.

Recognizing the crisis situation in child welfare-custody situations due largely to the lack of understanding, cross-cultural misinterpretation of values, and discriminatory practicies of non-tribal governmental and child welfare agencies, it has become obvious that jurisdiction over Indian child welfare matters and decisions affecting custody and placements of Indian children must be returned to Indian tribes.

In the past, it seems as though the public and private welfare agencies have operated on the premise that Indian children would greatly benefit from the experience of growing up non-Indian. This premise has resulted in abusive practicies of removal of Indian children from their families, and has contributed to what many Indians and non-Indians alike have called "cultural genocide" of Indian people and tribes.

Those abusive practices have furthermore resulted in a neglect of the all-important voice of Indian tribes in how their children and families are dealt with.

Presently, the United States government has an established policy of self-determination for all Indian tribes. This policy is designed to return a semblance of sovereignty to Indian tribes. Yet child welfare practices have under mined this important policy, even-more, have under mined the total concept of tribal sovereignty. This is considered by tribes as an avoidance and derogation of Indian people's rights, and a critical interference with tribal self-government and of the authority of Indian tribes to provide for the welfare of their members and the people entitled to their protection.

It is well that S.1214, the Indian Child Welfare Act of 1977, insures the authority of tribal governments to care for their children and members, and also assures that tribal sovereignty be maintained.

The National Indian Health Board finds that the provisions of the proposed legislation more than adequately address the problems stated above. Therefore, the National Indian Health Board supports the passage and enactment of S.1214, the Indian Child Welfare Act of 1977, with these recommendations:

1) Section 103 and its subparts which require preference for Indian individuals and entities in child placement, and gives Indian tribes and tribal courts authority over Indian child placement be strongly supported;

2) Sections 201(d) and 204(d) which authorize appropriations be supported in their specific dollar amounts;

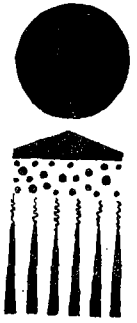
3) Section 202(c)(2) which gives every Indian tribe the authority to construct, operate, and maintain

a family development center be given serious consideration;

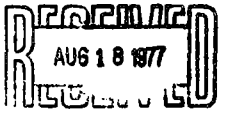
4) Sections 203(a) through (f) be given full support; and

5) All of Section 204 including its subparts be given full support, however; Section 204(c), which authorizes and directs the Secretary of Interior to collect and maintain records in a single, central location of all Indian child placements, be broadened to require that copies of records of all local and area child placements be kept at the area level to provide easier access for all tribal and non-tribal child welfare agencies and entities.

As our primary concern is the improvement of the health status, that is, the physical and mental well-being of Native Americans throughout the United States, we encourage your Committee's prompt and expeditious passage of S.1214.



seattle indian health board



August 15, 1977

Mr. Tony Strong
Senate Committee on Indian Affairs
Dirkson Senate Office Building
Room 5331
Washington, D.C. 20510

Dear Tony:

Enclosed is a written testimony prepared by the Seattle Indian Health Board in support of S. 1214 the Indian Child Welfare Act of 1977. Please submit this information as written testimony.

Sincerely,

Henry Hook

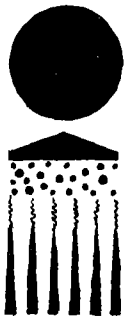
Henry Hook

HH/ag

Enclosure - 1

u.s.p.h.s. hospital box 106
1131-14th avenue south
seattle, washington 98144

area code 206
324-6180



seattle indian health board

TESTIMONY

SENATE HEARINGS ON S. 1214

INDIAN CHILD WELFARE ACT 1977

The Seattle Indian Health Board would like to submit the following written testimony in support of S. 1214 the "Indian Child Welfare Act of 1977". The bill is to establish standards for the placement of Indian children in foster or adoptive homes to prevent the breakup of Indian families and for other purposes.

Since 1970 the Seattle Indian Health Board has been providing comprehensive health care to the Indian community in the Seattle area. The Social Services department of the SIHB has been involved with many cases which involved either foster or adoptive care. In most incidences the Indian child is taken away from the family and placed in non-Indian foster or adoptive homes.

Historically, the placement process of Indian children in foster or adoptive care fails to recognize the special relations of the United States with the Indian and Indian Tribes and the Federal responsibilities for the care of Indian people. During the placement process has been the policy to have very little tribal involvement in the placement of Indian children into foster or adoptive homes. Also, during the placement period, the parents and members of the extended family are without legal assistance to prevent the separation of a child from their family.

The Indian Child Welfare Bill of 1977 will establish standards for the placement of Indian children into Indian foster or adoptive homes. Members of the extended family will have preference over placement of Indian children.

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324-8180

Tribal governments or Indian organizations will be involved with the placement of Indian children. The bill will ensure that the Indian child maintain their identity, self-esteem, and culture, which is often lost when placed into a non-Indian home. The bill will also promote stability and security in the Indian family.

One other aspect of S. 1214 is the establishment of programs which will aid in the prevention and need for foster or adoptive services. The establishment of new programs will improve the condition relating to foster and adoptive services. Family development services will provide many of the support services which are necessary to give assistance and aid to the families in need.

The Seattle Indian Health Board recognizes the fact that there are areas of concern with S. 1214, "Indian Child Welfare Act of 1977", however, we do feel a need for the creation of standards relating to the placement of Indian children into foster or adoptive homes. It is with hope that our testimony be helpful in recognizing the need for establishing the guidelines for the Indian Child Welfare Act of 1977. Thank you for the opportunity to provide you with this information.

The Commonwealth of Massachusetts
Commission on Indian Affairs
State House — Rm. 176-176A
Boston, Mass. 02133
Telephone 617-727-6394

MICHAEL S. DUKAKIS
Governor
WILLIAM G. FLYNN
Secretary

COMMISSIONERS:

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Edith Andrews, Secretary
Amelia Bingham
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July 7, 1977

The Honorable James Abourezk
Chairman
Senate Sub-Committee on Indian Affairs
Room 1105
Dirkson Senate Office Building
Washington, D.C. 20510

Dear Senator Abourezk:

The Massachusetts Commission on Indian Affairs has reviewed your Indian Child Welfare Act of 1977 (S.1214), and we feel that this bill is worthy of serious attention and consideration of the United States Congress.

As you seem to understand, for too many years, too many of our Indian Children have been removed from their families, relatives and Indian communities by non-Indian social workers who are not capable of properly assesing the Indian family unit/life-style. Most of these children have been adopted by or put in foster homes of non-Indian people. These children are being robbed of their culture, for only an Indian family as the same Nation as the child can raise the child in his/her proper cultural ways. These children sustain tremendous psychological suffering from this situation which continues to have substancial impact on them in their adulthood. A good number of these children never live long enough to reach adulthood.

We feel that S.1214 is making an honest attempt to help remedy this situation. However, parts of Section 4 (Definitions) pose major problems in terms of application of the bill's provisions to all Indian People living in the United States. Section 4 (a) says, "'Secretary,' unless otherwise designated, means the Secretary of the Interior." It is therefore obvious that it is intended

that this bill be implemented through the Bureau of Indian Affairs. The BIA has its own criteria as to who the Indian People are. For the most part, Indian People East of the Mississippi will be excluded (as has been the case historically) from the provisions of the bill, as well as all other Indian People who do not have direct affiliation with Tribes occupying federal trust reservation lands. Yet, the children of the "non-recognized" Tribes are equally subject to this immoral mistreatment as the children of the "recognized" Tribes. Section 4 (b), (c) and (d) supports the BIA criteria by definition, again leaving out non-reservation Indian People.

There is yet another group of Indian People who are left out of this bill. Many Indians from Tribes whose homelands are in Canada are living in the United States, especially in the border states. These children and their parents also need the protection of this bill. While they are living in the United States, they face the threat of United States authorities taking their children; therefore, while they are living here they should also be extended the protection from that threat.

We are proposing that the bill be amended as follows:

1. Section 4 (a) - "Secretary, unless otherwise designated, means the Secretary of the Department of Health, Education and Welfare." - With this change, the bill would not go through the BIA; therefore, BIA criteria would not be used to exclude particular Tribes.

2. Section 4 (b) - The definition of "Indian" should read as follows: "American Indian or Indian" means any individual who is a member or a descendent of a member of a tribe, band or other organized group of native people who are either indigenous to the United States or who otherwise have a special relationship with the United States through treaty, agreement or some other form of recognition.

3. Section 4 (c) - The definition of "Indian Tribe" should read as follows: "Indian Tribe" means a distinct political community of Indians which exercises powers of self-government.

4. Section 4 (d) - The definition of "Indian Organization" should read as follows:
"Indian Organization" means a public or private nonprofit agency whose principle purpose is promoting the economic or social self-sufficiency of Indians in urban or rural non-reservation areas, the majority of whose governing board and membership is Indian.

With the exception of these proposed amendments, we feel that this is a very crutial bill deserving of passage and implementation. The Massachusetts Commission on Indian Affairs is in basic agreement with and in support of the bill, particularly in its suggested amended form. We strongly urge that you seriously consider these proposed amendments and support their implementation, in the best interests of our Indian Children.

Sincerely,
Beatrice Gentry

Beatrice Gentry
Chairman

/c-js

The Commonwealth of Massachusetts
Commission on Indian Affairs
State House — Rm. 176-176A
Boston, Mass. 02133
Telephone 617-727-6394

MICHAEL S. DUKAKIS
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WILLIAM G. FLYNN
Secretary

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Amelia Bingham
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Philip Francis
Frank James
Clarence Moran

July 15, 1977

Edward W. Brooke
Room 437
Russell Senate Office Building
Washington, D.C. 20510

Senator Brooke:

The Massachusetts Commission on Indian Affairs has reviewed Senator Abourezk's Indian Child Welfare Act of 1977 (S.1214), and we feel that this bill is worthy of serious attention and consideration of the United States Congress.

For too many years, too many of our Indian Children have been removed from their families, relatives and Indian communities by non-Indian social workers who are not capable of properly assesing the Indian family unit/life-style. Most of these children have been adopted by or put in foster homes of non-Indian people. These children are being robbed of their culture, for only an Indian family of the same Nation as the child can raise the child in his/her proper cultural ways. These children sustain tremendous psychological suffering from this situation which continues to have substantial impact on them in their adulthood. A good number of these children never live long enough to reach adulthood.

We feel that Senator Abourezk's bill S.1214 is making an honest attempt to help remedy this situation. However, parts of Section 4 (Definitions) pose major problems in terms of application of the bill's provisions to all Indian People living in the United States. Section 4 (a) says, "'Secretary,' unless otherwise designated, means the Secretary of the Interior."

It is therefore obvious that it is intended that this bill be implemented through the Bureau of Indian Affairs. The BIA has its own criteria as to who the Indian People are. For the most part, Indian People East of the Mississippi will be excluded (as has been the case historically) from the provisions of the bill, as well as all other Indian People who do not have direct affiliation with Tribes occupying federal trust reservation lands. Yet, the children of the "non-recognized" Tribes are equally subject to this immoral mistreatment as the children of the "recognized" Tribes. Section 4 (b), (c) and (d) supports the BIA criteria by definition, again leaving out non-reservation Indian People.

There is yet another group of Indian People who are left out of this bill. Many Indians from Tribes whose homelands are in Canada are living in the United States, especially in the border states. These children and their parents also need the protection of this bill. While they are living in the United States, they face the threat of United States authorities taking their children; therefore, while they are living here they should also be extended the protection from that threat.

We are proposing that the bill be amended as follows:

1. Section 4 (a) - "Secretary, unless otherwise designated, means the Secretary of the Department of Health, Education and Welfare." - With this change, the bill would not go through the BIA; therefore, BIA criteria would not be used to exclude particular Tribes.

2. Section 4 (b) - The definition of "Indian" should read as follows:

   "American Indian or Indian" means any individual who is a member or a descendent of a member of a tribe, band or other organized group of native people who are either indigenous to the United States or who otherwise have a special relationship with the United States through treaty, agreement or some other form of recognition.

3. Section 4 (c) - The definition of "Indian Tribe" should read as follows:

   "Indian Tribe" means a distinct political community of Indians which exercises powers of self-government.

4. Section 4 (d) - The definition of "Indian Organization" should read as follows:

   "Indian Organization" means a public or private nonprofit agency whose principle purpose is promoting the economic or social self-sufficiency of Indians in urban or rural non-reservation areas, the majority of whose governing board and membership is Indian.

With the exception of these proposed amendments, we feel that this is a very crutial bill deserving of passage and implementation. The Massachusetts Commission on Indian Affairs is in basic agreement with and in support

of the bill, particularly in its suggested amended form. We strongly urge you to give your support to and vote for the Indian Child Welfare Act of 1977 (S.1214) and the afore mentioned amendments, in the best interests of our Indian Children.

Sincerely,

Beatrice Gentry

Beatrice Gentry
Chairman

/c-js

cc: President Carter
Senator Edward M. Kennedy
Senator James Abourezk
Representative Lloyd Meeds
Members of the Senate Sub-Committee on Indian Affairs
Members of the House Sub-Committee on Indian Affairs

The Commonwealth of Massachusetts

Commission on Indian Affairs
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Clarence Moran

July 15, 1977

Lloyd Meeds, Chairman
House Sub-Committee on Indian Affairs
Room 2352
Rayburn House Office Building
Washington, D.C. 20515

Representative Meeds:

The Massachusetts Commission on Indian Affairs has reviewed Senator Abourezk's Indian Child Welfare Act of 1977 (S.1214), and we feel that this bill is worthy of serious attention and consideration of the United States Congress.

For too many years, too many of our Indian Children have been removed from their families, relatives and Indian communities by non-Indian social workers who are not capable of properly assesing the Indian family unit/life-style. Most of these children have been adopted by or put in foster homes of non-Indian people. These children are being robbed of their culture, for only an Indian family of the same Nation as the child can raise the child in his/her proper cultural ways. These children sustain tremendous psychological suffering from this situation which continues to have substantial impact on them in their adulthood. A good number of these children never live long enough to reach adulthood.

We feel that Senator Abourezk's bill S.1214 is making an honest attempt to help remedy this situation. However, parts of Section 4 (Definitions) pose major problems in terms of application of the bill's provisions to all Indian People living in the United States. Section 4 (a) says, "'Secretary,' unless otherwise designated, means the Secretary of the Interior." It is therefore obvious that it is intended that this bill be implemented

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Chairman

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cc: President Carter
Senator Edward W. Brooke
Senator Edward M. Kennedy
Senator James Abourezk
Members of the Senate Sub-Committee on Indian Affairs
Members of the House Sub-Committee on Indian Affairs

The Commonwealth of Massachusetts

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July 15, 1977

Edward M. Kennedy
Room 431
Russell Senate Office Building
Washington, D.C. 20510

Senator Kennedy:

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We feel that Senator Abourezk's bill S.1214 is making an honest attempt to help remedy this situation. However, parts of Section 4 (Definitions) pose major problems in terms of application of the bill's provisions to all Indian People living in the United States. Section 4 (a) says, "'Secretary,' unless otherwise designated, means the Secretary of the Interior."

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Sincerely,

Beatrice Gentry

Beatrice Gentry
Chairman

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cc: President Carter
Senator Edward W. Brooke
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Members of the Senate Sub-Committee on Indian Affairs
Members of the House Sub-Committee on Indian Affairs

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Commission on Indian Affairs
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July 15, 1977

President James Carter
1600 Pennsylvania Avenue
The White House
Washington, D.C.

President Carter:

The Massachusetts Commission on Indian Affairs has reviewed Senator Abourezk's Indian Child Welfare Act of 1977 (S.1214), and we feel that this bill is worthy of serious attention and consideration of the United States Congress.

For too many years, too many of our Indian Children have been removed from their families, relatives and Indian communities by non-Indian social workers who are not capable of properly assesing the Indian family unit/life-style. Most of these children have been adopted by or put in foster homes of non-Indian people. These children are being robbed of their culture, for only an Indian family of the same Nation as the child can raise the child in his/her proper cultural ways. These children sustain tremendous psychological suffering from this situation which continues to have substantial impact on them in their adulthood. A good number of these children never live long enough to reach adulthood.

We feel that Senator Abourezk's bill S.1214 is making an honest attempt to help remedy this situation. However, parts of Section 4 (Definitions) pose major problems in terms of application of the bill's provisions to all Indian People living in the United States. Section 4 (a) says, "'Secretary,' unless otherwise designated, means the Secretary of the Interior."

It is therefore obvious that it is intended that this bill be implemented through the Bureau of Indian Affairs. The BIA has its own criteria as to who the Indian People are. For the most part, Indian People East of the Mississippi will be excluded (as has been the case historically) from the provisions of the bill, as well as all other Indian People who do not have direct affiliation with Tribes occupying federal trust reservation lands. Yet, the children of the "non-recognized" Tribes are equally subject to this immoral mistreatment as the children of the "recognized" Tribes. Section 4 (b), (c) and (d) supports the BIA criteria by definition, again leaving out non-reservation Indian People.

There is yet another group of Indian People who are left out of this bill. Many Indians from Tribes whose homelands are in Canada are living in the United States, especially in the border states. These children and their parents also need the protection of this bill. While they are living in the United States, they face the threat of United States authorities taking their children; therefore, while they are living here they should also be extended the protection from that threat.

We are proposing that the bill be amended as follows:

1. Section 4 (a) - "Secretary, unless otherwise designated, means the Secretary of the Department of Health, Education and Welfare." - With this change, the bill would not go through the BIA; therefore, BIA criteria would not be used to exclude particular Tribes.

2. Section 4 (b) - The definition of "Indian" should read as follows:

   "American Indian or Indian" means any individual who is a member or a descendent of a member of a tribe, band or other organized group of native people who are either indigenous to the United States or who otherwise have a special relationship with the United States through treaty, agreement or some other form of recognition.

3. Section 4 (c) - The definition of "Indian Tribe" should read as follows:

   "Indian Tribe" means a distinct political community of Indians which exercises powers of self-government.

4. Section 4 (d) - The definition of "Indian Organization" should read as follows:

   "Indian Organization" means a public or private nonprofit agency whose principle purpose is promoting the economic or social self-sufficiency of Indians in urban or rural non-reservation areas, the majority of whose governing board and membership is Indian.

With the exception of these proposed amendments, we feel that this is a very crutial bill deserving of passage and implementation. The Massachusetts Commission on Indian Affairs is in basic agreement with and in support

of the bill, particularly in its suggested amended form. We strongly urge you to give your support to the Indian Child Welfare Act of 1977 (S.1214) and the afore mentioned amendments, in the best interests of our Indian Children.

Sincerely,

Beatrice Gentry

Beatrice Gentry
Chairman

/c-js

cc: Senator Edward W. Brooke
Senator Edward M. Kennedy
Senator James Abourezk
Representative Lloyd Meeds
Members of the Senate Sub-Committee on Indian Affairs
Members of the House Sub-Committee on Indian Affairs

MICHAEL S. DUKAKIS
Governor
WILLIAM G. FLYNN
Secretary

The Commonwealth of Massachusetts
Commission on Indian Affairs
State House — Rm. 176-178
Boston, Mass. 02133
Telephone 617-727-6391

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September 1, 1977

Senator James Abourezk
Room 1105
Dirkson Senate Office Building
Washinton, D.C. 20510

Dear Senator Abourezk:

I am requesting from you a report on the present status of S. 1214, "The Indian Child Welfare Act of 1977." It has come to my attention that it has been suggested that S. 1214 be scrapped and amendments be added to S. 1928, "The Child Welfare Amendments of 1977," to provide some of the specific provisions from S. 1214 for the Indian People. Is this, in fact, the case?

Your reply on the matter would be most appreciated.

I am also requesting that you send to me a copy of the S. 1928.

Thank you for your consideration in this matter and for your assistance in the past.

Sincerely,

Jacob Thompson/c-js

Jacob Thompson
Executive Director

/c-js

June 7, 1977

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

Dear Senator:

We appreciate the opportunity to provide comments on S.1214.

At this time we would like to register general support for the bill because it faithfully reflects definite solutions to the many complicated social and jurisdictional problems and issues identified during the 1974 Indian Child Welfare Hearings. This is a tribute to S.1214 because so much federal legislation today fails to clearly address the causes, or at least some of the basic roots of problems identified through the legislative hearing process. S.1214 does progress toward a meaningful system to erase the negative aspects of Indian child welfare programs in a manner which coincides with the federal policy of Indian Self Determination. In addition S.1214 establishes an enlightened and practical approach to legal jurisdiction and social services delivery to Indian People.

We are not including any recommendations for specific modifications at this time, but we will be working with and in support of such recommendations which will soon be forthcoming from individual Indian tribes and organizations in Washington state and the National Congress of American Indians.

While S.1214 does not amend P.L. 83-280, it will provide some important financial and social service relief and protections to Indian tribes, organizations, and individual families and children in partial P.L. 83-280 states such as Washington. Of course, the recent landmark U.S. 9th Circuit Court of Appeals decision regarding the reversal of State P.L. 83-280 jurisdiction on the Yakima Reservation emphasises the need for the passage of S.1214.

Thank you again for the opportunity to register support for S.1214.

Sincerely,

Don Milligan

Don Milligan
State Office Indian Desk
Department of Social and Health Services
Washington State

FEDERAL REGIONAL COUNCIL OF NEW ENGLAND

Room E-431
John F. Kennedy Fed. Bldg.
Boston, Mass. 02203
(617) 223-5421

August 30, 1977

Honorable James Abourezk
Select Committee on Indian Affairs
United States Senate
Washington, D. C.

Dear Senator Abourezk:

For the last two years the Indian Task Force of the Federal Regional Council of New England has chosen as a priority concern questions relating to Indian Child Welfare. For this reason the Task Force has closely watched the legislation you have put forth on this subject. At our last meeting S.1214 was again discussed. I have been asked to summarize points raised by Indian ITF members at that time in a letter to you for inclusion in the August 4, 1977 Hearing Record, which I understand remains open for written submissions.

New England Indian leaders strongly support the program described in S.1214. As with its earlier draft (S.3777), New England Native Americans are deeply concerned by the Bill's reliance on "Federal recognition" language which, as it stands now, would exclude nearly all of them from the benefits of the Bill. This point was raised in correspondence from my office to you in March and May of 1976 (attachments 1 and 2). There is a similar concern about the placement of this program in the Department of Interior.

Several New England Indian groups have proposed that the functions outlined in S.1214 be assigned to the Administration for Native Americans (ANA) in the Department of Health, Education and Welfare (DHEW). This change would circumvent all definitional barriers, based either in law or practice, which are not relevant to the needs of Indian children and families. Given the continued poor relations between DOI and all segments of this Region's Indian community, this alternative should be adopted in S.1214.

I have heard it suggested that the recognition question is a "separate issue" and should be handled under separate legislation. If it is a separate issue, then certainly it ought not to be used so boldly within S.1214 to unnecessarily exclude a significant portion of the service population described in the Bill. New England tribes oppose any legislative strategy which would require them to await the passage and implementation of additional "recognition legislation" before they might become eligible for the crucial assistance to be provided under this Bill.

The inclusion of S.1214 within DHEW/ANA would also insure that attention be given to the child welfare problems of Indian people from Canada who live in the United States and whose rights and status in this country are protected by the Jay Treaty of 1794, the Explanatory Articles of 1796, the Treaty of Ghent of 1814 and other treaties and agreements which they signed. The ONAP definition of Indian was redrafted specifically to deal with such people. Indian people, from tribes usually associated with Canada, are a major source of Indian to White foster and adoptive placements across the northern sections of the United States. In Aroostook County, Maine, for instance, nearly all 1,000 Indians residing there are Micmacs and Maliseets. Aroostook is part of Maliseet aboriginal territory. In 1972 there were 73 Indian children in foster care in Aroostook, about one of every seven Indian children in the county; (using incorrect 1970 census data AIPRC Task Force IV estimated one of every 3.3 Indian children, p. 205). These statistics support the contention that the Indian foster and adoptive problem in Maine is substantially a Micmac and Maliseet problem, for although this county has only one-fourth of the Indian population in the State, it has consistently had more than one-half of the Indian foster placements. In August of 1977, at the Penobscot Nation in Maine, a convention attended by 300 Native people from New England and eastern Canada, drawn primarily from the Wabanaki confederacy tribes (Penobscot, Passamaquoddy, Maliseet, Micmac and Abenaki) unanimously adopted a resolution citing the Indian Child Welfare problem (attachment 3). The resolution in part states that:

> "The existing non-Indian child welfare systems in both countries have seriously undermined the Indian family structure and have contributed to the loss of Indian identity, and families and children who have crossed the (U.S.-Canadian) border are particularly vulnerable to these systems..."

I understand that DHEW has requested that the Select Committee defer action on S.1214 in lieu of S.1928, the "Child Welfare Amendments of 1977." To the extent that these "amendments" can be changed to accommodate the program proposed in S.1214, I have heard no major objection to this suggestion, especially if this strategy will give added strength to your Bill's likelihood of passage. However, there would be great concern, if by its merger with S.1928, your proposal would in some way be diluted. Native groups in New England would particularly object to the dropping of direct Federal funding of Indian tribes and community organizations. The history of State/Indian relations, both within this Region and without, casts considerable doubt on the feasibility of any funding arrangement which would channel such Federal support through States.

The Boston Indian Council, the Central Maine Indian Association, and possibly other New England groups have submitted detailed comments on S.1214 for the hearing record. I will defer to them in making further specific comments except to draw your attention to the points listed in my letter of May 25, 1976, which I believe are still relevant (attachment 2). I also understand that a copy of "Northeast Indian Family Structure and Welfare Delivery Systems in Maine and Massachusetts", a research and demonstration proposal developed by a consortium of Maine and Massachusetts Indian communities, has been submitted for review by your staff and for inclusion in the hearing record.

Sincerely,

Gregory P. Buesing
Indian Task Force Coordinator

Attachments

cc: Terry Polchies, FRC/ITF Indian Co-Chairman
Edward Bernard, FRC/ITF Federal Co-Chairman
Michael Ranco, CMIA
David Rudolph, CMIA
Clifford Saunders, BIC

FEDERAL REGIONAL COUNCIL
OF NEW ENGLAND
ROOM E-431 JOHN F. KENNEDY FEDERAL BUILDING
BOSTON, MASSACHUSETTS 02203 (617) 223-5421

Attachment 1

March 17, 1976

Senator James Abourezk
United States Senate
Washington, D.C.

Dear Senator Abourezk:

I am writing to you at the request of your aide, Mr. Tony Strong, to provide an alternative definition of "Indian" and "Indian Tribe" to be included in the Indian Child Welfare Act. The definition of Indian now contemplated in the draft restricts the term to members of so-called "federally recognized" tribes. This definition would cause a great hardship to New England Indians, many of whose children have been placed in foster care. Definitions of "Indian" and " Indian Tribe" preferred by this Office are as follows:

> "Indian", unless otherwise designated, means any person who is a member of, or who is eligible for membership in an Indian tribe, as defined below.
>
> "Indian Tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native region, village or group as defined in the Alaska Native Claims Settlement Act which is indigenous to the United States or which otherwise has a special relationship with the United States or with one of it's states through treaty, agreement, or some other form of recognition.

The pattern of Indian foster care in New England is no different from that in the rest of the country. The total number of Indian children in foster care is probably around 500. Yet official state counts are very low. The computer listings in Connecticut and Massachusetts, for instance, are 9 and 28 respectively. The experience of tribal investigators in Maine shows the probable inaccuracy of these figures.

The issue of New England Indian foster care first arose in Maine in 1971, when the Passamaquoddy Tribe and the Division of Indian Services of the Roman Catholic Diocese called for legislation to grant foster home licensing powers on reservation to the tribes. The bill passed one house before it fell to intensive lobbying by the state Department of Health and Welfare.

During 1972 the Association of Aroostook Indians reopened the foster care discussion in Maine by approaching the Director of the Bureau of Social Welfare in DHW. After inital agency resistance was overcome, a survey of all foster

children in state custody was conducted. Confirming Indian expectations, the official state count of Indian foster children increased from 25 to 138. The state found that Indian children were being placed in foster care at a rate of 16 times that of the general population (including Indians). Only four of these 138 children were being cared for in Indian homes. Subsequent to the survey tribal leaders met with the Bureau of Social Welfare to develop a proposal for a special foster care program. A major stumbling block was the degree of control Indians would have over program staff and the degree of access they would have to Indian foster children. The state and tribes finally agreed on a program outline, but no funds were acquired.

The Indian people in Massachusetts have some hope for an improved foster care situation. Governor Dukakis is considering an Executive Order which, among other things, would order all state agencies to determine the full extent of programing to Indian people. Mrs. Dukakis, moreover, has met with Boston Indian Council personnel to discuss foster care and has agreed to arrange a meeting between the BIC and state administrators responsible for foster care policy.

The Indian Child Welfare Act which you are contemplating can be of great value to New England Indians. For them to receive any benefit, however, they must be included in the Act's definitions of "Indian" and "Indian Tribe".

I'd like to thank your office for giving me an opportunity to discuss the draft Act. In the near future, I hope to more fully analyze other aspects of the legislation and will write further comments or suggestions if they seem necessary.

Sincerely,

Gregory Buesing
FRC/ILE Coordinator

FEDERAL REGIONAL COUNCIL
OF NEW ENGLAND
ROOM E-431 JOHN F. KENNEDY FEDERAL BUILDING
BOSTON, MASSACHUSETTS 02203 (617) 223-5421

attachment 2

May 25, 1976

Senator James Abourezk
United States Senate
Washington, D.C. 20510

Dear Senator Abourezk:

This is a second letter from the Indian Task Force regarding the draft Indian Child Welfare Act. Both were written in conjunction with conversations with a member of your staff, Mr. Tony Strong. Copies of earlier relevant correspondence are attached.

There are several problems in the draft Indian Child Welfare Act which we wish to identify for your review:

(a) the definition of Indian in the Act excludes New England Indians; this matter is discussed in the attached correspondence;

(b) the administration of this Act by the Secretary of Interior could lead to unequal services for New England Indians;

(c) there is no provision requiring States to provide an accounting of all Indian children who are in State custody or who have been placed in adoptive homes within a reasonable number of years prior to the passage of the Act;

(d) there is no provision for supplemental services, aimed at the social reintegration of Indian foster children into the Indian world, in those cases where the child is in a non-Indian placement and where there is no immediate prospect for return to an Indian community;

(e) there appears to be no provision for Indian group homes on and off reservation; the legislation should also remove civil rights restrictions on such homes funded under other Acts;

(f) there is nothing requiring States to enroll Indian foster children and adoptees in their tribe, thereby protecting political rights of both the child and the tribe.

If you wish us to elaborate on these points, we would be happy to provide additional comment. We would appreciate any information on the bill's scheduling and a copy of any recent redraft.

Sincerely,

Gregory P. Buesing
FRC/ITF Coordinator

P. Taylor #9

REC'D MAR 8 1976

State of Washington Department of Social & Health Services

To: Al Elgin, Chairman
Task Force #8
American Indian Policy
Review Commission

Date: February 17, 1976

From: Don Milligan - Indian Desk
Dept. of Social & Health Services
Washington State

Subject: TESTIMONY FOR URBAN AND RURAL NON-RESERVATION TASK FORCE HEARING AT SEATTLE ON FEBRUARY 17, 1976

Please refer to the copy of my testimony for the February 2-3 hearings of Task Force #4 at Yakima, Washington sent to you under separate cover. Attached

As I point out in that testimony most of the issues involving the Department of Social & Health Services and jurisdiction on Indian Reservations in Washington can be applied with appropriate modification to issues which concern the Urban Indian/Alaskan Native and Rural Non-Reservation Indian communities in Washington State.

However, I would like to make some specific additional comments:

1. There is a direct spill-over into the urban and rural Indian communities of the problems caused by state jurisdiction on reservations in respect to foster care, adoption, child protection, public assistance, mental health, juvenile delinquency, dependent children, etc. There is a constant two-way movement of Indian families and individuals between reservations and urban areas. The harmful results of some state services on reservations in a 280 state like Washington follow families as they move to urban and rural Indian communities thus contributing to the process of negative acculturation, assimilation, and termination. When it comes down to it, the state exercizes the same type of social service jurisdiction over Indian people on reservations as it does over Indian people in urban and rural areas and vice versa. One major difference is that now that tribal governments are generally exercising more sovereignty the department is starting to show a little more respect and cooperation related to social services. However, in urban and rural areas where the Indian community is generally less politically organized and protected by trust responsibility and the Federal-Indian relationship, the state agency will continue to exercise a strict and many times harmful control over social and health factors in the lives of Indian people unless some rather extensive steps are taken by the Congress and the federal government.

Child Welfare Services:

Adoption: The largest percentage of Indian children being adopted by non-Indian families occurs in urban and rural areas.

Memo to
Al Elgin
Page 2
2/17/76

Foster Care: Again the largest percentage of Indian children in non-Indian foster homes and institutions or Indian children who are wards of county courts living at home or with relatives occurs in urban and rural areas.

The August, 1975 State Indian Child Welfare Printout indicates that out of 1,072 Indian children who appear on it, approximately 800 are located in urban or rural non-reservation areas.

A limited state-wide survey of private child care agencies in Washington state from April 15, 1975 to August 28, 1975 indicated that a total of 1,157 Indian children were served in that short time. (807 referred for services, 330 in foster care, and 20 were adopted) I would estimate that over 90% of these children were living in urban and rural off-reservation areas.

Child Protection:

I have no current statistics on Indian children receiving child protection services on or off-reservation. However, the trend is very definitely comparable to the foster care and adoption situation; i.e., the largest percentage of such cases are in urban and rural off-reservation areas.

The point I am making is that the proportion of Indian child welfare cases on reservations is a numerical minority in comparison to Indian child welfare cases off-reservation though the intensity of the problem is probably equal in both situations. However, the urban and off-reservation Indian communities are faced with a situation of greater numerical magnitude and with less resources and political organization and power.

Steps which can provide some solutions to the problems include:

1. Amendment of Title XX of the Social Security Act to protect and provide for relevant state social services to Indian people.

2. Enactment of a federal Indian Social Service Act which will fund the design, planning, and delivering of social services by tribal, urban Indian/Alaska Native, and rural Indian communities by themselves for themselves.

3. Federal and state funding for the operation of Indian Child Care and Placing Agencies administered and staffed by Indians in urban Indian/Alaskan Native and off-reservation rural areas. Indian child welfare cases now handled by the state and private agencies could be turned over to the Indian Child Placing Agencies for services.

4. The establishment of a separate Indian program development and service delivery division within the state agency staffed and administered by Indian persons with an explicit accountability to tribal governments,

and urban and off-reservation Indian communities. Federal and state legislation with suitable appropriations would be necessary to establish all 4 of these inter-related solutions so that the problem is addressed in a comprehensive manner.

Public Assistance:

The comments made in my report to Task Force #4 apply here also in respect to financial assistance programs, exemption of all Indian trust income, vocational rehabilitation, public health, mental health, alcoholism and drugs relative to urban and off-reservation urban Indian communities.

The total range of alternative direct federal, state, county or city funding for the above-mentioned services should be made available to urban and non-reservation rural Indian communities so each community may choose.

In the case of those communities who choose to have the state, county, or city service delivery system provide the service, specific requirements and guidelines must be developed and enforced to ensure maximum Indian benefits from the service including Indian affirmative action and cultural relevance factors.

Affirmative Action & Civil Rights:

My comments in the report to Task Force #4 again apply.

Thank you for the opportunity to present my comments and recommendations related to state social and health services and urban and off-reservation rural Indian communities. Meaningful comprehensive solutions to these problems for the benefit of Indian people can only be reached by strong and decisive action on the part of the Congress and federal government. The state legislature and government does not appear to be ready to fully address the rights, needs and plight of the urban Indian/Alaskan Native and off-reservation Indian people.

Refer to a recent task force report: The People Speak Will You Listen? prepared by the Governor's Urban and Non-Reservation Indian Advisory Councils in Washington State. If you examine the issues raised and recommendations presented and the measurable response of the federal, state, and local governments to those issues, the Commission will see exactly what I mean. Thank you.

DM:ab
cc: File (2)

Gail Thorpe	Louis Bruce
Edward Mouss	Adolph Dial
Ernie Stevens	Greg Frazier - Seattle Indian Center
Kirke Kickingbird	Bernie Whitebear - United Indians - Seattle
Max Richtman	Luana Reyes - Seattle Indian Health Clinic
Lloyd Meeds	Herb Barnes - Blackfeet Association - Seattle
Sam Steiger	Margaret Tillman - Tlingit - Haida - Seattle
Sidney Yates	John Dalton - Tsimpshean Association - Seattle
James Abourezk	Fred Lane - Oakland Indian Center
Lee Metcalf	
Mark Hatfield	

ATTACHMENTS

To: Hank Adams, Chairman, Task Force #1
Wilbur Atcitty, Chairman, Task Force #2
Sam Deloria, Chairman, Task Force #3
Sherwin Broadhead, Chairman, Task Force #4
Helen Sheirbeck, Chairwoman, TF #5
Dr. Everett Rhoades, Chairman, Task Force #6
Peter McDonald, Chairman, Task Force #7
Al Elgin, Chairman, Task Force #8
Pete Taylor, Chairman, Task Force #9
JoJo Hunt, Chairwoman, Task Force #10
Reuben Snake, Chairman, Task Force #11

Date: March 1, 1976

From: Don Milligan
Indian Desk

Subject: WRITTEN TESTIMONY FOR TASK FORCE #4
HEARINGS AT YAKIMA, WASHINGTON ON
FEBRUARY 2 & 3, 1976

State of Washington
Department of Social & Health Services

Please find attached a copy of my written testimony for above hearing. Due to the fact that the attachments to my testimony are extensive I am sending a copy to Mr. Broadhead for the record. Other task forces interested in the attachments can contact Sherwin or myself for copies.

The reason I am submitting a copy of my testimony to all task forces is because most of the issues are also directly relevant to the subject matter and goals of all the task forces.

Most of the issues I cover in respect to state jurisdiction involving P.L. 83-280 and social and health services on Washington Indian reservations also apply to issues affecting urban and rural non-reservation Indians and terminated and non-federally recognized Indians with appropriate modification.

Several of the issues I cover find their origin in the federal government's failure to exercise their trust responsibility properly and live up to its end of the Federal Indian relationship. This in turn is directly affected by federal administration and the structure of Indian affairs.

The issues covered here are also inter-twined with Indian educational, health, alcohol, and drug abuse issues due to the cause/effect linkage with social services.

Finally there are several implications in this coverage of issues which will need to be addressed by the tribal government, reservation development, and Indian law task forces for long-range and comprehensive solutions.

It is my hope to be able to prepare additional testimony specifically for the Indian Health, Urban and Rural Non-Reservation, and Alcohol and Drug Abuse task forces if time and circumstances permit. Thank you.

DM:ab
cc: File (2)

March 1, 1976

State of Washington
Department of Social & Health Services

Sherwin Broadhead, Chairman
Federal, State & Tribal Jurisdiction
Task Force
American Indian Policy Review Commission
House Office Building Annex #2
2nd & D Streets SW
Washington DC 20515

Dear Mr. Broadhead:

I am submitting my written testimony as promised at the February 2 & 3, 1976 Federal, State and Tribal Jurisdiction Task Force Hearings in Yakima, Washington.

Introduction:

My name is Don Milligan. I am currently serving as a member of the State Office Indian Desk staff of the Washington State Department of Social & Health Services which is the state's major social service agency including the divisions of corrections, community services, health, and vocational rehabilitation. The Indian Desk was established in October, 1972 at the request of Indian Tribes in Washington State under a unique agreement between the tribes, the Department of Social & Health Services, and the Governor. It is the responsibility of the Indian Desk to be an agency-wide advocate and monitor for just and relevant departmental services to Indian clients, communities, and tribes.

In respect to my own personal background I am a member of the non-status Metis/ Cree Nation of Saskatchewan, Canada and am of Cree, Assiniboine, Sioux and Scotch-Irish descent. My professional background includes three years as a child welfare caseworker on the Yakima Reservation, a Master of Social Work degree from the University of Washington specializing in alcoholism counseling and community organization related to Indian Affairs, and 3 years as a member of the Indian Desk staff.

General Statement:

I would like to preface my comments on specific jurisdictional subjects with some general statements:

1. The Department of Social & Health Services in Washington State is directly involved in the state's implementation of 5 of the 8 points of jurisdiction assumed by the State Legislature under P.L. 83-280; i.e.,

    1. Public Assistance
    2. Mental Illness
    3. Juvenile Delinquency
    4. Adoption Proceedings
    5. Dependent Children

2. Needless to say, ever since the adoption of P.L. 280 in Washington State a

tremendous conflict has been boiling between Indian Tribal Governments and People and the State Government, and State and County courts and agencies.

3. One reason for this conflict is the harmful manner in which child welfare and public assistance services have been administered by the federal, state, and county involving Indian people both on and off-reservation.

4. Some reasons why the services are harmful include:

    a. Tribal courts and social service resources have been kept out of the picture by state and county court and agency staff, and service policies and manuals.

    b. Non-Indian caseworkers and court workers are delivering the services to Indian children and families but are unable to understand and communicate with the Indian clients, and therefore are unable to deliver relevant social services. In many instances this communication and attitudinal problem on the part of non-Indian staff has resulted in numerous inappropriate deprivations, adoptions, foster home placements and other disruptions of Indian family and tribal life.

    c. Non-Indian juvenile court judges basing decisions over the lives of Indian children and families on their own non-Indian background.

    d. Failure of the Bureau of Indian Affairs and the Department of H.E.W. to protect Indian children and their families against harmful state services in P.L. 83-280 states such as Washington.

5. All of these factors result in harmful effects on the individual lives of Indian families as well as direct attacks on the rights of Indian people to remain a distinct people under treaty. Being shuttled from one non-Indian foster home to another and deprived of a normal Indian upbringing have caused great psychological damage to thousands of Indian children.

6. Three documents this Commission should study and incorporate regarding Indian child welfare are:

    a. Legal and Jurisdictional Problems In The Delivery of SRS Child Welfare Services On Indian Reservations published Oct. 1975 by the Center for Social Research and Development, University of Denver.

    b. The Report on the Indian Child Welfare Hearings held by Senator Abourezk in Washington, D.C. in 1974.

    c. Draft recommendations related to Juvenile Justice by the Association on American Indian Affairs of New York City. These recommendations and other related items appear in their publication "Indian Family Defense".

7. Currently no relevant "preventive" and outreach child welfare and other social services are being delivered to Indian tribes, communities, or clients by federal, state, county or city agencies in Washington State. An examination of legislation, Washington Administrative Code, State policies, plans and manuals, and County and City plans in respect to social services and the 5 jurisdictional points will testify to this fact.

8. The entire Title XX situation on both the national and state levels needs to be reviewed and rectified by the federal government and Congress because:

   a. It goes against the stated federal policy of Indian self-determination;

   b. It reinforces state jurisdiction in respect to social services.

The only viable remedy is:

   a. Amend P.L. 280 so that interested tribes can plan and delivery their own social services;

   b. Enact a federal Indian Social Service Act which will fund the design, planning, and delivering of social services by tribes for themselves;

   c. Appropriate amendment and monitoring of state social services to Indian tribes and communities who remain under state jurisdiction for whatever reason.

9. County juvenile courts administer juvenile probation services and have responsibility for taking dependency, delinquency, and deprivation actions. In some instances these court actions are initiated at the request of state staff and in some instances the department is brought in for foster home placement and supervision after the court has taken action. In addition some actions and case follow-up are handled by the juvenile court or private agency staff. This system of mazes leaves Indian families pretty much at the mercy of a terrible machine.

Specific Jurisdictional Subjects & Recommendations:

1. ADOPTION:

The Commission needs to consider two aspects of this issue: National and State.

A. National Aspect:

ARENA (Adoption Resource Exchange of North America) receives a BIA grant for a special sub-project whose purpose is to facilitate the adoption of Indian children by Indian families.

Statistics available from 1974 Annual Report (ARENA) show:

Total Indian Placements = 120

(14 went to Indian homes)
(106 went to non-Indian homes)
(106 were Canadian Indians)

It is my understanding that in past years the total Indian placements were much higher and that a much larger number were Indian children from the U.S.

Recommendations:

1. If BIA is going to fund a national adoption project, the project should be Indian controlled so that the stated purpose will be achieved.

2. The federal government should take immediate steps to protect Canadian Indian children from being taken from their own tribes and placed in non-Indian homes in the U.S.

B. State Aspect:

The state aspect has approximately 6 forms of jurisdictional implementation:

I. State Central Registry Form

The basic process includes a family's application to the state, a home study of the family, the placement of the family's name on a central state registry.

In 1972 45 Indian children were adopted through the state registry. Ten went to Indian homes. In 1974 16 Indian children were adopted through the state registry. Eight went to Indian homes and 8 went to non-Indian homes.

Over the past two years the department and Indian tribes having been in the process of negotiating amendments to the Washington Administrative Code and procedural manuals which would among other things establish an Indian preference policy for the adoption of Indian children by Indian families. One problem with this improvement is that the jurisdiction and delivery still is in the state's hands. To date the proposed Indian amendments are not yet in effect.

Recommendation:

1. Retrocession of jurisdiction so that interested tribal governments can handle their own adoptions.

2. In the case of those tribes and communities not taking that jurisdiction, a separate Indian staffed and monitored system within the state agency to handle all Indian adoptions from the central registry.

II. Foster Parent Adoption Form:

The basic process includes a situation where an Indian child is in a non-Indian foster home usually over 1 year, a juvenile court orders a deprivation, the non-Indian foster parent adopts the Indian child.

The pending amendments will only provide for Indian evaluation of prospective

foster parent adoptive homes. Again the actual decision is in the hands of the state worker.

The current system has locked in a very dangerous practice:

a. Many Indian children are kept in non-Indian foster homes because the non-Indian caseworker and court worker are unable to communicate with Indian parents and children. Therefore no effective support services are delivered to get the Indian child back home.

b. Caseworkers, court judges and attorney generals have taken the general position that it will do too much psychological damage to young Indian children who have spent some time with particular foster parents who have become their "psychological parents" for them to be moved to the home of Indian relatives or an Indian adoptive home. This theory is generally espoused by non-Indian psychiatrists and psychologists who prepare evaluations paid for by the court or department. These evaluations obviously do not include considerations of Indian psychology, heritage, or culture and completely ignore the proven problems which affect Indian children adopted by non-Indians and usually show up between ages 10 and 16.

Recommendations:

1. Retrocession of jurisdiction to interested tribes who want to handle their own adoption and foster care programs.

2. In the case of those tribes and communities not taking that jurisdiction, a separate Indian staffed and designed adoption and foster care program within the state agency to handle all Indian foster care and adoption cases served by the state.

III. Private Agency Form

Numerous private child care agencies are licensed by the state to deliver adoption and foster care services in Washington State.

Statistics available to the Indian Desk show that from April '75 through July '75 20 Indian children were adopted through private agencies. This number only covers 4 months of the year. We do not have information as to how many of the 20 Indian children went to Indian families.

Current state regulations governing private child care agencies have established the rule of Indian preference for adoption of Indian children. However, a major problem is the lack of departmental Indian staff to monitor the private child care agencies and the lack of Indian control of private agency services and Indian staff in the private agencies.

Recommendation:

1. Retrocession of jurisdiction

2. Government funded licensed Indian child placing agencies for tribes not assuming adoption and foster care jurisdiction and off-reservation Indian communities. The licensed Indian Child Placing Agencies would be Indian directed and staffed.

IV. Private Adoption Form

This process involves doctors and private attorneys who arrange for adoptions of their Indian client's children to a non-Indian through their attorney directly through a court.

We have no way to monitor the ethical practice and abuse of this form. All of us are well aware of the adoption black market which has blossomed due to effects of modern family planning efforts. Some people will pay thousands of dollars for a child. It is also well-known that Indian children have always been a prize catch in the field of adoption.

Recommendation:

1. Federal and state legislation and monitoring is needed to address this problem.

V. Out of State Placement Form

This process involves an out-of-state agency (public or private) which attempts to place an Indian child with a non-Indian family living in Washington.

Pending state regulations which are not yet in effect will require out-of-state agencies to document that they have followed an Indian preference procedure before allowing placement. However, once again the problem is one of each of Indian control and monitor.

Recommendation:

1. Retrocession

2. Legislation to restrict inter-state adoption of Indian children by non-Indians.

3. Separate Indian system of monitoring within the state agency.

2. DEPENDENT CHILDREN & JUVENILE DELINQUENCY

The following departmental services are directly related to the implementation of these two jurisdictional points: Foster Care; Child Protection; Juvenile Parole; Juvenile Rehabilitation; Delinquency Protection; Juvenile Probation Subsidy.

I would again recommend to the Commission that you study the Washington Administrative Code, Procedural Manuals, Title XX, and other pertinent material and statistics related to the above services.

There has been some improvement in some of these departmental services to Indian clients since 1972, however, I can say with confidence that due to

state jurisdiction, non-Indian control of the program planning and development, preponderance of non-Indian service delivery staff, and the overall inadequate budget for the services in general, several of these services have been extremely harmful to individual Indian families and the remainder of the services have not been available or delivered in a relevant manner.

a. Foster Care:

There are three basic forms of implementation:

1. County: Juvenile courts staffed by non-Indian judges and probation and detention staff initiate dependency and delinquency actions, placement orders and some support services.

2. State: Foster care caseworkers working out of local department offices, prepare court orders, sometimes initiate court petitions, and provide supervisory and placement services to children and families.

   Foster home licensers working out of local department offices license homes for foster care applying state standards.

   Local offices process foster care payments for licensed state and private agency foster home services.

3. Private: Caseworkers employed by private licensed child care agencies and working out of their own offices sometimes initiate court petitions and case summaries and provide support services to children and their families.

Statistics: December 1974 for State Agency

357	Indian children in parents homes but usually wards of court
150	Indian children in relative's homes but usually wards of court
445	Indian children in county foster homes usually wards of court in non-Indian foster homes
58	Indian children in private agency homes being financed by state public assistance
40	Indian children in institutions
51	Indian children elsewhere but receiving departmental supervision or public assistance
19	In process of being adopted
1,120	Total Indian children on the department's Indian Child Welfare Printout for December, 1974. This figure does not show private child care agencies Indian statistics.

747 of the 1,120 children are wards of county courts.

It must be noted that these computer printouts are an undercount of the number of Indian children on the state's list because not all Indian children receiving services have been identified as Indian.

I have attached several statistical breakouts for Washington state for Dec. 1974 including specific statistics related to the Yakima Reservation.

1974 - December -

137	Licensed Indian Foster Homes
33	Licensed Indian Day Care Homes

Statistics - For County Juvenile Court Foster Care are unavailable to us.

Statistics - Private Child Care Agencies

To date the state is not receiving specific Indian statistics on a regular basis. However, we do have some returns for April 15, 1975 to August 28, 1975 -

807	Indian children referred for service
330	Indian children in foster care
1,137	Total

Recommendations:

1. Retrocession

2. Separate program development and service delivery system within the state agency staffed and administered by Indian persons with defined accountability to Indian Tribal Councils to cover reservations where the tribe has decided not to retrocede.

3. Establishment of Indian child placement agencies funded by federal and/or state government.

b. Child Protection:

The following characteristics are involved in this service:

1. A state child protection law;

2. This service is totally delivered by state staff working out of local offices;

3. This service can result in court petitions and actions involving dependency, delinquency or deprivation.

No statistics are available on the Indian child protection caseload at present.

The delivery problems are similar to those mentioned in my general statement and in my foster care comments.

Recommendations:

1. Retrocession;

2. Amendment to state law to accomodate tribes who do not retrocede but desire modification of law;

3. Separate system within the state agency as described in the foster care section of this report.

3. Public Assistance

I would classify the following departmental services as being an implementation of this jurisdictional point:

a. Financial assistance
b. Medical assistance
c. Vocational rehabilitation
d. Public health
e. Developmental disabilities.

a. Financial Assistance involves:

1. A federal program called Supplemental Security Income (SSI) which is administered by the Social Security Administration and provides old age, disability, and blind assistance;

2. Federally funded state administered programs providing Aid to Dependent Children, Medical Assistance, and food stamp payments.

3. State funded and administered general assistance payments.

There is a need for extensive outreach to Indian communities in all programs especially Aid to Dependent Children with Employable Male, General Assistance, and Medical Assistance. Indian people are reluctant to apply because of fear of state child welfare and trust income and land practices. Therefore, their rights as citizens are denied.

Recommendation:

1. Tribal administration of federally funded financial assistance programs on reservations.

2. Separate Indian administration and delivery system for financial programs within the state agency to serve reservation and urban and rural Indian communities which choose to remain under state jurisdiction.

The issue of Indian trust income also enters here:

1. Over the years many Indian people have been deprived of the benefits of thousands of dollars of trust income because it is considered a non-exempt resource when determining public assistance eligibility.

2. This also resulted in termination of public assistance grants, overpayments, and fraud charges. These events in turn resulted in financial deprivation and emotional and psychological stress on young mothers and old grandmothers and their families.

3. Judgment claims are now exempt from state and federal public assistance eligibility (except for general assistance).

However, tribal dividends from timber resources, land lease, grazing and trust timber and land sales are not exempt from state and federal public

assistance eligibility.

4. Through the influence of Montana Inter-Tribal and an 1115 Demonstration Project in Montana which exempted tribal dividends, Senator Melcher has introduced H.R. 9532 which would exempt tribal dividends by amending the Social Security Act.

Recommendation:

This Commission should recommend to Congress that H.R. 9532 be made law.

All these years, the federal government and the BIA has stood by and allowed the state and SSI to encroach on the treaty status of Indian trust income.

5. Another issue here is that of trust land and public assistance:

Prior to 1972 Washington State regulations required Indians applying for public assistance to sell trust allotments to become eligible for public assistance.

Therefore many thousands of acres of Indian trust lands passed into non-Indian hands. This practice was directly related to the termination policies of the federal government and helped create the current checkerboard reservation problem.

Again the federal government stood by despite the objections of tribal governments and Indian people.

Recommendation:

In respect to the alienation of trust land I recommend that the Congress pass a law which will return to individual Indians and their descendants newly created trust land equal to the trust land which they were forced to sell to be eligible for public assistance.

b. Vocational Rehabilitation

The benefits of this service are hardly reaching Indian clients. Affirmative action Indian staff goals are sadly neglected and monitored. Relevant outreach and routine service delivery procedures for Indian clients have been generally ignored.

Recommendation:

I would recommend a thorough study of Vocational Rehabilitation services to Indian people.

The Indian Desk has not had the staffing to concentrate on this departmental division. An increase in our staff for this and other purposes would be of great assistance.

Direct contracts to tribes and urban Indian communities to deliver these

to their own people should be studied and implemented if requested by tribes or communities.

c. Public Health

The primary issue here is that County Health Departments receive state funding by submitting a plan which is approved by the state. In practice Indian tribal governments are generally not consulted by the County Health departments and Indian health needs are not addressed once the counties receive their allocation using a headcount that includes Indians.

Recommendation:

1. Retrocession should also bring with it increased direct health appropriation to tribal governments.

2. For those tribes who continue to be counted in the county headcount, the state should develop and enforce relevant special regulations ensuring maximum Indian benefits from the County Public Health Plan.

4. MENTAL ILLNESS

I would include the following departmental services as implementation of this jurisdictional point:

- Alcoholism & Drug Abuse
- Mental Health
- Mental Illness Offender

a. Alcoholism & Drug Abuse

My comments in the Public Health section above apply here also.

b. Mental Health

My comments in the Public Health section above apply here also.

I would add that the existing mental health Washington Administrative Code and the past performance of county mental health programs are a very sad resource to Indian people.

No outreach or relevant mental health services are being extended to Indian people in this state by the current method of plan approval or implementation.

I have attached a recent memo from the Office of Mental Health to the Deputy Secretary of the Department.

I do not agree with the overly optimistic statement that the newly-adopted Rules & Regulations will produce real results for Indian people. My reason for saying this is that there is no real Indian control of the monitoring function and the state rarely takes forceful steps to force compliance of counties who ignore or neglect Indian needs.

To bring the discussion of jurisdictional points to a close I must mention the

Division of Adult Corrections which involves the state's adult prisons and adult probation and parole services. This relates directly to the criminal jurisdiction assumed by the state under P.L. 93-280.

Again, the Indian Desk has had to spend most of its concentration on the foster care, adoption, financial and other services delivered by the department's Community Services Division because of the larger number of Indian clients involved.

The plight of Indian persons in prison and on probation and parole has not received the attention of the department and Indian tribes and people that they deserve.

The lack of Indian staff to serve as advocates and counselors is a major problem here as in other areas. Relevant service delivery methods for serving Indian inmates and probationers and paroless are non-existent.

Recommendation:

1. Retrocession so that Indian tribes can develop unique correctional and court services to Indian clients.

2. A separate system within the state agency administered and staffed by Indian persons.

Affirmative Action Employment

To be short and to the point - the department's affirmative action employment program for Indian people is a "paper tiger".

There has only been a slight total increase of permanent Indian employees since 1973. (97 in March, 1973; 180 in January, 1976.) The stated goal is approximately 280 for January, 1976.

There are only 9 Indian caseworkers, 3 Indian vocational rehabilitation counselors.

There are numerous reasons why the program is failing:

1. No meaningful systematic recruitment of Indian employees;

2. The goals for Indian employees:

   a. Are goals and not quotas.

   b. Are not properly monitored for compliance.

   c. Do not designate specific positions which will provide direct services to Indian clients. Consequently most of the Indians hired fill non-direct service positions usually at the lowest grades.

3. No "teeth" in the compliance factor;

4. No follow-up on Indian applications going through the state office personnel

system.

5. When a position comes open in a local office which has not met any or all of its minority affirmative action goals, it is up to the various minority affirmative action specialists to fight over which group gets the position if indeed any group finally gets the position filled.

6. Since the Indian Desk left the Affirmative Action/Minority Affairs Unit which retained the jurisdiction over the Indian affirmative action program, the Indian affirmative action employment program is now administered, implemented, and monitored by non-Indian staff.

Recommendation:

1. Establishment of a separate Indian affirmative action program with at least one Indian specialist attached to the Indian Desk.

2. The new Indian AA plan would be based on two factors:

   A. A percentage based on % of clients served by a particular service;

   B. Specifically designated administrative, program development, service delivery, and clerical positions in local offices serving Indian clients and in state administrative offices. This plan would be intregal to the separate Indian planning and service delivery system mentioned in previous recommendations.

Civil Rights

The same basic problem stated in the Affirmative Action section above applies to the department's civil rights program. The Affirmative Action/ Minority Affairs Unit has retained the jurisdiction over the implementation and monitoring of civil rights as it relates to Indian clients and staff. Consequently a unit of non-Indians is "protecting" the civil rights of Indian people.

Recommendations:

1. Return this jurisdiction to the Indian Desk and increase its staff to handle it.

CONCLUSION

In my estimation an examination of all the Washington Administrative Code, Procedural Manuals, State and County Plans covering all the services I've enumerated and the actual service delivery practices and the real needs of Indian people on reservation proves:

1. The necessity of retrocession as outlined by S.2010 and appropriate additional appropriations and technical assistance to Indian tribes to plan, administer, and deliver their own social services in the areas I've enumerated.

2. The necessity of establishing a method of strong accountability of federal, state, county, and city financial, social service, and

court programs to Indian Tribal Governments and communities who for whatever reason do not retrocede or desire to provide the service themselves. This could be partially accomplished through:

1. Contracts with the state with explicit accountability to the tribe for services provided;

2. A separate Indian program development and service delivery system within the state agency staffed and administered by Indian persons with an explicit accountability to Tribal Governments. Federal and state legislation with suitable appropriations would be necessary to establish this concept properly.

Thank you for this opportunity to present my numerous comments on this very important and complex issue of jurisdiction.

Sincerely,

Don Milligan

Don Milligan
Indian Desk
Office of the Deputy Secretary

DM:ab
cc: File (2)

Attachments

State of Wisconsin \ DEPARTMENT OF HEALTH & SOCIAL SERVICES

DIVISION OF FAMILY SERVICES
1 WEST WILSON STREET
MADISON, WISCONSIN 53702

October 18, 1976

REPLY TO
ATTN. OF

Mr. Phil Shenk
Friends Committee on National Legislation
245 Second Street N.E.
Washington, D.C. 20002

Dear Mr. Shenk:

This is in response to your request for reactions to Senator Abourezk's Indian Child Welfare Bill (S-3777).

It is encouraging to see legislative concern being directed toward preserving family life and providing protection to children being removed from their natural families so that they do not get "lost in the system." However, our concern is that S-3777 is directed only toward a minority group. Based upon our experience, the abuses of placing Indian children indiscriminately with white families has been corrected in Wisconsin. This has not been done through legislation but through increased awareness of the importance of using the resources within the Indian community. In addition, careful planning is done with the natural family to protect the confidentiality and wishes of the parent.

Enclosed you will find remarks typed in the margin of the Bill. An attempt was made to do some editing. However, it would require a complete revision to properly reflect the needs of all children who may be in need of child welfare services and to permit parents freedom of choice and to preserve confidentiality for natural parents and child.

Sincerely,

Frank Newgent, Administrator
DIVISION OF FAMILY SERVICES

Enclosure

State of
Washington
Department
of Social & Health
Services

October 22, 1976

Phil M. Shenk
Student Intern
FCNL
245 Second Street N.E.
Washington, D.C. 20002

Dear Mr. Shenk:

I appreciate your asking me for a response to Senator Abourezk's Indian Child Welfare Bill. I do apologize for not being prompt in answering your request, as I have been involved on our own State Indian Child Welfare WAC revisions. (see attached)

As you know, Washington State is a P.L. 280 state and is operating under Title XX of the Social Security Act. This has put the tribes and Indian communities in a very awkward position of getting adequate social and health services out of an agency, the State of Washington Department of Social and Health Services, which for all practical purposes is not knowledgeable, trained, or committed to providing services guaranteed to Indian people under their unique status as native Americans.

Statistics for Washington State show that one out of every 28.5 Indian children is in foster care, compared to one out of every 275 non-Indian children in foster care. Hence, Indian children are placed in foster care in Washington State almost ten times more often as non-Indians.

Therefore, our concern about Indian child welfare is very real, and we are looking at the progress of Senator Abourezk's Bill with great interest.

I've reviewed the Bill a number of times, and I see it as covering our concerns very well. I feel I can make no recommendations for further changes as, again, I'm very satisfied with the Bill's content.

Please keep me informed of the progress of S. 3777, and thanks again for asking for my response.

Sincerely,

Bob Matz
Regional Indian Affairs Representative

BM:sd

Attachment

COMMUNITY SERVICES DIVISION
Region I Office
2430 Main Avenue East, Seattle, WA 98102

This is for Washington Administrative Code revision on Indian Child Welfare, which we hope to get adopted by November 1976

NEW WAC 388-70-091 FOSTER CARE PLANNING FOR INDIAN CHILDREN--DEFINITIONS: For the purposes of these rules, the term "Indian" will be defined in three separate ways:

(1) An enrolled Indian:

(a) Any person who is enrolled or eligible for enrollment in a recognized tribe.

(b) Any person determined, or eligible to be found, to be an Indian by the secretary of the interior.

(c) An Eskimo, Aleut or other Alaskan native.

(2) A Canadian Indian: Any person who is a member of a treaty tribe, Metis community or non-status Indian community from Canada.

(3) An unenrolled Indian: A person considered to be an Indian by a federally or non-federally recognized Indian tribe or urban Indian/ Alaskan native community organization.

NEW WAC 388-70-092 FOSTER CARE FOR INDIAN CHILDREN--TRIBAL SOVEREIGNTY. Neither the licensing of Indian foster homes nor the placement and supervision of Indian children within the exterior boundaries of an Indian reservation, shall in any way abridge the sovereignty of an Indian nation or tribe nor shall compliance with these rules and regulations be deemed a relinquishment of sovereign authority by an Indian nation or tribe or by the State of Washington.

NEW WAC 388-70-093 FOSTER CARE FOR INDIAN CHILDREN--SERVICES. Documented efforts shall be made to avoid separating the Indian child from his parents, relatives, tribe or cultural heritage. Consequently:

(1) In the case of Indian children being placed in foster care by the department or for whom the department has supervisory responsibility, the local Indian child welfare advisory committee, predesignated by a tribal council, or appropriate urban Indian organization shall be contacted. Members of that committee will serve as resource persons for the purposes of cooperative planning and aid in placement.

(2) The resources of the tribal government, department and the Indian community shall be used to locate the child's parents and relatives to assist in locating possible placement resources, and to assist in the development of a plan to overcome the problem that brought the child to the attention of the authorities and/or the department.

(3) In planning foster care placements for Indian children, demonstrable consideration shall be given to tribal membership, tribal culture and Indian religions. The case record shall document the reasons and circumstances of case-work decisions and consideration in those regards.

(4) The following resources for foster home placement of Indian children will be explored and followed in the following order: relatives' homes, homes of other Indian families of same tribe, other Indian foster parents and, lastly, in non-Indian foster homes specifically recruited and

trained in coordination with the local Indian child welfare advisory committee to meet the special needs of Indian foster children and in the geographic proximity that will insure continuation of the parent-child relationship. The training of non-Indian foster parents shall be designed and delivered in cooperation with the above committee and/or persons designated by the committee.

(5) For each Indian child who will be in care for more than 30 days, including those for whom adoption is planned, the ESSO shall make documented effort to complete two copies of the "family ancestry chart" (except in those cases where parents specifically indicate in writing they do not want the child enrolled). One copy will be retained in the child's file; the other will be forwarded to the bureau of Indian affairs office or the department of Indian affairs agency in Canada serving that child's tribe or band. The BIA of the department of Indian affairs agency will review the chart for possible enrollment eligibility in conjunction with the enrollment committee of the appropriate tribe or urban Indian community.

(6) The ESSO shall develop its social resources and staff training programs designed to meet the special needs of Indian children through coordination with tribal, Indian health service, bureau of Indian affairs social service staff, appropriate urban Indian and Alaskan native consultants, national, state and local Indian welfare organizations and ESSO child welfare advisory committees.

(7) The ESSO shall make diligent and demonstrable efforts to recruit facilities and/or homes particularly capable of meeting the special needs of Indian children with the assistance of the local Indian child welfare advisory committees.

NEW WAC 388-70-095 FOSTER CARE FOR INDIAN CHILDREN--SERIOUS INJURY, DEATH, ABANDONMENT, PROTECTIVE SERVICE COMPLAINT, INCARCERATION. The ESSO shall report to a child's tribal council and ESSO Indian child welfare committee the serious injury or death or abandonment, protective service complaint or incarceration of an Indian child in foster family care within 24 hours of the department's knowledge of the situation or within the first full workday.

NEW WAC 388-70-096 FOSTER CARE FOR INDIAN CHILDREN--MONITORING. Monitoring for conformity to these rules is a joint responsibility of the office of family, children and adult services, the state level Indian child welfare advisory committee, the DSHS Indian desk, the regional offices, the ESSO administrator and the local Indian child welfare advisory committee.

Insert with Consultation

NEW WAC 388-70-410 ADOPTION SERVICES FOR CHILDREN--LEGAL BASIS--PURPOSE. (1) RCW 74.13.020 defines "child welfare services" as "public social services which strengthen, supplement or substitute for parental care and supervision."

(2) The purpose of the department's adoption program is to meet the needs of children who are in the department's care and custody.

NEW WAC 388-70-420 DEFINITIONS. (1) Adoption: Adoption is a legal and social process provided for by law to establish the legal relationship of child and parent when they were not so related by birth.

(2) Department placements: families applying for placements through the adoption exchanges, department's central exchange, Washington adoption resource exchange (WARE), and the adoption resource exchange of North America (ARENA).

(3) Independent placements: families anticipating placement by a doctor or attorney and applying for preplacement or next friend reports.

(4) Inter-country placements: the child for adoptive placement is not a resident and/or citizen of the United States.

(5) Department: means the department of social and health services including any division, office or unit thereof.

NEW WAC 388-70-430 ELIGIBILITY FOR ADOPTION SERVICE. (1) Children: adoption services may be provided any child supervised by the department in foster care or at the request of their parents prior to foster care placement.

(2) Families: families applying for the adoption services provided by the department are resources for children and not subject to service eligibility requirements.

NEW WAC 388-70-440 ADOPTION SERVICES FOR CHILDREN. (1) Adoption services for children include:

(a) Casework with parents focused on a permanent home for their child/ren;

(b) Casework with children;

(c) Petitioning the court for termination of parental rights;

(d) Determination of children's medical and social needs;

(i) Psychiatric and psychological evaluations as well as any needed medical evaluations are provided;

(e) Adoptive family home studies (preplacement reports);

(f) Evaluation of adoption resources;

(g) Adoption placements which best meet the child/ren's needs;

(h) Counseling and/or referral of families and children after placement;

(i) Next friend reports for the court.

(2) The social planning for a child in the department's permanent custody shall be continuously reviewed by its economic and social service, regional and state offices to assure that the child is moved as rapidly as possible into adoptive status.

(3) The planning for children continuing in foster care under the department's supervision shall be reviewed every six months to determine their need for adoption services.

(4) Exploration of adoptive resources for a child will be relatives, current foster parents, and registered approved families.

NEW WAC 388-70-450 ADOPTIVE PLANNING FOR INDIAN CHILDREN BY DEPARTMENT STAFF. (1) Definitions: For the purposes of these rules the term "Indian" includes the following groups:

(a) Enrolled Indian

(i) Any person who is enrolled or eligible for enrollment in a recognized tribe.

(ii) Any person determined, or eligible to be found, to be an Indian by the secretary of the interior.

(iii) An Eskimo, Aleut or other Alaskan native.

(b) Canadian Indian: a person who is a member of a treaty tribe, Metis community or non-status Indian community from Canada.

(c) Unenrolled Indian: a person considered to be an Indian by a federally or non-federally recognized tribe or urban Indian/Alaskan Native community organization.

(2) An adoptive family shall be considered Indian if one or both parents are Indian by the above definitions.

(3) In adoptive planning for Indian children, the unique tribal, cultural and religious sovereignty of Indian nations, tribes and communities shall be recognized. When consistent with the wishes of the biological parents and/or the child, the adoption of Indian children by Indian families is the primary goal.

(4) Standards implementing the policy are:

(a) Adoption exchange. In the referrals for an Indian child, adoptive homes having the following characteristics shall be given preference in the following order, each category being allowed 30 days before proceeding to the next:

(i) A relatives home

(ii) An Indian family of the same tribe as the child.

(iii) A Washington Indian family considering tribal cultural differences.

(iv) An Indian family from elsewhere in the United States or Canada through the adoption resource exchange of North America. Attention shall be given to matching the child's tribal culture to that of the adoptive family.

(v) Any other family which can provide a suitable home to an Indian child, as well as instill pride and understanding in the child's tribal and cultural heritage.

(b) Foster parent adoptions: as a part of the total evaluation for approving a foster parent adoption of an Indian child, ESSO service staff shall document the foster family's past performance and future commitment in exposing the child to its Indian tribal and cultural heritage. The child's wish to be involved in his Indian culture shall be considered.

(c) When an Indian child, in the custody of an out of state agency, is referred for potential adoptive parents residing in Washington, documentation shall be obtained that assures the department's standards for planning for Indian children have been complied with.

(5) Local staff shall utilize an Indian child welfare committee in planning for placement of Indian children.

(6) Monitoring for conformity to these rules is a joint responsibility of the Office of Family, Children and Adult Services, the state Indian child welfare advisory committee, the DSHS Indian desk, the regional administrator, ESSO administrator, and local Indian child welfare advisory committee.

NEW

WAC 388-70-460 ADOPTION SERVICES FOR FAMILIES. (1) Department placements:

(a) Applications are accepted from families residing in the state of Washington based upon the anticipated children needing placement;

(b) Upon acceptance of an application, a home study shall be initiated by the ESSO staff and one of the following decisions reached;

(i) Application to adopt is withdrawn by family;

(ii) Application to adopt is denied;

(iii) Family is approved for adoptive placement and registered at the central office exchange.

(c) A family shall be removed from the central office exchange registry for any of the following reasons:

(i) The department has placed a child with the family;

(ii) The family decides to receive adoption services from any other agency or through an independent placement;

(iii) The wife is pregnant;

(iv) The family and/or caseworker decide that adoption is no longer an appropriate plan;

(v) The family physically leaves the state.

(d) A family removed from the central office exchange registry may reapply for adoption services; their situation at the time of reapplication shall be evaluated;

(e) Families will be informed in writing of action taken according to the rules of this section and of their right to have a fair hearing on the request for adoption services.

(2) Independent placements:

(a) ESSO staff may respond to Washington families' requests for preplacement studies and next friend reports depending on staff time and other community resources available.

(b) An office not providing service on independent placements shall inform the Superior court in its area of the available community resource that is available for preplacement and next friend reports.

(c) When an ESSO employee is appointed next friend and the required preplacement report has not been filed in accordance with RCW 26.32.200 through 26.32.270, the situation shall be brought to the attention of the attorney general.

(3) Inter-country placements:

(a) Families will apply to the international child placing agency or their choice.

(b) Upon the written request to the central office by the family's chosen agency, the department may provide the cooperative services. The child's agency must agree to continue its financial and social responsibility for the anticipated child until the decree of adoption is final.

(c) A request for preplacement study for an independent inter-country adoptive placement shall be denied.

NEW

WAC 388-70-470 INTERSTATE PROCEDURES. (1) The State of Washington is a member of the Interstate Compact on the Placement of Children (Chapter 26.34 RCW).

(2) No child for whom the department has responsibility for adoptive planning shall be sent from the state without prior approval of the compact administrators of the state of Washington and the receiving state.

(3) ESSO staff shall not provide supervisory services on an interstate adoptive placement unless the interstate compact forms or their equivalent have been signed by the compact administrators of the two states.

NEW

WAC 388-70-480 RECORD CONFIDENTIALITY. (1) All records and information obtained by the department in providing adoption services are confidential as specified in RCW 26.36.010; 26.36.020; 26.36.030; and 26.36.050.

(2) Upon the issuance of the decree of adoption, a child's record is sent to the central office for archiving.

(3) Information from an archived record required for the medical and/or emotional treatment of an adopted child may be obtained from the central office adoption specialist, under the authority of RCW 26.36.050. The request for information will be made by the professional treating the child and include the adoptive parents' written authorization to release the information.

NEW

WAC 388-70-600 LOCAL INDIAN CHILD WELFARE ADVISORY COMMITTEE--PURPOSE. The intent of WAC 388-70-096, 388-70-450 and WAC 388-70-600 through WAC 388-70-640 is to ensure protection of the Indian identity of Indian children, their rights as Indian children, and the maximum utilization of available Indian resources for Indian children. To ensure the realization of this intent, each and every current and future case involving Indian children for whom the department of social and health services has a responsibility shall be referred to a local Indian child welfare advisory committee on an on-going basis.

The purposes of local Indian child welfare advisory committees are:

(1) To promote relevant social service planning for Indian children

(2) To encourage the preservation of the Indian family, tribe, heritage, and identity of each Indian child served by the Department of social and health services.

(3) To assure participation by representatives of tribal governments and Indian organizations in departmental planning for each and every Indian child for whom the department has a responsibility.

NEW WAC 388-70-610 LOCAL INDIAN CHILD WELFARE ADVISORY COMMITTEE--MEMBERSHIP. Local Indian child welfare committees shall be established within each region. The number and locations of the local committees shall be mutually determined by the Indian tribal governments and urban Indian organizations served by that region and the DSHS regional administrator.

(1) The committee shall consist of representatives designated by tribal government and urban Indian organizations. The Regional Administrator shall appoint committee members from among those individuals designated by Indian authorities. These members should be familiar with and knowledgeable about the needs of children in general as well as the particular needs of Indian children residing in the service area.

(2) The Committee may also include Bureau of Indian affairs and/or Indian health service staff if approved by participating tribal councils and urban Indian organizations.

(3) The DSHS regional administrator and/or the ESSO administrator shall appoint a member of his child welfare supervisory staff as a liaison member of the committee.

NEW WAC 388-70-615 LOCAL INDIAN CHILD WELFARE ADVISORY COMMITTEE--SUBCOMMITTEES. Each committee may appoint a subcommittee of permanent members to participate in reviewing the situation of an individual child or children for the purpose of recommending future planning actions.

NEW WAC 388-70-620 LOCAL INDIAN CHILD WELFARE ADVISORY COMMITTEE--FUNCTIONS. (1) The functions of the local Indian child welfare advisory committee are:

(a) Participation with DSHS staff in cooperative planning for Indian children.

(b) Consultation to DSHS staff in providing adoption, foster care and child protective services on behalf of Indian children.

(c) Assisting in the recruitment of and making recommendations regarding the licensing of foster and adoptive homes for Indian children and providing culturally relevant services to Indian children.

(d) Assuming other functions as agreed upon by the committee and regional administrator.

(2) Functions of subcommittee of full committee as locally determined:

(a) Reviewing the situation of each Indian child.

(b) Recommending plans for all Indian children.

(c) Assisting in the implementation of recommended plans.

NEW WAC 388-70-630 LOCAL INDIAN CHILD WELFARE ADVISORY COMMITTEE--MEETINGS. Each committee and the regional administrator and/or ESSO administrator will mutually agree as to time, place and frequency and conduct of official committee meetings.

NEW WAC 388-70-640 LOCAL INDIAN CHILD WELFARE ADVISORY COMMITTEE--CONFIDENTIALITY. (1) The members of the local Indian child welfare advisory committee shall agree to abide by RCW 26.36.036 and the rules of confidentiality binding the DSHS staff.

(2) There will be notification to Indian clients that their situation will be reviewed by a local Indian child welfare advisory committee.

NEW WAC 388-70-650 ADMINISTRATIVE PROCEDURES. (1) When local Indian child welfare committee members and caseworker cannot reach an agreement, they may seek review by the child welfare supervisor, ESSO administrator; regional administrator; chief, office of family, children and adult services; director, bureau of social services; director, community services division, and secretary, progressively. Consultation from the state office Indian desk should be pursued at all levels.

(2) Each committee will develop its own conflict of interest policy.

REP WAC 388-70-100 and 388-70-150 are hereby repealed.

STATE OF OKLAHOMA
OKLAHOMA PUBLIC WELFARE COMMISSION
DEPARTMENT OF INSTITUTIONS, SOCIAL AND REHABILITATIVE SERVICES
(Department of Public Welfare)

L. E. Rader
Director of Institutions,
Social and Rehabilitative Services

Mailing Address: P.O. Box 25352

Sequoyah Memorial Office Building
OKLAHOMA CITY, OKLAHOMA - 73125

November 10, 1976

In Reply - Address to Director
Attention:
Dennis Sharp, Supervisor
Division of Social Services

Mr. Phil M. Shenk, Student Intern
Friends Committee on National Legislation
245 Second Street, N.E.
Washington, D.C. 20002

Dear Mr. Shenk:

Thank you for your letter of September 29, 1976, inquiring about this Department's reaction to the child placement standards set forth in Senate Bill 3777.

Although Oklahoma has a proportionately large Native American population, there are no Indian reservations in the State. This fact makes a number of the provisions of S.3777 inapplicable here.

Since most of the provisions of Title I of the bill would have direct impact on the procedures of district courts, rather than on the policy and procedures of this Department, we have enclosed for your information a copy of Oklahoma's Children's Code. Reference to this publication will show that some procedures mandated by S.3777 are already prescribed by Oklahoma statute.

Recognizing that any bill is subject to substantial change between introduction and eventual enactment, we hope that any legislation finally adopted by Congress will strike a fair and equitable balance between the interests of parents and the sometimes conflicting interests of their children. It might be of interest to you to compare the child placement standards promulgated by S.3777, as introduced on August 27, 1976, with those of the Child Welfare League of America.

We hope the enclosed publication is helpful to you. If we can be of any further assistance, please do not hesitate to contact us again.

Very truly yours,

L. E. Rader, Director of Institutions,
Social and Rehabilitative Services

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE
CENTENNIAL OFFICE BUILDING
ST. PAUL, MINNESOTA 55155

November 22, 1976

Friends Committee on National Legislation
245 Second Street Northeast
Washington, D.C. 20002

COPY

Attention: Phil M. Shenk, Student Intern

Dear Mr. Shenk:

Upon receiving your letter dated September 16, 1976, requesting our reactions and any recommendations we may have on the Indian Child Welfare Bill, S. 3777, we obtained a copy of the bill. Louise Lindberg, supervisor, Ron Mosman and Zetta Feder, who are consultants for children under guardianship and in out-of-home care, and myself met to discuss the proposed legislation.

As a matter of interest, it appears that the thrust of the bill is to help preserve the Indian communities, rather than giving primary focus to the Indian child. There were a number of concerns which we did want to bring to your attention in the wording of the bill.

On page 5, under (h), the definition for natural parent includes biological or adoptive. We feel that there may be some ramifications in this definition in carrying out the provisions of the legislation. One concern was whether necessary legal safeguards are given to the biological parents in situations where a child is adopted under Tribal custom. Should this definition also include adoptions which occur under state statutes?

On page 6, (C), lines 15 through 20 seem to indicate that a voluntary release is not allowed. The parent is subject to the Tribe on any decision to release the child. Please refer back to the definitions on page 5, (G), which indicate in line 7 an allowance for a voluntary placement. The definition, therefore, appears to be in conflict with the provisions under Section 102 (c).

AMERICAN CIVIL LIBERTIES UNION

22 East 40th Street New York, New York 10016 (212) 725-1222

August 8, 19

Senator James G. Abourezk
Chairman
Select Committee on Indian Affairs
3321 Dirksen Senate Office Bldg.
Room 5325
Washington, D.C. 20510
Attn: Tony Strong

Re: S.1214

Dear Senator Abourezk:

Thank you for the opportunity to testify before your Committee on August 4th regarding S.1214. At the conclusion of my testimony Senator Hatfield, who was then presiding, requested that I provide the Committee with proposed statutory language that reflects my testimony and the written statement I previously provided, a copy of which is attached hereto.

My first recommendation was that the Bill should provide for notice to the tribe and/or natural parents whenever an Indian child, previously adopted or in foster care by order of a non-tribal authority, is either institutionalized or transferred to a new foster home. (See page 4 of my written statement, ¶¶ 1 and 2.) Accordingly, I propose the following new section:

> Whenever an Indian child previously placed in foster care or for adoption by any non-tribal authority is committed or placed, either voluntarily or involuntarily, in any public or private institu-

> tion, including but not limited to a correctional facility, institution for juvenile delinquents, mental hospital, or halfway house, or is transferred from one foster home to another, notification shall forthwith be made to the child's tribe of origin and to his or her natural parents. Such notice shall include the exact location of child's present placement and the reasons for that placement. Notice shall be made before the transfer of the child is effected, if possible, and in any event within 72 hours thereafter.

My second concern was that the Bill does not limit the exercise by non-tribal authorities of temporary placement power in circumstances of imminent danger (see p. 3 of my written statement).

Accordingly, a new section should provide:

> In the event that a duly constituted state agency or any representative thereof has good cause to believe that the life or health of an Indian child is in imminent danger, the child may be temporarily removed from the circumstances giving rise to the danger provided that notice shall be given to the tribal authorities and the natural parents, if the latter can be located, within 24 hours of the child's removal. Notice shall include the child's exact whereabouts and the precise reasons for his or her removal. Within 48 hours of removal a hearing shall be held to determine whether good cause for the removal does in fact exist and whether the tribal authorities or the natural parents can provide for the child's care until a further custody determination can be made.

Finally, I expressed concern that the Bill's language does not adequately reflect its intention to regulate only placements made by non-tribal authorities. The Bill does not intend to interfere with tribal or parental placement decisions. (See my written statement, p. 3.) Accordingly, in the definition of "child placement" on line 3 of the Bill at page 5, after the word "private," the following should be inserted: "other than custody arrangements made by a natural parent or a tribal authority."

I also noted in my testimony (p. 3, last paragraph) that section 101(d) appears to give private individuals, groups or institutions the authority to seize Indian children for 30 days without even notifying the parents or the tribe. I understand, however, that your Committee is in the process of either eliminating, modifying or clarifying this section.

I hope these suggestions are useful, I am pleased to be of service to the Committee.

Yours sincerely,

Rena K. Uviller

Rena K. Uviller
Director
Juvenile Rights Project

RKU:mab

AMERICAN CIVIL LIBERTIES UNION
22 East 40th Street
New York, N.Y. 10016
212/725-1222

August 2, 1977

Statement of the American Civil Liberties Union in Support of S.1214 to the U.S. Senate Select Committee on Indian Affairs
August 4, 1977

My name is Rena Uviller. I am a lawyer and the director of the Juvenile Rights Project of the American Civil Liberties Union. One of the primary objectives of the Juvenile Rights Project is to guard the rights of both children and parents by resisting state encroachment upon the liberty and privacy protections which the Bill of Rights and Supreme Court decisions bestow upon family relationships.

S. 1214 is a commendable effort to counteract a recent and disturbing governmental tendency to intrude upon the family liberty and privacy of poor citizens. Using federal money provided especially through title IV of the Social Security Act, state and local child care agencies have arbitrarily and unnecessarily separated thousands of children from their parents and placed them in institutions or foster homes. There they stay for years, frequently moved from one foster home or institution to another. This means heartbreak for both parents and children. And the instability thereby injected into the lives of the children has long been recognized as a primary cause of future maladjustment and juvenile crime.

It has been estimated that 400,000 American children live in the impermanent limbo of foster care. This high rate of family dissolution is in large part caused by the failure of federal laws to regulate out-of-home placements financed by federal funds. Federal law should make state grants for foster or institutional care dependent upon the provision of services to families that might avoid the need for such placements. Federal law should require fiscal accountability for state expenditure of federal foster care money, and should insist that involuntary separations of parents and children be restricted to cases of extreme neglect.

Indian families have been especially victimized by the rush to use out-of-home placement by child welfare officials. In 1969 and in 1974, surveys conducted by the Association on American Indian Affairs in states with large American Indian populations revealed that approximately 25 to 35 percent of all American Indian children are separated from their families and reside in foster homes, adoptive homes, or institutions. In 1972, nearly one of every four American Indian children under one year of age was adopted. The studies showed that in Minnesota, for example, one of every eight American Indian children under 18 years of age was living in an adoptive home, a per capita rate five times greater than for non-Indian children. In Wisconsin, the per capita rate for foster care and adoptive placements is 16 times greater for Indian than for non-Indian children. The ratio of American Indian foster care placement in Montana is at least 13 times greater than for non-Indians, and in South Dakota it's nearly 16 times greater. In Washington, the American Indian adoption rate is 19 times greater, and the foster care rate almost 10 times greater than the rate among non-Indian children.

Equally as disturbing, in the 16 states surveyed in 1969, approximately 85 percent of all American Indian children in foster homes were living in non-Indian homes, and more than 90 percent of all non-related adoptions of American Indian children were by non-Indian couples.

This extraordinarily high placement rate of Indian children is not a reflection of a greater propensity by Indian parents to neglect or abandon their children. Rather, it is a reflection of ignorance on the part of non-Indian child welfare officials of the familial and cultural traditions of Indian life, and of insensitivity to the important psychological and cultural attachment Indian children have to their tribal community. The untoward number of extra-tribal placements results also from a failure to provide poor Indian families with the means to raise their children, and from too great a willingness by state officials to meet the growing adoption demands of childless white couples who find the number of white children available for adoption dramatically reduced.

The effect has been the destruction of Indian family life and has been aptly characterized as a form of genocide.

S. 1214 would reduce the number of inappropriate Indian-child placements by giving broad authority to Indian tribes to prevent such placements and to regulate, when they are necessary, their terms and conditions. It would also provide funds for services to poor Indian families that would avoid the need for foster care. For these reasons ACLU enthusiastically endorses the Bill.

Suggested Revisions

I have several modifications to suggest, however. Most of them are designed to enhance the Bill's purpose--i.e., to strengthen Indian tribal and family autonomy.

First, the definition of "child placement" in section 4(g) of the bill should be clarified. As written, it seems to include placements that have been authorized by the tribe. Because the purpose of the statute is to protect tribal judgments about child placement and to regulate only extra-tribal placements made by non-tribal officials, the definition of "child placement" should be limited to placements not authorized by the tribe. This confusion is also present in section 101(a). As written, it seems to regulate the authority of the Indian parent to make a voluntary placement within the reservation. Because the Bill is designed to regulate only placements made outside the tribe by non-tribal authorities, the language should be clarified to reflect that intention.

Second, the Bill does not adequately define the "temporary" placement state officials are authorized to make in situations of imminent danger. Although temporary placement to prevent imminent danger to life or health should be possible, its duration and exercise should be carefully circumscribed. Temporary placement should last no more than 48 hours, with immediate notice to both parents and tribal authorities, and with provision for an immediate hearing as soon after the placement as possible. In its present form, the Bill does not seem to contain these safeguards.

Third, section 101(d) seems to authorize private persons, groups or institutions to seize an Indian child for up to 30 days without even giving notice to the parent or to tribal authorities. I can think of no justification for giving such authority to state officials, much less to private persons or groups.

Fourth, the Bill does not require notice to the tribe or to the parents of the fact that an Indian child who was previously placed with or adopted by a non-Indian family has been relinquished by that family to an institution. Apparently, there is a high failure rate of adoptions of Indian children by non-Indian families. Especially during the difficult years of adolescence, there is a reportedly high incidence of Indian children previously adopted by white families who wind up in mental institutions, juvenile delinquency reformatories, or renewed foster care. When this occurs, the youth's original tribe and his or her biological parents are unaware of the situation.

Rather than allowing the children to languish in such institutions, the tribe should be notified automatically so that the possibility of reintegration into the tribe can be explored. Accordingly, I recommend the insertion into the Bill of a notice requirement to the tribe of origin and/or the biological parents whenever an Indian youth, previously adopted outside the tribe, is placed in foster care or an institution, including mental institutions and correctional facilities.

These suggestions would strengthen the autonomy of the Indian family and tribe. In one respect, however, I believe the Bill confers too much power upon the tribe over an Indian child who has never resided or been domiciled within the reservation. Section 103(a) requires that in offering an Indian child for adoption every non-tribal government agency must grant a preference to the members of the child's extended Indian family. Such tribal authority over the Indian child who has resided or at least been domiciled on the reservation is entirely appropriate. However, when section 103(a) is read together with section 101(c), it appears that the tribe has comparable authority over the Indian child who has never been a resident or domiciliary of the reservation. This might have unfortunate results.

For example, the child might be the offspring of an Indian parent who has long left the reservation and a non-Indian spouse. The child may have familial attachments to the extended family of the non-Indian parent. In the event of the death or disability of both parents, the child's tribe of origin would have greater claim to the child than would the non-Indian family with whom the child may have been raised. Absolute tribal authority in those circumstances,

5/

is not in the best interests of such children. Section 103(a) should, accordingly contain language similar to that in section 103(b); i.e., that a preference shall be given to members of the child's extended family, "in the absence of good cause shown to the contrary."

Conclusion

I hope this presentation of ACLU's views will be useful to the Committee. Thank you for the opportunity to speak with you today.

ADOPTION
RESOURCE
EXCHANGE OF
NORTH
AMERICA

8-15-77

August 11, 1977

Senator James Abourezk
3321 Dirksen Building
United States Senate
Washington D.C. 20510

Attention: Ms. Patty Marks

Enclosed please find testimony on S1214, the Indian Child Welfare Act of 1977.

We appreciate the opportunity to respond to the proposed legislation. We would be happy to answer any questions or elaborate on any of our suggestions or concerns.

Thank you for your attention.

Very truly yours,

Mary Jane Fales
ARENA Project Director

encls.

MJF/js

ARENA is a program of the North American Center on Adoption
67 Irving Place, New York, New York 10003 (212) 254-7410
CWLA CHILD WELFARE LEAGUE OF AMERICA, INC.

Statement Presented to the
Select Committee on Indian Affairs
U.S. Senate
by
Mary Jane Fales
Director ARENA Project
North American Center on Adoption
on behalf of
The Child Welfare League of America, Inc.

August 10, 1977

My name is Mary Jane Fales and I am the Director of the Adoption Resource Exchange of North America, a project of the North American Center on Adoption. The Center is a division of the Child Welfare League of America, Inc., a national voluntary organization with approximately 380 voluntary and public child welfare affiliates in the United States and Canada.

While the purpose of the League is to protect the welfare of children and their families, regardless of race, creed or economic circumstances, the Center specifically addresses the need for children to grow up in a permanent nurturing family of their own. The Center is a non-profit corporation that provides consultation and education to agencies, schools of social work, concerned citizen groups and the general public as well as exchange services to aid in the adoption of special needs youngsters.

The Adoption Resource Exchange of North America (ARENA) has assisted over the past ten years almost two thousand children to find permanent homes. At this point in time, there are about 1,100 legally free children registered with ARENA who include those of minority background, youngsters over the age of 10, severely handicapped children, as well as those who are part of large sibling groups. Also registered are about 1,000 families who are approved by a licensed agency and are interested in adopting the types of children that we have registered. Besides the task of bringing together families

and children throughout North America, ARENA has also served as a consultant to state and regional exchanges, as well as attempting to aggressively recruit famlies for those children who have waited the longest for their own families.

ARENA began almost twenty years ago as the Indian Adoption Project. We have had a history of assisting Indian children for the past twenty years to find permanent adoptive families. Over the years, almost 800 Indian children have found permanent, loving families. In the past five years, ARENA has changed its focus to emphasize the need for finding families within the Indian culture. In fiscal year 1975-76, 33 Indian children were assisted and out of that number 29 were placed with a family that had at least one Indian parent. Along with referring the registrations of Indian children for registered adoptive parents, ARENA has provided a great deal of consultation to agencies in North America educating them on the importance of placing Indian children for adoption within their own culture.

Through my frequent contacts with agencies across North America, along with my own experience within the Child Welfare field, I can see the need for legislation, not only for Indian children, but on behalf of the total child welfare population. The needless break-up of family systems that leave the children in the limbo state of temporary foster care and institutions, as well as, much of the lack of recruitment of appropriate adoptive homes, is a concern for Indian children as well as for children in the rest of the population in this country. There are at this time over 350,000 children in temporary foster care and institutions. Some estimates have been made that 30% of these children have not had any meaningful contact with their biological families. Other estimates have been made that at

least 100,000 children in this country could be placed for adoption if they were identified, legally freed, and the technology, that is available to find appropriate families for them, was used. Other programs such as the Oregon Permanency Project sponsored by HEW has proven that with intensive casework, many of the children who are in long-term foster care could be returned to their biological families or be placed in permanent homes by adoption.

Our organization stands for the concept that every child has the right to a permanent nurturing family of his own. Our experience and research in the field has shown us that children's needs to feel secure and permanent within a family system is essential to their growth and development. The best means of achieving this permanency is to provide the systems that will help children to stay within their biological families whenever possible. If parents are unwilling to or incapable of raising their children and there is no other biological family member able to assume this role, then permanent placement with an adoptive family of the same cultural background is the most beneficial. If, finally, it is determined that a child cannot stay within their own biological family and a home of the same cultural heritage is not available, permanent placement with an adoptive family is still more desireable than being raised in temporary care with a series of homes and caretakers.

We are pleased to be able to have the opportunity to respond to Senate Bill 1214 known as the Indian Child Welfare Act. We support the concepts behind the bill and, as stated earlier, feel that there is the need for the protection of Indian children and maintenence of their cultural identity in foster care and adoption. We are particularly supportive of the financial incentives and legal supports that would develop the Indian family through specific programs on and off the reservations. We are also very pleased

to see that adoption subsidies are part of this legislation. This component is very necessary in order to encourage more Indian adoptive families to take on the added expense and responsibilities of another child. Another important section of this Bill, includes the education programs for Indian court judges and staff related to the Child Welfare programs. We see this education as essential to providing good care and appropriate planning for the children in their care.

However, our organization cannot support S1214 as it is currently written, because of the following concerns. First, we feel there is a lack of protection offered to the children affected by the legislation. The Bill fails to acknowledge the importance of a secure, parental relationship and the identification with a "psychological" parent. The clause that gives the Secretary of the Interior the power to go as far back as 16 years to overturn final decress of adoption, could in effect cause insecurity to thousands of children who have been living for years in what they determined was a secure and permanent relationship. Also, the time frame of 90 days for biological parents to be able, without just cause, to change their minds about placing their child could severely affect the emotional growth of a baby. This in practice, would either significantly delay placements for the infant, or potentially take him or her away from parents. For a youngster under 2 years—90 days can be a "lifetime" of experience and development. Of even more concern, is the section of the legislation which states that a parent placing a child of two years or older, has the right to change their mind up until the final decree is granted. Since this final decree often takes as long as a year and a half in many states, it is unfair and detrimental to a child who is kept in this type of insecurity for such a long period of time. This is also a deterrent to potential Indian adoptive families who would

be afraid to risk adopting a child where the biological parent could withdraw their consent that easily.

Other questions include that the law does not provide for any foster care review system to prevent children from getting caught up in the temporary care situation. We are also concerned that there is no statement of children's right to a permanent home, if not in their biological family, then through adoption, as opposed to placement in an Indian foster home or institution.

Finally, we are concerned about the situation this legislation creates where the tribe shall review all child placements and have the right to intercede. The privacy and rights of the biological parents' to determine the future of their children would be invaded.

We would be delighted to see the Indian tribes further involved with the destinies of their children and encouragement offered for Indian families to be maintained and developed. We would be pleased to support legislation that would protect these investments if the changes mentioned were made.

SUMMARY

The statement on the Indian Child Welfare Act of 1977 - S1214 is presented by Mary Jane Fales, Director of the ARENA Project of the North American Center on Adoption. This is a division of the Child Welfare League of America, Inc.

We appreciate the opportunity to express our views regarding the needs of Indian children and their families. We commend the Senate Select Committee on Indian Affairs for bringing attention to this issue through the proposed legislation.

Our organization supports the concepts behind S1214 and feel there is a need for the protection of Indian children and the maintenance of their cultural identity in foster care and adoption. We also feel that the proposed Indian family development program is vital to improving the quality of Indian family life. We are particularly enthusiastic about those sections of the legislation that give financial and legal incentives for keeping Indian children within their biological families, educating Indian court judges and responsible Child Welfare staff, as well as offering subsidies to Indian adoptive families who might otherwise be unable to afford another child.

However, we cannot give our full support to S1214 because of some of the following concerns:

. There is no protection for children against a "lifetime" of temporary care. Any child placing agency should have foster care review systems to prevent children from getting "lost" and encourage case planning that includes a permanent family.

. We see the option offered to parents to withdraw their consent for adoptive placement, for any reason up to 90 days, if the youngster is under

two years, and up until final decree (this could be a year or two) for those who are older, as extremely detrimental. Ninety days for an infant is a significant period in their emotional development and for any child to delay placement or live with the insecurity of a potential move is to undermine their sense of emotional commitment and security with any family. This may also act as a barrier to Indian families who may not adopt because of the risk of losing a child they've grown to love.

. The Bill appears to encourage placement within the culture to the point of preference of temporary foster care or institutions rather than permanent placement outside of the Indian culture. While incentives to recruit and study Indian families should be offered, experience and research shows us that transracial adoptive placements can produce stable adults with a sense of ethnic identity.

. The provision allowing investigations and legal proceedings to retract custody of children placed as long as 16 years ago is costly, time consuming and potentially highly disruptive to a child and his/her "psychological" and legal parent.

. The tribe's prerogative to review and intercede on all Indian child placements invades the rights and privacy of parents in determining the future of their children.

Association on American Indian Affairs, Inc.

432 Park Avenue South
New York, N. Y. 10016

MU 9-8720

Oliver La Farge, *President*
(1952-1963)

Alfonso Ortiz, Ph.D., *President*
Benjamin C. O'Sullivan, *Vice President*
Mrs. Henry S. Forbes, *Secretary*
E. Tinsley Ray, *Treasurer*
William Byler, *Executive Director*
Arthur Lazarus, Jr., Richard Schifter, *General Counsel*

February 22, 1977

Mr. Tony Strong
Administrative Assistant to
The Honorable James Abourezk
United States Senate
Washington, D.C. 20510

Dear Tony:

At long last, please find a list of reported cases in which the courts consider Indian child-welfare and/or Indian jurisdictional issues involved in the cases. The list is not exhaustive. I will send you more cases as I come across them.

I am also sending a photocopy of an unreported decision from Utah, In Re Goodman. Additionally, I will be sending you unreported decisions from South Dakota.

The reported cases are as follows:

1. U.S. Supreme Court

   a. Fisher v. District Court of Montana, 424 U.S. 382, 96 SCt. 943, 47 L. Ed. 2d 106 (1976), reversing State ex. rel. Firecrow v. District Court, - Mont. - , 536 P. 2d 190 (1975).

   b. Decoteau v. District Court, (Dissenting opinion of Justice Douglas) 420 U.S. 425, 95 SCt. 1082, 43 L. Ed. 2d 300 (1975).

2. Federal Court of Appeals

   a. In Re Cobell v. Cobell, 503 F. 2d 790 (9th Cir., 1974).

   b. Arizona State Department of Public Welfare v. HEW, 449 F. 2d 456 (9th Cir. 1971) - Discussion of Extended Family, at P. 477 therein).

   c. In Re Le-Lah-Puc-Ka-Chee, 98 F. 429 (N.D. Iowa 1889).

3. Federal District Court

   a. Wisconsin Potawatomies of the Hannahville Indian Community v. Houston, 397 F. Supp. 719 (W.D. Mich. 1973).

4. Alaska

   a. Carle v. Carle - 503 P. 2d 1050 (1972).

   b. Tobeluk v. Lind (formerly Hootch v. Alaska State Operated School System) Consent Decree.

5. Arizona

   a. Arizona Department of Economic Security, ex. rel. Chico v. MaHoney, 24 Ariz. App. 534, 540 P. 2d 153 (1975).

6. Maryland

   a. Wakefield v. Little Light, 276 Md. 333, 347 A. 2d 228 (1975).

7. Montana

   a. In Re Cantrell, 159 Mont 66, 495 P. 2d 179 (1972).

   b. Black Wolf v. District Court of the Sixteenth Judicial District, 159 Mont. 523, 493 P. 2d 1293 (1972).

   c. Fisher v. District Court of Montana, 424 U.S. 382, 96 SCt. 943, 47 L. Ed. 2d 106 (1976) reversing State ex. rel. Firecrow v. District Court - Mont. - , 536 P. 2d 190 (1975)

8. New Mexico

   a. In Re Adoption of Doe, Doe v. Heim, - N. Mex. App. - , 555 P. 2d 906 (1976).

9. North Dakota

   a. In Re Whiteshield, 124 N.W. 2d 694 (1963).

10. Oregon

   a. In Re Greybull, - Ore. App. - , 543 P. 2d 1079 (1975).

11. Washington

   a. Matter of Adoption of Buehl, (Duckhead v. Anderson), - Wash. 2d - , 555 P. 2d 1334 (1976).

   b. In Re Colwash, 57 Wash. 2d 196, 356 P. 2d 994 (1960).

   c. State ex. rel. Adams v. Superior Court, 57 Wash. 2d 181, 356 P. 2d 985 (1960).

   d. Comenout v. Burdman, 84 Wash. 2d 192, 525 P. 2d 217 (1974).

If you have any questions regarding these cases, please feel free to contact me.

Sincerely,

Lawrence A. Rappoport
Staff Attorney

Enc.

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OUR REFERENCE

August 31, 1977

RECEIVED
SEP 2

Ms. Patricia Marks
Select Committee on
Indian Affairs
HOB 2
Second & D Streets, S.W.
Washington, D.C. 20515

Dear Patty:

In accordance with our recent telephone conversation, I am enclosing a proposed Title III for addition to the Indian Child Welfare bill (S.1214). If you have any questions, or if I can be of further help, please let me know.

With kind regards,

Sincerely yours,

Arthur Lazarus, Jr.

AL:kat
Enclosure

cc: William Byler (w/enclosure)

TITLE III -- BOARDING SCHOOL STUDY

Section 301. (a) It is the sense of Congress that the absence of locally convenient day schools contributes to the breakup of Indian families and denies Indian children the equal protection of the law.

(b) The Secretary is authorized and directed to prepare and to submit to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, respectively, within one year from the date of enactment of this Act, a master plan, including a proposed time schedule, for the phased replacement of federal boarding schools for Indian children with day schools located near the students' homes. In developing this master plan, the Secretary shall give priority to the elimination of boarding schools for children in the elementary grades.

To: Tony Strong
From: Charlie Donaldson
Re: Indian Child Welfare Act of 1976(S-3777)

If passed as proposed and implemented the Act should significantly reduce the number of Indianchildren being severed from their heritage. The Act addresses most of the problems involved in the placemant of Indian children with non-Indians but I submit the following observations based on my undersatanding of the Act and my experience as a legal service attorney on the Navajo Reservation.

11 As defined in Section 4(g) "child placement does not cover private custody agreements between Indian parents and non-Indian guardians. This is probably the most common type of Indian child placement. An example is the Mormon placement program under which Indian children live with Morman families and attend off-reservation schools. Usually the only legal authority the guardian family has is a power of attorney drawn up by the guardians' lawyer. The guardians may limit the child's contact with the parents but more often communication with the Indian parents will be limited because of the parents' limited skill in long range communication, poverty and personal problems such as alcoholism. After a period of little or no communication the child can be declared abandoned by an Anglo court and the child's domicile can be found to be that of the guardian. The Act would then not apply to any placement of that child, unless the child would be receiving federal funds. The placemant would not fit into any of the catagories enumerated in Section 101.

The options are to ignore private placements until they result in court action, to require some form of notice to the tribe and to restrict private agreements without tribal approval. The first option creates a significant danger that the child will be lost from sight until the child is so acculturated that the child may be lost to the tribe. The second option provides the tribe with significant information about the location of their children but no restriction on the parents' authority. The third option is a major abridgement of parental control, cumbersome and expensive as well as almost impossible to enforce. The third option has been enacted by the Navajo Tribe but is not enforced. As a practical matter the notice and prior approval options would be equally difficult to enforce but the notice requirement would be more likely to be complied with because it is far less bothersome. The incentive to comply with the notice requirement would be to make private placements void without notice to the tribe or to make such placements voidable by the tribe if notice is not given.

P 6 Line 14 2. The loophole in Section 101can be eliminated by amending 101(c) to include any placement proceedings in which the child is Indian. Notice to the child's tribe of affiliation should be required. Authority for this can be found in federal wardship of all recognized Indian tribes.

3. Section 101, should specify the persons who must give notice and receive it, I suggest that the clerk of the court and the moving party in any placemant proceeding both be required to determine if the child is Indian and then notify the appropriate tribe. Notice should be sent to the tribe's chief executive officer or such other person the tribe designates.

* both clerk & moving party

4. Section 102(a) should require the court to provide both the parents and the child a lawyer, or tribal lay advocate in tribal court, and an interpreter, if needed. If either the child or the parents do not require counsel or an interpreter the court should be required to make specific findings of the facts upon which the court decides that such are not required.

5. Section 202(c)(2) should seperate the custodial from the counseling function. Mixing coercive institutions and counseling will defeat counseling. No parents will trust anyone working for an institution that locks up the parents and takes away their child. Trust is essential if counseling is to work.

6. The provision for hiring private attorneys under Section 204(a) bothers me. Local counsel will probably lack the sympathy, knowledge and resources to investigate Indian placements adquately. Use of local counsel will also be expensive and an administrative nightmare. It would be better if the Secretary of the Interior was authorized to hire additional lawyers in the solicitor's office and post them where needed. Even with adequate staffing searching the records will be a herculean task. I suggest that the Secretary be authorized to require that all court clerks review their records and report to the Secretary by a date certain. This can be supplemented by on site review where warranted.

7. Section 204(b) should be amended to allow the employment of Indian lay advocates in those tribal courts that permit them to appear. Otherwise the family defense program willtend to undermine the development of tribal courts and a body of Indian lay advocates by introducing lawyers, almost certain to be young Anglos, into tribal courts. Anglo lawyers in tribal courts tend to supplant lay advocates and to inhibit the development of tribal law along traditional lines. Lawyers are also more expensive than lay advocates and if Anglo will have little insight into the Indian family.

8. The child and the parents should have seperate representation. Otherwise there may be a conflict of interest, especially in non-adoption cases. Section 204(b) is somewhat ambiguious on this point and should be amended to provide seperate counsel unless the parents make a voluntary and knowledge waver of their rights. The child should have counsel in any proceedings.

Charlie Donaldson
745A Delaware Avenue, S.W. 20024
Washington, D.C. 20024
202/554-3265

P. 8 Line 13 of → or

MEMO

TO: James Abouezk, United States Senate

FROM: Martin Cross, Jr , BSW

RE: S. 3777 Indian Child Welfare Act of 1976

DATE: May 10, 1977

INTRODUCTION

The purpose of this memo is to state a position and to make comments and recommendations as an Indian social worker on the proposed Act S. 3777 entitled, The Indian Child Welfare Act of 1976. This bill was introduced in the 94th Congress by Senator Aborezk and is to be reintroduced in the 95th Congress.

The Bill in its first paragraph states its purpose, "To establish standards for the placement of Indian children in foster homes, to prevent the breakup of Indian families."

The need for such legislation is well recognized, supported by Indians and non-Indians alike. Betty John, counselor in the foster care program, and Mary Van Gemert, attorney at the Seattle, Washington, Indian center, in an article in the Seattle Post Intelligeneer, 6/27/76 entitled, "Indians Attack DSHS," support the need for S. 3777. The Native American Rights Fund adds its support to S. 3777.[1] Marilyn Young Bird Martin, Executive Director, Colorado Commission of Indian Affairs, State Capitol, Denver, Colorado, indicated her interest and support of such a bill. CSRD in its research states, "There was widespread agreement that tribal governments should run child welfare programs on reservations. A majority of the three dozen state, county, tribal, and BIA officials interviewed stated that the best system would involve direct funding of programs operated by tribes."[2]

[1] Native American Rights Fund, NARF, 1605 Broadway, Boulder, Colorado, 80302. Phone (303) 447-8760.

I am completing my first year of graduate studies at the Barry College School of Social Work in Miami, Florida. I will receive a Masters Degree in Social Work (MSW) in 1978.

My interest in the social work profession has its roots in the Fort Berthold Indian Reservation, home of the Hidatsa, Mandan, and Arikara tribes, sometimes referred to as The Three Affiliated Tribes. I was born in 1933 on the Reservation, a member of the Hidatsa Tribe, and lived there until 1967, with a four-year stint in the U. S. Air Force in 1951-55. I have personally experienced the social problems an Indian faces while living on a reservation--problems ranging from poverty conditions to severe racial prejudice from the white community adjacent to the reservation. I also want to stress my experience with the joys of living on a reservation. There are superior qualities, and many benefits to reservation life. Community is encouraged in contrast to individualism in the larger society. Old people are kept active in the family structure; children are accepted as part of the extended family. Cooperation instead of competition is an ethic, and people live more in harmony with nature. This provides more open space to live in and produces minimal pollution.

In 1967 I went to San Jose, California, where I worked five years as a carpenter. I started college full time in 1972 at the San Jose City

[2] "Legal and Jurisdictional Problems in the Delivery of SRS Child Welfare Services on Indian Reservations," Center for Social Research and Development, Denver Research Institute, University of Denver, 2142 South High Street, Denver, Colorado, 80210, p. 83.

College. During this period I experienced much of the trauma of adapting to a different way of life that many Indians from a reservation experience when becoming urbanized.

During Junior College, I served as president of the Native American Club on campus, and also as a Board Member and volunteer worker at the San Jose Indian Center. Here I worked in many areas of Health, Education and Welfare with the urban Indian population. An Indian with a social work education could be even more helpful in this setting. I realize now the lack of training was a severe handicap to the effective operation of the center.

At the end of Junior College, I could see the need for Indians to have training in working in social welfare problem areas, both on the reservation and in urban Indian settings. I decided to go on for a Bachelor of Arts Degree, majoring in Social Work. I chose to attend Tabor College in Kansas, to get my BSW.

During my field work in Kansas, I worked with Rod P., a 17-year old Sioux originally from the Rosebud Reservation in South Dakota. He had been adopted as a child by white parents. Upon the death of his adopted mother, he began a sojourn of about fourteen foster, group, and detention homes. At the time I was acquainted with him, he was at a Detention Center in Emporia, Kansas, waiting to be sent to another group home. He had a twin brother, Matt, somewhere in the area in a foster home, although I did not know him. During this same period, I was involved with a brother and sister, ages 6 and 11, who were in a foster home due to the disintegration of their adoptive home. They were Indians from the Yukon Territory. Youthville, Inc., of Newton, Kansas, was

their social agency. I was working with Bill Toews, MSW, who was the Foster Care Director at Youthville. Here I will raise the question that despite the overall low rate of adoptive placement failure, why was I aware of a large number of Indian adoptive failures in a relatively small geographical area? This could indicate that adoptions by white parents of Indian children off reservations do have a higher failure rate, possibly because the traditional child welfare agencies are inadequate in placement of Indian children. S. 3777 could compensate for some of the inadequacies of the state child welfare agencies, as it would provide the legal and physical facilities to retain children in the Indian community. From my personal experience, there is no hard-to-place Indian child on a reservation.

RECOMMENDATIONS

Title II of S. 3777 is entitled, Indian Family Development. I will focus on Sec. 202 of Title II. It states, "Every tribe is hereby authorized to establish and operate an Indian Family development program which may include some or all of the following features,

1) a system for licensing or otherwise regulating Indian foster and adoptive homes;

2) the construction, operation, and maintenance of family development centers, as defined in subsection (c) (2) hereof;

3) family assistance, including homemakers and home counselors, day care, afterschool care, and respite services;

4) provision for counseling, and treatment both of Indian families which face disintegration and, where appropriate, of Indian foster and adoptive children;

5) a special home improvement program, as defined in section 201 (b)

6) the employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters;

7) education and training of Indians, including tribal court judges and staff, in skills relating to child welfare and family assistance programs; and

8) a subsidy program under which Indian adoptive children are provided the same support as Indian foster children.

NARF, in its analysis, recommended changes to be made to make the meanings of some of the legal issues more clear or specific. NARF suggested that parental rights be made more clear. In Sec. 101, "the Tribe occupying the reservation wherein the child is a resident or a domiciliary is accorded virtually the same rights as the parents. Therefore, even if a parent consented to his child's placement, the Tribe may still have a right to object--which may be unconstitutional." NARF also suggested that terms such as "temporary placements" be replaced by "detention" to legally make S. 3777 more clearly understood by state and reservation officials, as to who had wardship of a child at specific times. Another quote from NARF's analysis states," While this act is unique in certain respects, my conclusion is that this act would be a constitutional exercise of Congress' power over Indians and Indian affairs."

Section 202 of Title II also needs clarification. The above-stated features are generalized. Sec. 202 (a) states, "Every Indian tribe is hereby authorized to establish and operate an Indian Family development

program, which program may include some or all of the following features." I recommend the word "will" be inserted in place of "may." To leave out some of the features would severely hamper the implementation of the program. Furthermore, I recommend an additional feature be included in Sec. 202, specifying that social workers at the graduate level having a Masters Degree in Social Work be required in the implementation of the Indian Family Development Program. These MSW's should be of Indian heritage and from the reservation being served, if at all possible.

A definition of a Graduate Social Worker taken from the Encyclopedia of Social Work, Volume II, is: "Capable of performing with professional competence and autonomy. ... Has mastered the knowledge base of professional practice ... developed a cohesive body of skills necessary to carry through complex social work processes to serve individuals, groups or communities...." The description ends with this, "The presence or regular availability of a certified graduate social worker for consultation in decision-making and for direct service at critical points is essential." The value of an MSW with Indian background may be best made evident by the present lack of Indian MSW's working on reservations. There have been dozens of Federal programs implemented on Indian reservations in the past years. Many of these programs include features that are in Sec. 202, Title II of S. 3777. In my opinion, the lack of professional expertise to implement these programs has resulted in the failure of most of these programs to reach intended goals.

I relate one example. I went to the Fort Berthold Reservation in 1974. I noticed a complex of buildings and was told, "It's our new Health

Center." I expressed my delight at the significance of this, but was soon distressed when told, "We don't go there because the people that work there don't help us." This was literally true, because the Indian workers were untrained and unable to conceptualize their responsibilities. I feel that an Indian social worker at the graduate level of training could have made the health center a reality.

When I served as a board member of the San Jose Indian Center in San Jose, we concluded that the main purpose of the Center was to provide employment for Indians that were termed unemployable. I have to admit that, as a social agency, we were a failure. Many urban Indians refused to come to us, as we could only cause them more problems. Untrained, non-professional staff were incapable of evaluating properly the problems of the clients, and often made inappropriate referrals and raised hopes unrealistically. Here again, I would like to see an Indian social worker at the graduate level in charge of the social welfare part of an Indian Center. I personally cannot see how programs that are operated under Federal guide lines, that are designed to utilize professional workers, can be expected to achieve any success if improperly educated, and unprofessional people implement them! The people who are employed in Federal programs on the reservation or in the Urban Indian Centers are not trained, or are trained in a field other than the one in which they are employed. Jay Hunter, Director of The All American-Indian Center in Wichita, Kansas, said he could find Indians with college degrees, but none that could serve as effective administrators of health and welfare programs. I find that Indian people can become excellent directors of programs on the reservations. There it ends. To direct but be unable to deliver the services is self-defeating.

A social worker with a MSW is trained in administration and delivery of social welfare services. Furthermore, an Indian MSW from the reservation being served could interpret the Federal guidelines to fit the tribal way of life. The term "self determination" could become a reality.

At this time there is a relatively small population of Indian MSW's. Charles Farris (Cherokee), Director of the NIMH Indian Graduate Social Work Program at Barry College, Florida, estimates that there are 200 or more Indian MSW's in 1977 with more graduating as MSW's in the same year.

There are nine social work graduate schools that have formed recruitment and educational programs for Indians: The University of Washington, University of Minnesota-Duluth, University of Oklahoma, University of Utah, Barry College, Florida, Arizona State University, Portland State University, University of Denver, and California State University-Sacramento.

A pool of potential social workers to implement my recommended additional feature in Sec. 202 of Title II, S. 3777, although relatively small, should be more than adequate. Formal school programs for Indian MSW's could coordinate with Indian Family Development programs on reservations or in urban Indian areas. Once Indian MSW's are established on reservation, they would almost certainly further social work education on the reservation and recruit Indians into BA social work programs, providing a further pool of social workers through the tribe itself.

We should not forget the non-Indian social worker who is capable

of working with an Indian population. At Barry College, Florida, many non-Indian graduate social work students choose the Indian project as their field placement, spending a year on the Seminole reservations. Many learn to work effectively in a different culture. They learn to slow down or "shift gears," that industrial, artificial time is not "obeyed" on the reservation, that appointments can be construed as an insult, that consultation is done under different circumstances. For example, you may find two extra people in what you thought was a private one-to-one interview, or your one-to-one may take place in a family's yard. The students learn that the bureaucratic structure on a reservation (it's there) includes clan, family, and personal hierarchy. Above all, the non-Indian student hopefully loses his stereotyped view of the Indian. Non-Indians with this training could be implemented in Sec. 202 of The Indian Family Development Program of S. 3777, providing a further source of social work personnel.

Proponents of S. 3777 could work with programs such as Barry College's NIMH Indian Social Work Program to assure that qualified social workers would fill strategic positions in the implementation of S. 3777.

My position is that a social worker at the graduate level MSW, preferably of Indian heritage, must be included in The Title II, Indian Family Development Sec. 202 of the proposed act S. 3777, to make it a workable program when it is implemented.

SUMMARY

The proposed Act S. 3777 entitled The Indian Child Welfare Act of 1976 represents a substantial step toward self determination of Indian tribes.

What is needed is a well conceived, more specific way to assure that it will be a workable program when implemented. If amendments such as those I have suggested are made to the proposed act, the goals which the act has set will become a reality. Then we will see Indian tribes and professional Indian social workers providing adequate care to Indian children and their families while preserving the integrity of the tribal way of life.

Martin Crane Jr.

INDIAN ADOPTION PROGRAM: AN ETHNIC APPROACH TO CHILD WELFARE

By

Charlotte Tsoi Goodluck, MSW
Flo Eckstein, MSW

Presented at the 54th Annual Meeting
of the American Orthopsychiatric
Association
April 14, 1977
New York, New York

Native American Indian children whose birth parents cannot care for them traditionally have been cared for by extended family members or by others within the tribal community. In recent years, those children for whom traditional tribal resources have not been available have been placed in foster and boarding homes on and off the reservation. Many have remained in foster care until adulthood. Some have been placed in permanent legal adoption, but the adoptive homes have almost been exclusively non-Indian. Nearly all Arizona Indian children placed in adoption in past years were sent out of state.

The first major effort to place Indian children in adoption was a joint Bureau of Indian Affairs-Child Welfare League of America Indian Adoption Project; this project, together with its successor, CWLA's Adoption Resource Exchange of North America (ARENA), placed 650 Indian children in mostly non-Indian homes in 39 states between 1958 and 1972.

The Indian Adoption Program, sponsored by Jewish Family and Children's Service of Phoenix and funded by the Bureau of Indian Affairs, opened its doors in 1973 as the nation's first program to actively recruit Indian families for Indian children. Between November, 1973 and April, 1977--just over three years-- the Indian Adoption Program has placed 57 children in adoptive homes, among them healthy infants, older children and several children of mixed racial background. Nearly eighty per cent of the adoptive homes are Indian. Well over half the children have remained in Arizona.

The Indian Adoption Program's primary goal was to find a permanent and secure home for Indian children designated as dependent and neglected. IAP has aimed to include the following: Counseling for birth parents, with boarding care and supportive services as needed, legal services to children without adequate family custodians, appropriate foster care when needed, preparation of prospective Indian adoptive families for placement, preplacement services, post placement adoptive services and subsidized adoption.

Jewish Family and Children's Service undertook the Indian Adoption Program as a demonstration project, growing out of the agency's own sectarian awareness of the importance of ethnic identity and of the fact that a child's growth and development may be enhanced by the degree to which he identifies with his family and cultural heritage. The agency knew, too, of the desire of Jewish people to see their dependent children remain in Jewish families; it was possible to understand that Indian people felt this way as well. As a private child welfare agency in an area with a high percentage of dependent Indian children, Jewish Family and Children's Service of Phoenix elected to demonstrate that Indian adoptive families could be found for Indian children, with the aim of developing the skills of Indian groups and newly graduating Indian professional social workers ultimately to provide a full range of child welfare services within the Indian community.

This paper will begin with a discussion of two prior studies on the adoption of Indian children and a summary of a recent study of the IAP. We will then look directly at the IAP, focusing on

its unique efforts to recruit Indian adoptive families, services provided to birth families and dependent children, and post placement services to the adoptive children and families. We will conclude with brief remarks about the future course of services to Indian dependent children.

STUDIES OF THE ADOPTION OF INDIAN CHILDREN

There are only two known published studies of the adoption of Indian children, both of which focus on interracial placement. "Adoptive Placement of Indian Children" by Arnold Lyslo (1967)[1] describes the results of a 1966 analysis by the Child Welfare League of America of statistics on placements of Indian children. Only 7 per cent of the adopting families had at least one Indian parent. There were reports that Indian communities, including the Hopi and Navajo in Arizona, were opposed to non-Indian homes for their children. Agencies studied reported some problems of placement of Indian children involving the physical and emotional health and age of the children as well as prejudice in the communitites of the adopting families.

In 1972 David Fanshel wrote Far from the Reservation: Transracial Adoption of Indian Children,[2] a study of some of the 395 American Indian children adopted by white families between 1958 and 1967 through the BIA--CWLA Indian Adoption Project. Families included in the study lived primarily in the East and Midwest. The children came from western and midwestern states, including

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1 Catholic Charities Review, Vol. 51, No. 2, February, 1967, pp. 23-25.

2 The Scarecrow Press, Metucken, New Jersey, 1972.

24 per cent from Arizona. Fanshel focused on characteristics of the adopting families and experiences of the families and children subsequent to interracial placement. He concluded that by and large the adoptive placements were successful and that the children were being raised by families with physical and emotional resources far greater than those of the birth families. However, Fanshel found a moment at the end of his book to reflect on the implications of interracial placement in the eyes of the minority group from whom children came. He wrote that minorities have come to see the interracial placement of their children as

> the ultimate indignity that has been inflicted upon them. . . . It seems clear that the fate of most Indian children is tied to the struggle of the Indian people in the United States for survival and social justice. . . . Whether adoption by white parents of the children who are in the most extreme jeopardy in the current period--such as the subjects of our study--can be tolerated by Indian organizations is a moot question. It is my belief that only the Indian people have the right to determine whether their children can be placed in white homes.[3]

> Reading a report such as this one, Indian leaders may decide that some children may have to be saved through adoption even though the symbolic significance of such placements is painful for a proud people to bear. On the other hand, even with the benign outcomes reported [in Far from the Reservation], it may be that Indian leaders would rather see their children share the fate of their fellow Indians than lose them in the white world. It is for the Indian people to decide.[4]

The Indian Adoption Program sponsored by Jewish Family and Children's Service of Phoenix could be described as an effort to alter the fate of some Indian dependent children in a manner compatible with the wishes of Indian people. The program was

3 p. 341.

4 p. 342.

analysed in an unpublished 1976 graduate master's thesis by Flo Eckstein and Patty Fisher.[5] The authors reviewed in depth the 30 adoptive placements during the program's first two full years and came to the following findings: (1) Indian children were placed for adoption with Indian families. (2) Although most adopted children were infants, permanent homes were found for several hard-to-place children--those who were older and came into the program with extensive foster care histories and with physical and intellectual handicaps. Children were placed following shortterm foster care whenever possible. (3) Birth parents received supportive counseling and other services, with casework directed toward helping them make a decision in their child's best interest, and with adoption by an Indian family being offered as one alternative--a choice not previously open to many birth parents. (4) Reservation Indian families for the first time had an opportunity to adopt through a state licensed child welfare agency, and many families took advantage of this opportunity. (5) The rate of out-of-state placement of Arizona Indian children was drastically reduced. (6) A comparison on birth and adoptive families revealed that the former were largely multiproblem, undereducated, poor and unstable, while adoptive families were stable, well educated and regularly employed, distinguishable from other groups of adoptive parents chiefly by their Indian heritage and identification.

The study confirmed that the Indian Adoption Program is providing a unique and comprehensive service to three

5 "The Indian Adoption Program: New Frontier in Child Placement," Graduate School of Social Service Administration, Arizona State University, May 1976 (Mimeographed).

> groups of Indian clients--dependent children, birth parents and adoptive parents--a service in keeping with the recent trend of child welfare to utilize the resources available for children within their own native communities, to give children the opportunity to grow up with families with which they are most at home.[6]

THE CURRENT PROGRAM-RECRUITMENT AND STUDY OF INDIAN FAMILIES

Prior to the Jewish Family and Children's Service IAP, Indian families were not actively recognized as a source for children needing homes. Efforts were made early in the program to recruit from within the Indian community stable families with good parenting skills who could provide permanent homes for children in need of such homes.

Arizona's Indian residents live on reservations and urban areas, necessitating a wide network of contacts with tribal groups, the BIA, and the social workers of the Public Health Service and the Arizona Department of Economic Security, as well as urban Indian centers, churches and recreational groups. To reach into these diverse and far flung resources, Indian and general community newspapers ran articles about the need for Indian families, and radio spots were broadcast on those stations known to attract large Indian audiences. But by far the most successful recruiting device was the personal contacts made by the project's Indian social worker, a native Arizonan who spread the news of waiting children.

At the same time, IAP contacted national child welfare organizations to recruit families and to stimulate interest in Indian adoptions throughout the country. The North American

6 p. 83.

Center on Adoption, Interstate Adoption Exchange has been very helpful, as has the National Association of Indian Social Workers. Adoption applications have come from many states, and the IAP has served childless couples, families with children and single parent applicants from outside as well as within Arizona.

IAP has spared applicants much of the red tape frequently encountered in agency adoption practices. The application form has been simplified. Family studies are often conducted in the family's home on the reservation. IAP, in fact, is uniquely able to reach out to Native American families in outlying areas; the director of the sponsoring agency flies a private plane, and often she and the caseworker travel to reservations in the Southwest to interview applicants and to accept referrals of Indian children in need of foster care and adoptive placement.

To be eligible for the program, one parent in the prospective adoptive family must be at least one-quarter Indian. In fact, seventy-seven per cent of adopting families are part or full Indian, and one-third are reservation residents. Positive identification with and active involvement in the Indian community must be demonstrated. No fee is charged to Indian adoptive families. Consideration is given to non-Indian families who want to adopt children with special needs, when no appropriate Indian family can be found.

BIRTH FAMILIES

IAP has provided casework service to over one hundred birth parents, nearly all of whom are Arizona natives referred by BIA

social services on Indian reservations. These young women have been characteristically poor and from unstable families. A disproportionate number of mothers have been from Pima, Papago and Apache tribes, in which family disorganization is frequently seen. Few Hopi or Navajo women have requested service, which may attest to greater family stability and better tribal services within these groups. In fact, many of adoptive families are Navajo. The young women served have been generally non-delinquent, with no significant history of alcohol or drug abuse; their sexual relationships, like their family relationships have tended to be casual.

The birth mothers generally have been casual about their education as well, either leaving school before high school graduation or living at boarding school until pregnancy has required them to leave. The Indian female traditionally is raised to carry children, not school books. At the same time, out-of-wedlock pregnancy for some of these young Indian women has had the earmarks of adolescent rebellion.

Traditionally, illegitimacy has been accepted among Indian families and additional children have been readily absorbed into the extended family group, but with few exceptions the families of the IAP clients have been unable to absorb their newborns into the family group. Extended family breakdown rather than social disapproval appears to be the primary reason for adoptive placement of American Indian children, in marked contrast to the American white community.

IAP services to pregnant women have included counseling regarding living plans and exploration of the implications of relinquishment and placement. Temporary foster care of children has been provided to allow several young women time to decide about their future plans, including adoption or keeping their child. A small group home was operated for six months to provide a temporary home for birth mothers in a culturally comfortable setting. It was a useful alternative to existing maternity homes and other urban institutions.

In several instances of young mothers from intact Indian families, the IAP supportive services have been directed toward informal placement of a child within the extended family, most often with maternal grandparents or siblings.

Fathers of the children have tended to be casual rather than close friends of the birth mothers, with similar multi-problem lifestyles. Limited direct services have been given to the fathers, including supportive counseling and inclusion in planning for the child. Many fathers believe the child is the sole responsibility of the mother but are cooperative in providing useful information about themselves in behalf of the child. The Stanley vs. Illinois decision requiring that fathers be notified of the mother's wish to place the child for adoption and given an opportunity to help plan for the child has been followed in each case, even though on some reservations the unmarried father is not routinely contacted by the tribal court.

In one instance a 16 year old Navajo girl, pregnant and unmarried, came to Phoenix for her confinement and delivery.

Following the child's birth she signed relinquishment papers and returned to the reservation to live. The baby remained in foster care for a few months while we worked to contact the father, who was away in military service. When we did reach him, he expressed great interest in the child and resumed contact with the mother. Extended family members then became interested and involved, and ultimately the mother revoked her relinquishment and the child was returned to her. Since that time the young couple has married, and the maternal grandmother is caring for their child. In this particular case the Navajo clan system, which is actively involved in the lives of its members, stepped into offer a plan that was acceptable to the natural parents and which ensures the child's growing up within his own extended family.

THE CHILDREN

Most of the children served by IAP have been healthy, full blooded Indian infants under one year of age. All such children placed for adoption have gone into Indian homes, often on Southwestern reservations. Several older children, who came into the program with extensive foster care histories and frequent physical, emotional, intellectual and social handicaps, have been placed with a variety of permanent families including single parents and non-Indian homes. Five children came into the program with a history of seven or more years of foster care, averaging 4.2 separate placements. One child had had ten placements. All but one of these children have been successfully placed in permanent homes.

Services to children have included foster care and coordination of medical, legal and evaluative services.

POST-PLACEMENT SERVICES

Once prospective adoptive families are recruited, the home study written and court certification obtained the home is considered as a possible resource for placement of a dependent child. Guidelines for choosing homes for specific children are those of the Indian people: Placement within the extended family is first explored. A family of the same tribe is given next consideration. Should neither of these fit with the wishes of the birth parents, the needs of the child or the resources available, placement with a family of another tribe is planned. When none of these avenues is productive, a non-Indian family may be sought. All the children, it is hoped, will have an opportunity to learn about their birth heritage. For most, their adoptive family experience will help them to grow into adults who are part of one tribe by blood and another by culture, but most of all independent adults whose upbringing has enriched their identity as unique human beings.

The agency maintains an active role in post-placement supervision and legal services, often in cooperation with other agencies. Most families have elected to complete the adoption through the state courts, although the IAP is open to tribal court adoption. Some families have chosen both state and tribal adoption.

Tribal enrollment has been a desired program goal, to ensure tribal inheritance rights within the child's birth or

adopted tribe. To date this has been a difficult goal to reach, because of a wide variance of tribal laws and eligibility requirements for membership, complicated by confidentiality issues. The only certainty is that a child cannot be enrolled in more than one tribe. One adopting family, a Navajo man and a Pueblo woman, were unable to have their child enrolled in either tribe. The Navajo code requires that an enrollee be of Navajo blood, which their child is not, and the Pueblo tribe has an age requirement the child could not meet. The natural parents elected not to request enrollment of the child in their own tribe because doing so would have violated their wish for confidentiality. So the full-blooded American Indian child, adopted into an American Indian home, is currently without the legal protection of tribal enrollment.

CONCLUSIONS

As we heard above, David Fanshel, in Far from the Reservation, wrote that "it may be that Indian leaders would rather see their children share the fate of their fellow Indian than lose them in the white world." The IAP's experience would appear to demonstrate not only that dependent children can be kept within the Indian community but that they can enjoy the opportunity for enhanced racial and cultural integrity while protected by the legal and social work safeguards of the general community. IAP has cut through red tape on reservations and in federal, state, and local agencies to insure permanent homes for children. In the last three and a half years IAP has placed 57 dependent children in 53 adoptive homes, has served over 100 birth parents

and has provided a unique and comprehensive service to all three client groups, a service in keeping with the recent national trend in child welfare and adoption to use resources available for children within their own communities and to give children an opportunity to grow up with families with whom they will feel at home.

In the past few months the Program has been enhanced by an additional child welfare worker to handle some of the large caseload and improve the Program's ability to function. Plans are in the talking stages for a group home for troubled adolescent girls, including those who are not pregnant, in an effort to improve personal functioning. The staff members are also planning to bring their specialized training in foster care and adoption to reservation child care workers by developing a brief course of study.

Finally, proposed legislation may affect the future course of the IAP. In Arizona, a group of Indian social workers and others are proposing policy and practice guidelines for public agency social workers regarding all dependent Indian children who are either enrolled or eligible for enrollment in a tribal group.

In the United States Congress in August, 1976, Senator Abourezk introduced S.B. 3777, an effort to create guidlines for Indian child placement and to develop national policy to protect the rights of Indian children. This legislation, which would give original and exclusive jurisdiction over a dependent Indian child's destiny to tribal rather than state courts, raises questions about the self-determination and privacy

rights of the natural parents, questions which should be asked by interested persons in the child welfare field. This legislation may alter the work of the IAP, but it is hoped that whatever Congress and tribal governments do will enhance the future of Indian children yet to be born.

The IAP certainly offers no final answers on the best choices for all dependent Indian children. However, it does offer some tentative suggestions, and for many specific children has provided an opportunity for a secure future.

RESCREEN & SQUARE HALFTONES

campaign close-up

The Indian Adoption Project (IAP), sponsored by Jewish Family and Children's Service of Phoenix and funded by the Bureau of Indian Affairs, opened its doors in 1973 as the nation's first program to actively recruit Indian adoptive families for Indian children.

Traditionally, native American Indian children whose birth parents were unable to care for them were raised by members of their extended family and by others within the tribal community. More recently, however, children for whom traditional tribal resources have not been available were placed in foster and boarding homes both on and off the reservation. (Many remained in foster care until adulthood.) Some youngsters were placed for adoption, almost all with non-Indian families in areas far from the reservation. The great majority of Indian children from Arizona, for example, were sent to adoptive homes out of state.

The Indian Adoption Project set out to demonstrate that there was no need for Indian children to grow up so far from their roots. Prior to the establishment of IAP, Indian families seldom were recognized as a resource for children needing homes. But there was growing recognition that these children need Indian families in which they can learn Indian languages, values and traditions. The Project hoped to show that Indian families, apprised of the need, would come forward for the waiting children.

In less than 3 years, the Project has been responsible for the successful adoptive placements of 53 youngsters, among them healthy infants, older and handicapped children, and youngsters of mixed racial background, of whom 85% have gone into Indian adoptive homes. More than half were placed within the state of Arizona.

Arizona's Indian residents live on reservations and in urban areas, necessitating a broad network of contacts among tribal groups, the Bureau of Indian Affairs, and the social workers of the Public Health Service and the Department of Economic Security, as well as urban Indian centers, church and recreation groups. To reach these diverse and far-flung groups, Indian and general community newspapers ran articles about the need for Indian families, and radio spots were broadcast by those stations known to attract large listening audiences within the Indian communities. But the most successful recruitment device of all proved to be the personal contacts made by the Project's Indian social worker, a native of Arizona, who spread the news of the waiting Indian children. Childless couples, those with children, and single persons responded to the appeal.

IAP Adoptive Family

At the same time, IAP contacted national child welfare and Indian organizations, to recruit families and also to stimulate interest in Indian adoption throughout the country. ARENA, the North American Center on Adoption's interstate adoption exchange, has been very helpful, as has the National Association of Indian Social Workers. This effort has produced adoption applications from many states, and IAP has served families and children from outside Arizona.

Families adopting through IAP have been spared much of the red tape so often encountered elsewhere. The adoption application form has been shortened and simplified. Family studies usually are conducted in the family's home. IAP is, in fact, uniquely able to reach out to Native American families in outlying areas. The director of the sponsoring agency flies a private plane. At least twice a month, she and the caseworker travel to reservations in the southwest to interview applicants and to accept new adoptive applications as well as referrals for Indian children in need of foster care and adoptive placement.

In keeping with traditional Indian practice, IAP first explores the possibility of placing a dependent child with relatives. In some cases, the agency has encouraged grandparents to adopt a child, and assisted in integrating youngsters into the lives of their extended family. To qualify for the project, one parent in a family must be at least one-quarter Indian. Positive identification with, and active involvement in, the Indian community must be demonstrated. No fee is charged to adopting families, and subsidized adoption plans are offered to lower income families.

For more information about the Indian Adoption Project, write to Charlotte Goodluck, MSW, Jewish Family and Children's Service of Phoenix, 2033 North 7th Street, Phoenix, Arizona 85006.

—Coordinated by Ina Jorge
Assistant to the Director

• • •

The Plight of the Waiting Child is an update of material excerpted from *Children in Need of Parents*, the 1959 study by Dr. Henry Maas and Richard E. Engler of children who are lost in the foster care system. Unfortunately, the picture the authors drew has not brightened in the intervening years.

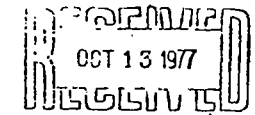
To draw attention to the plight of the waiting children, the Center had the figures brought up to date, and has reprinted the study in conjunction with the launching of its Family Builders fund-raising effort. The booklets may be purchased from the Center for $1.50, which includes postage and handling. For bulk orders, contact Patricia Becker, Assistant to the Director.

adoption report

This publication is issued quarterly by the NORTH AMERICAN CENTER ON ADOPTION, a division of the Child Welfare League of America, 67 Irving Place, New York, N.Y. 10003.

Elizabeth S. Cole, Director
Claire Berman, Editor

APPENDIX D—MATERIAL SUBMITTED BY THE CHURCH OF THE LATTER DAY SAINTS



MEMO

TO Patty Marx

FROM Herm Olsen

DATE October 7, 1977

RE Sub-Section H -- Indian Child Placement

We appreciate your interest in drafting an acceptable definition of Indian Child Placement. The definition under Sub-Section H proposed a solution that goes a long way in rectifying any unnecessary negative affects, but a few minor changes will serve to resolve all concern.

I have contacted Lyle Cooper, Stewart Durrant, Harold Brown, and Bob Barker regarding the precise nature of the language presented. As I indicated earlier, there are three major concerns with the language as it now exists. There are approximately 2,700 Indian students who utilize the LDS placement program. Of the 2,700 students, approximately 60-75% are Navajos. Another 10% are Sioux, and the remaining 15-25% are divided between 73 other Indian tribes and bands. The Navajo tribe is regularly supplied with information which will be required under the Act. The Sioux Tribe is similarly notified, as are any and all legitimate tribal entities which request such information. If the language of the bill can be drawn so as to require the Social Services program to notify those tribes which are federally recognized by the Bureau of Indian Affairs, then a significant amount of confusion and uncertainty can be avoided. The difficulty of attempting to convey information to a small band without a cohesive tribal structure is obvious.

The second concern is the language which apparently requires the same documents to be relayed to the tribal entities as is provided to the Interstate Compact Directors. Because of the sheer mass and volume of forms and technical social service data which is regularly conveyed to the Interstate Compact Directors, it would be burdensome for the program to provide the identical mass of information to the various tribal groups. In addition, various Interstate Compact Directors require different sets of information and forms. Thus, there is little uniformity. The tribes, as legitimate government agencies, are certainly entitled to receive any and all information that the Social Services program provides to the Interstate Compact Directors. However, it would be far easier to have the tribes obtain whatever information they desire directly from the Compact Directors.

Finally, the Social Services Department is concerned about the language which requires written notice to the tribal council "or other such person or group as the tribes may designate." The Social Services Department feels that the tribal council or an official tribal social services organization has the right to such information. However, they do not feel that it is appropriate for research groups, consumer groups, political advocacy groups or the like to receive such information from the Social Services program directly. If the Tribal entities make an individual decision to provide that information to any of the above named special interest groups, that is, of course, their prerogative. We are concerned, however, about the natural parents and the foster parents right of privacy in this matter as it relates to the dissemination of personal information to special interest groups.

Thanks again for your concern in this matter. Please contact me if I can be of further assistance.

To: All District Presidents, Branch Presidents, and Full-Time Missionaries

From: George P. Lee, President, Arizona Holbrook Mission

Re: Senate Bill #3777

Letter should contain:

1. "We are concerned about Senate Bill #3777. We feel the parents have the right to say what is the best educational opportunity for their children, not the tribe or the courts."

2. Tell how valuable the placement program is to their children and to them as parents.

3. Mention that an amendment needs to be made so the excellent work of the L.D.S. Placement Program would not be in jeopardy.

4. "It is important to us and our children that the L.D.S. Placement
1 Program be continued so that our children can take advantage of the opportunity the placement program provides."

Letters should be sent to:

Honorable James G. Abourezek
United States Senate
Washington D.C. 20510

Please send copies of all letters written by parents, placement students, etc. to Senator Abourezek, to President Lee.

Amendment to Section 4(g) of S. 1214,
95th Congress, 1st Session

In Section 4 on page 5, line 9, delete the period and insert the following:

"; provided that temporary residence for a period of less than one year at a time by a child in the home of another family without charge for educational, spiritual, cultural or social opportunities for the child, and with terminable written consent of its parents or guardian, shall not be considered a placement and shall not be restricted by this Act."

Department of Social Services
DIVISION OF HUMAN DEVELOPMENT
OFFICE OF COMMUNITY SERVICES

State Office
State Office Building
Illinois Street
Pierre, South Dakota 57501
605-224-3227

February 15, 1977

Ms. Maureen Herman
American Public Welfare Association
1155 16th Street, Northwest
Washington, D. C. 20036

Dear Ms. Herman:

This is in response to your inquiry about the LDS questionnaire that we sent to those parents relative to those educational placements of Indian children out of the state into Idaho homes.

I am enclosing both the questionnaire and a copy of the letter that was sent to each individual family asking their response. As I indicated there were about 30 respondants of the 50 some questionnaires sent out, and all were relatively positive in their answers to those questions so I had no sense from any of those respondants that they were not satisfied with the program as it was being administered presently by the LDS program.

Thank you for your continued interest. I hope to see you in Boston. Warmest regards.

Very truly yours,

COMMUNITY SERVICES

Robert E. Leach, ACSW
Program Administrator

REL:ms
Enclosure

Department of Social Services
DIVISION OF HUMAN DEVELOPMENT
OFFICE OF COMMUNITY SERVICES

State Office
State Office Building
Illinois Street
Pierre, South Dakota 57501
605-224-3227

December 14, 1976

Name
Address
City, State Zip Code

Dear :

Because the Department of Social Services is concerned with the foster care placement of children outside of the state of South Dakota, we are asking that you take a little time to fill out the attached questionnaire. According to our records, you currently have a child placed in Idaho through the Church of Latter Day Saints' Indian Education Program. The purpose of this questionnaire is to determine if you are satisfied with the services you and your child are receiving under the program.

We appreciate your time to help us with this. Enclosed is a self addressed envelope for your convenience in response to the questionnaire. If you have any questions, you may call toll free through Tie-Line 1-800-592-1865.

Sincerely yours,

OFFICE OF COMMUNITY SERVICES

Robert E. Leach, ACSW
Program Administrator

REL:dm
Enclosures

98 905 485

1. Were you in any way forced to have your child participate in the LDS Indian Education Program? Yes No

   Comments:

2. Are you or do you have information that your child is satisfied with the foster family with which your child is staying? Yes No

   Comments:

3. Do you think your child will receive a better education than he could receive in your own community? Yes No

   Comments:

4. Do you feel your child's foster family is helping or not helping him understand and identify with his Indian heritage? Circle one. Helping Not Helping

   Comments:

5. Who pays for the following expenses for your child?

   a. Transportation to and from home — Parents LDS Foster Family

   b. Room and board — Parents LDS Foster Family

   c. Medical expenses — Parents LDS Foster Family

   Comments:

6. Do you talk or hear from your child often enough? Yes No

   Comments:

7. Has your child returned home? Yes No

   Comments:

8. Do not wish to participate in this questionnaire. Yes No

   Other comments:

Question No. 2

ARE YOU OR DO YOU HAVE INFORMATION THAT YOUR CHILD IS SATISFIED WITH THE FOSTER FAMILY WITH WHICH YOUR CHILD IS STAYING? Yes No

Comments:

Analysis

Eighty-seven percent of the natural parents responded that they had information indicating that their children were satisfied with their foster families. Three percent said their children were not satisfied. Ten percent did not answer.

Comments included:

"They are very happy with their foster families, which makes me very happy too."

"She write that she is satisfied."

"Yes! I hear from her frequently, and she likes it, the family whom she stays with, school, activity, etc."

Question No. 3

DO YOU THINK YOUR CHILD WILL RECEIVE A BETTER EDUCATION THAN HE COULD RECEIVE IN YOUR OWN COMMUNITY? Yes No

Comments:

Analysis

Ninety-three percent of the natural parents responding said their children receive a better education through placement. Seven percent did not respond. Comments included:

"Definitely!! Their attitude towards school and their improved grades is a sure sign."

"More improvement, well mannered."

"They have private tutoring which is not available here."

Question No. 4

DO YOU FEEL YOUR CHILD'S FOSTER FAMILY IS HELPING OR NOT HELPING HIM UNDERSTAND AND IDENTIFY WITH HIS INDIAN HERITAGE?
CIRCLE ONE. Helping Not Helping

Comments:

Analysis

Seventy percent of the natural parents responding indicated they felt the placement service was helping their children maintain their heritage and identity. Ten percent circled "Not Helping." Twenty percent did not circle either response. Comments included:

"I know for sure that they are taught to be proud of their heritage."

"Learning more of the indian heritage and higher, brighter education."

"I believe they are helping them but as far as I'm concerned it didn't matter, my children know they are Indians but must learn to live with non Indians."

Question No. 5

WHO PAYS FOR THE FOLLOWING EXPENSES FOR YOUR CHILD?

A.	Transportation to and from home	Parents	LDS	Foster Family
B.	Room and Board	Parents	LDS	Foster Family
C.	Medical Expenses	Parents	LDS	Foster Family

Comments:

Analysis

Of the twenty-six parents responding to Part A, thirty-five percent said natural parents paid for their students' transportation; fifty percent said the LDS Church paid for transportation; while twenty-three percent said it was the foster parents who paid such expenses. Two of the respondents gave multiple answers.

Of the twenty-six respondents to Part B, 100 percent said that foster parents take care of room and board expenses. Eight percent of the same respondents indicated that the LDS Church also helps pay for these expenses.

Twenty-four parents responded to Part C. Eighty-eight percent indicated that foster families pay for medical expenses. Twenty-one percent circled "LDS," while eight percent circled "parents." Four of the respondents gave multiple answers.

Question No. 6

DO YOU TALK (TO) OR HEAR FROM YOUR CHILD OFTEN ENOUGH: Yes No

Comments:

Analysis

Eighty-seven percent of the natural parents responding said that they talk or hear from their children enough. Seven percent circled "no," and six percent did not respond. Comments included:

"We all write regularly, including the foster family and we also have an occasional chance to talk on the phone."

"Yes. I called them up at least once a month and I write to them and they write back."

"Yes, on the telephone every Sunday nite."

Question No. 7

HAS YOUR CHILD RETURNED HOME? Yes No

Comments:

Question No. 8

DO NOT WISH TO PARTICIPATE IN THIS QUESTIONNAIRE. Yes No

Question No. 9

OTHER COMMENTS:

Analysis

In response to Question 9, comments by respondents included:

"ISPS (Indian Student Placement Service) is a very rewarding program and I know that my children have benefited from it, educationally and spiritual wise. I would highly recommend it for any Indian student who wishes to improve himself."

"We had been wanting something like this for a long time. Her father and I think it's very good for her."

"I want my children to stay on this program and they like school out there better and I know they have better education and opportunities."

"What is this all about? I have no complaints of the LDS Placement program."

GUNN McKAY
1st District, Utah

APPROPRIATIONS
COMMITTEE

Congress of the United States
House of Representatives
Washington, D.C. 20515

INDIAN STUDENT PLACEMENT PROGRAM

1 - Only members of the LDS Church go on the program

2 - Placement is entirely voluntary. The parents of the students must request the service.

3 - No payments are made by Indian families to the church or to the placement parents.

4 - Placement parents don't receive any money from federal, state or local governments, from the church, or from any Indian organization.

5 - Placement is not permanent. It lasts for the duration of the school year and the Indian parents can terminate their involvment with the Program at any time.

6 - Parents may visit their children at any time, and communication between the student and the parent is encouraged.

7 - Placement parents emphasis the loving relationship which should exist between the natural parents and the student.

8 - Students are actively taught a pride in their heritage.

9 - Students are urged to return to help their people with their new skills (and a high percentage do.)

10 - Students are not permitted to go on the program unless:
- A. It is voluntary on the part of the parent and student.
- B. The local Bishop or Branch President approves.
- C. A professional determination is made with each individual student.

11 - Survey commissioned by the Interstate Compact Secretariat in Washington D.C. and conducted by the Program Administrator of the Office of Community Services in Pierre, South Dakota indicates highly favorable support for the ISPP by the natural parents. (See attached report)

Amendment to Section 4(g) of S. 1214,
95th Congress, 1st Session

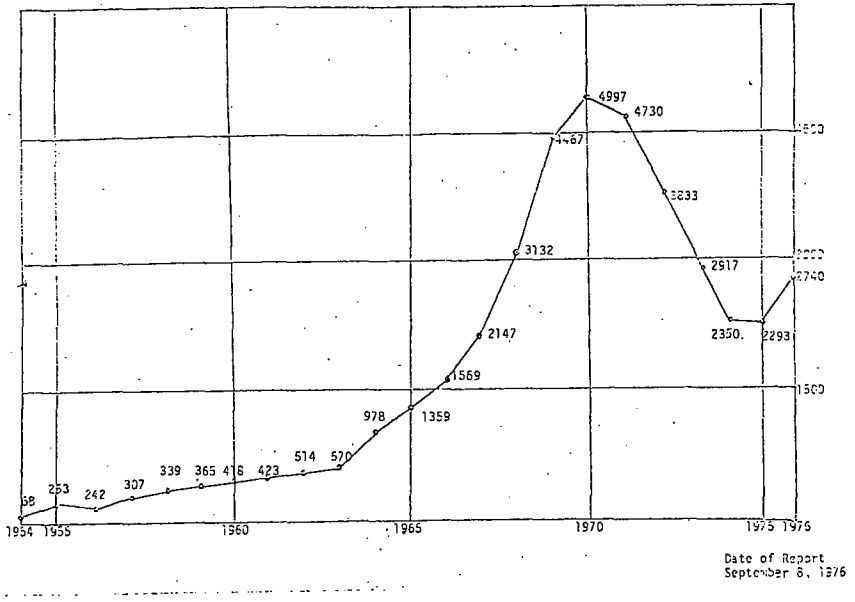
In Section 4 on page 5, line 9, delete the period and insert the following:

"; provided that temporary residence by a child, with terminable written consent of its parent or guardian, and for a period of less than one year at a time, in the home of another family without charge for educational, spiritual or cultural opportunities for the child shall not be considered a placement and shall not be restricted by this Act."

Fact Sheet
Page 3

LDS SOCIAL SERVICES

INDIAN STUDENT PLACEMENT SERVICE 1954-1976



Date of Report
September 8, 1976

Students presently participating are from 141 tribes of the United States and Canada and are placed in homes in eight states in the United States as well as in Canada. (See Statistical Report of September 8, 1976, Enclosure #2.)

Impact:

Although the actual benefits of the Indian Student Placement Services are difficult to measure, there is much supporting evidence relative to positive changes in the lives of participating students.

EVALUATION OF SENATE BILL 1214*

While Senate Bill 1214 was written to establish placement standards for Indian children as a protection to family rights and cultural stability, portions of this bill defeat this purpose and threaten the continued existence of programs beneficial to the Indian people.

KEY CONCERNS

1. The Bill gives excessive powers to tribal leaders in subjecting Indian families to a unique set of placement rules and regulations that undermine free agency and right to make decisions in their own behalf.

The Bill would prohibit parents from exercising their decision-making capabilities in voluntarily placing children for educational, spiritual, social and other opportunities, even when children request such placements. While robbing natural parents of such rights, the bill would grant excessive authority to the tribe and tribal court by giving them authority over all child placement matters. This would be accomplished under the following provisions:

Section 101 (a) -- ". . . no child placement shall be valid. . . unless made pursuant to an order of the tribal court. . ."

Section 101 (b) -- "Where no tribal court exists, ". . . no child placement shall be valid. . . unless the Indian tribe occupying such reservations has been accorded thirty days' written notice of, and a right to intervene as an interested party in, the child placement proceedings."

Section 101 (c) -- When the child is not a resident or domiciliary of the reservation, ". . . no child placement shall be valid. . . unless the Indian tribe of which the child is a member, or is eligible for membership, has been accorded thirty days' written notice of, and a right to intervene as an interested party in, the child placement proceedings."

Section 101 (d) -- "No Indian child shall be removed from the custody of his natural parent . . . for a period of more than thirty days without written notice served upon the tribe . . ."

Interference of Communication

The above provisions are discriminatory in that Indian parents are not accorded the same rights pertaining to child placement matters that Anglos, Blacks, and other racial groups enjoy.

* A Revision of Senate Bill 3777.

In contrast, tribal authorities are granted almost dictatorial power in their ability to limit certain freedoms otherwise enjoyed by their people. The provision for excessive powers granted to tribal leaders under the Bill seemingly places the tribe as an entity independent and immune to the normal rights and limitations accorded to other U.S. citizens. The constitutionality of such legislation may be open to question.

The paternalistic authority given to the tribe under this bill also implies that Indian people are inferior and incapable of making appropriate choices in their own behalf.

2. The Bill indiscriminately lumps all off-reservation child placement activities into a negative category, inferring that they are responsible for the major social and economic problems experienced by Indians.

The bill alleges that separation of Indian children from their natural parents contributes to loss of self esteem and identity, alcoholism, drug abuse, suicide, crime, family breakup, and a continuing cycle of poverty and despair.[1] While questionable placement practices may be responsible in part, other perhaps weightier reasons for Indian social problems have not been addressed. No attempt has been made in the bill to identify or protect existing placement activities that have strengthened Indian families. The intent of the bill seems aimed at condemning and eliminating all placement programs that are not directly under the control of the tribe.

3. The Bill would hinder, if not completely interfere with, placement activities of professionally licensed agencies by requiring endless, bureaucratic functions.

Before Indian parents could voluntarily place their children for personal growth opportunities as well as other reasons, a staggering list of requirements would have to be met. This would include meeting the provisions of Section 101 as already outlined. Additionally, agencies assisting such families must show that "alternative remedial services and rehabilitative programs designed to prevent the break-up of the Indian family have been made available and proved unsuccessful."[2] The written consent of natural parents for placement must be "executed before a judge of a court having jurisdiction over child placements . . ."[3]

If the approval of the tribe or tribal court was obtained, the Bill would require that the child be placed according to the following preferences: (1) the extended Indian family; (2) an Indian foster home on the same reservation; (3) a foster home licensed by the tribe of which the child is a member or is eligible for membership; (4) to any other home within an Indian reservation which is recommended by the tribe; (5) to any foster home run by an Indian family, and (6) a custodial institution for children operated by an Indian tribe, a tribal organization or non-profit Indian organization.[4]

[1]Senator Abourezk (South Dakota): Senate Bill 1214, 95th Congress, 1st Session, pp. 2-3

[2]Ibid., p. 8

[3]Ibid., pp. 9-10

[4]Ibid., pp 11-12

Should the above provisions be put into effect, existing non-tribal child placement agencies of reputable status would either have to close their doors to placement requests of Indian families or would render very inefficient services because of the extensive requirements already outlined. Legislation requiring such bureaucratic functions of non-tribal agencies while granting license to tribal agencies is discriminatory.

More importantly, as previously mentioned, the rights of natural parents to make choices relative to the placement of their children would be circumvented.

4. The Bill legalizes disruption of adoption services by allowing natural parents great latitude in reversing adoptive decisions.

Natural parents may withdraw their consent for adoption of children over the age of two "for any reason at any time before the final decree". . .[1] In addition, a final decree of adoption can be set aside upon the nebulous position that the adoption "did not comply with the requirements of this Act" or that the "consent to the adoption was not voluntary."[2]

Reputable agencies ensure that parents fully understand their actions when terminating parental rights. But once a decision has been made and parental rights are terminated, it becomes the responsibility of the one to whom the rights are vested to maintain the best interests of the child.

Legislation allowing natural parents to change their minds before the final decree, or an indefinite time for legal maneuvering toward regaining custody after terminating parental rights, is completely unacceptable to any placement agency governed by professional standards. It is totally disruptive for a child to be randomly pulled back and forth from the adoptive to the natural home at the whim of an indecisive or immature parent. Adopting parents of either Indian or Anglo background would shy away from such arrangements.

5. The Bill would disrupt infant adoption services by requiring a ninety-day waiting period before a legal consent for adoption could be made.

When the natural parent or parents of an Indian child consent to its adoption within ninety days of its birth, the consent "shall be presumed to be involuntary;"[3] hence, the adoption decree could be set aside. Therefore, no Indian parent, including teenagers involved in an out-of-wedlock pregnancy, could legally consent to the adoption of a child until ninety days after its date of birth. If the parent could not or did not want to keep the child during the ninety-day waiting period, it would have to be placed in foster care, or in the home of an adoptive applicant with no assurances

[1]Senator Abourezk (South Dakota): Senate Bill #1214, 95th Congress, 1st Session, p. 10.

[2]Ibid., p. 10

[3]Ibid., p. 8

to the adopting couple that the child would remain in their home. Assurances to the couple by the placing agency would be meaningless as the natural parents have ninety days in which to change their mind. Again, no reputable agency would want to operate under such standards. The child, natural parents, and adopting parents are entitled to greater protection than is provided for in the proposed document.

6. The Bill would create a system conducive to the provision of adoptive and foster care arrangements that are not in the best interests of the child.

As an incentive to encourage Indian families to accept adoptive and foster care children, the Bill authorizes $21,792,000 during fiscal year 1978 with increasing amounts in following years to be used in part for a home improvement program for participating Indian parents.[1] In addition, the Bill also makes provision for a subsidy program under which Indian adoptive children are provided the same support as Indian foster children.[2]

While there is little doubt that the general standard of living among the Indian population is substandard, hinging improvements on the placement of children is a gross disservice to the child as well as those who entrust him into the care of others. If the sole motivation of taking a child is to obtain a better home or larger income, the child can expect little by way of genuine caring from adoptive or foster parents.

7. The Bill would grant powers to the Secretary of Interior that could lead to disruption of placements of Indian children as far back as 16 years.

The Secretary would be empowered to study all placements that occurred during the 16 years prior to passage of the bill; could institute legal proceedings to challenge the legality of these placements and, where placements are found invalid, could restore custody of the children involved to their natural families.[3]

Although the rights of parents must be protected, the provisions of this section could give such indiscriminate powers to the Secretary as to facilitate actions that could disrupt the lives of children, natural, adoptive, and foster parents. Where reputable agencies are involved, adoptive and foster care placements are made in good faith with the understanding and consent of all parties involved. Legal requirements are satisfied. Adopted children who have been placed in homes for up to sixteen years, particularly, would resent being culturally, socially and emotionally shocked into leaving the environment with which they are most familiar and being required to return to or become a part of a "home" they have never known.

[1]Senator Abourezk (South Dakota): Senate Bill #1214, 95th Congress, 1st Session, pp. 13-14

[2]Ibid., p. 15

[3]Ibid., p. 18-19

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OTHER CONCERNS

Section of Bill	Concerns
(Page 13, lines 3-8) "In any proceeding within the jurisdiction of this Act the United States, and Indian Reservation, State, Commonwealth, territory, or possession thereof shall give full faith and credit to the laws of any Indian tribe involved in a proceeding under the Act . . ."	This section coupled with other provisions of the Act implies that the tribe is to be granted authority to be a separate entity with the power to set up its own rules and regulations which, even though different from the laws that apply to other U.S. citizens, are to be recognized and adhered to. Indian law with respect to Indians and others involved with Indians supersedes state and federal laws.
(Pages 7-8, lines 24-2) ". . . the judge or hearing officer at any child placement proceeding shall make a good faith determination of whether the child involved is Indian and, if so, which tribe must be notified."	Under this section, theoretically a Seminol girl adopted in infancy and residing with her parents in California, could not be temporarily placed in a foster home of her own choice for any reason without the tribe in Florida being notified and given the opportunity of making its own arrangements for her, as required by this and other sections of this act. Such requirements as those set forth in the Bill would be ridiculous as well as a clear violation of family rights.
(Page 9, lines 13-17) ". . . poverty, including inadequate housing, misconduct, and alcohol abuse on the part of either natural parent, or the blood relative, shall not be deemed prima facie evidence that serious physical or emotional damage to the child has occurred or will occur."	Tribal authorities are so intent upon regulating the affairs of Indian families and keeping Indians in Indian settings that children are not accorded the normal protective measures that other children have been given. Under this section, children could receive gross abuse and neglect while child protective agencies would be powerless to do anything about it.
(Page 12, lines 13-18) "Where an Indian child is placed in a foster or adoptive home . . . outside the reservation . . . the tribal court shall retain continuing jurisdiction over such child placement until the child attains the age of eighteen."	This gives the tribe unlimited powers in all placement matters, and interferes with the rights of other agencies and Indian families in the voluntary placement and supervision of Indian children. The provisions here are clearly discriminatory.

Section of Bill	Concerns
(pages 12-13, lines 19-2) "After an Indian adoptive child attains the age of eighteen . . . the child shall have a right to learn the names and last-known addresses of his natural parent or parents and siblings who also have attained the age of eighteen . . ."	Although there is a strong voice across the nation for the right of adopted children to search out their natural parents, some agencies are opposed to this unless both the adopted child and natural parents register this desire with a central agency. Otherwise, the rights of privacy and confidentiality of both parents and child may be violated.
(Pages 15-16, lines 25-6) ". . . any Indian foster or adoptive home so licensed or designated (by the tribe). . . (2) shall have a first preference in the placement of an Indian child who is a resident or domiciliary of such tribe's reservation. . ."	No reputable agency would place a child in a home solely upon the grounds that the home is located within the reservation. Other factors must have primary consideration--stability of the family, motivation for wanting an additional child, ability to care for said child, etc. All things being equal, an Indian family living in close proximity to the natural home should be selected.
(Page 16, lines 10-17) "The objective of every Indian family development program (organizations that would be established under the bill) shall be 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 natural parents . . . shall be effected only as a last resort."	While the aim of this document is seemingl to prevent the breakup of Indian families, the bill actually takes away the family's right to take measures to strengthen its members such as voluntary placement of children on a temporary basis for leadership, social, religious or other opportunities.
Page 3, lines 6-10) ". . . child placement activities of non-tribal government agencies undercut the continued existence of tribes as self-governing communities and, in particular, subvert tribal jurisdiction in the sensitive field of domestic and family relations."	The Bill itself subverts the "sensitive field of domestic and family relations" by placing authority in the tribe which should remain in the natural family. Does it really undercut tribal authority for an Indian family to voluntarily choose to place a child outside the tribal community?

RECOMMENDATIONS

1. Amend the Bill to ratify the family's sacred right and responsibility to make decisions, including child placement decisions, in its own behalf.

   Although some Indian groups view placements outside the tribe as detrimental to the self-esteem and preservation of culture, other Indians seek a cross-cultural experience as an opportunity for personal growth and development.

RECOMMENDATIONS (Continued)

2. Amend to exempt private child-placement agencies existing under state law from the provisions of tribal supervision and control, particularly in those instances where placement is made at the request of natural parents.

3. Revise sections which would allow natural parents to interfere with adoptions once consent has been given, the child placed, or after the date of final decree.

   Although protection is needed against persons or agencies who would fraudulently seek and place children, placements by legitimately licensed and supervised agencies are entitled to the protection presently enjoyed.

4. Revise section permitting adoptive children to learn names and addresses of natural parents.

   This right ought to be granted only when natural parents also register a similar desire, as previously mentioned.

5. Eliminate Section 204 wherein the Secretary is granted authority to study all placements during the past sixteen years for the purpose of challenging compliance to law and restoring children to their natural homes when placements are found invalid.

   Although some means of redress is needed for illegal placements, the powers granted in this section could lead to misuse of authority and interference by parents who may later change their minds after making legitimate placements.

NEWS ARTICLES ABOUT NORA BEGAY: MISS INDIAN AMERICA, 1972

DESERET NEWS - CHURCH NEWS, August 28, 1971, Salt Lake City

"While I have this title, I hope to accomplish many things, including helping to close the gap between the Whites and Indians."

"At one time I had the feeling I should hate the Whites and at the same time be ashamed I was an Indian. But after living with the Whites for eight years as a student in the Indian Student Placement Program this feeling that has left me.

Another thing she hopes to do is to help confused Indian youth.

"Most of the youth don't know which way to turn. On the reservation there is nothing to do. That's why so many Indians drink," she said.

"They are torn between the White man's way and the traditions of the older, older Indian generation."

"The Mormon Indian youth knows where he is going. He has goals and knows he must stick to them if he is going to succeed."

SUN SENTINEL, Sheridan, Wyoming - December 31, 1971

Worse than the depressing poverty was the attitude and treatment in reservation school.

"They taught us to be ashamed of our people because we lived so poorly," Nora said.

Children at the school lived in dormitories miles from home, "There was little love there. I was very lonely," Nora recalls. She was spanked for speaking her native tongue. Because she wasn't amenable to that type of education, her mother enrolled her at the age of ten in the Mormon Placement Program.

"I was taken into a Mormon home. There was love there and they treated me just like their own child."

Nora feels it was an important experience. For the first time she encountered White people who encouraged her to talk about her people and heritage, to never show shame for being an Indian.

"I have learned pride from both Indian and foster parents," she says. "I feel we shouldn't go to the extreme of being proud. I feel we should respect our mothers and fathers and what we have, but not lose humility."

INTERVIEW WITH MAETA HOLIDAY BECK
A NAVAJO FROM PLEASANT GROVE, UTAH

WERE YOU ENCOURAGED TO HAVE PRIDE IN BEING AN INDIAN?

"I came from a broken home. My sister and I were looked up to in school because we spoke good English. We were discouraged from speaking Navajo in the Dorm school. The schools were poor. We didn't have leadership training.

My foster mother always encouraged me to write to my mother and sisters and tell them that I loved them."

I have had some negative feelings about myself. It took about three years -- I wished I was white -- hated Indians. Then I thought to myself, "The Lord made me an Indian, and that's what I want to be." I'm proud now. My husband really loves Indians and he helped me have more pride in being an Indian.

On Placement, I was always encouraged to return home during the summer, and to write to my family and sisters.

Where I live, I try to help those students on Placement who may be having problems. My husband and I love to work with other Indians on Placement. We really try to help them succeed, to reach their dreams.

Education is so important!"

STATEMENTS FROM YOUTH CONFERENCE ESSAYS
OF HIGH SCHOOL PLACEMENT STUDENTS

VIRGIE COOCHYUMPTEWA - Second Mesa - Hopi

"I'm thankful to be an Indian and I'm thankful for the heritage that our Heavenly Father has given me. I'm proud to be a Hopi to represent my tribe. The Hopis have about the same beliefs that the Prophets have told us. They believe that the Indians are the caretakers of this land, and that a handful of people came into this new continent - to this land in a Spiritual way. The Great Spirit gave them instructions on a sacred stone. The Great Spirit was with the Hopis like a man and talked to them."

LaVINA GREYMOUNTAIN - Holbrook - Navajo

"We must realize that the Lord never leaves us alone in our misery if we will reach out our hand and put it in His hand."

(Who am I?) We are fulfilling prophecies. We are chosen people with rich blood in our veins. We are casting off fears, superstitions, ignorance and are clothing ourselves with knowledge, good works and righteousness."

LORRAINE BILEEN - Teec Nos Pos, Arizona - Navajo

"I am an Indian, I am proud of my heritage. I am a child of God. I am an heir to His choicest blessings.

My ancestors were valiant, loyal people. I owe a lot to them. I am trying to develop myself so that I may be worthy of the blessings I understand and that will be mine."

VERLINDA COOCHISE - Polacca, Arizona - Hopi

"We should try our very best to gain knowledge here in our church activities and school acitivities to prepare ourselves for service to our nation. Both in a spiritual way as well as an educational way. There is a poem which reads:

Your task is to build a better world,
God said.
I answered how?
This world is such a large vast place,
So complicated now.
And I so small and useless am.
There's nothing I can do.
But God in all his wisdom said:
"Just build a better you."

STATEMENTS FROM STUDENTS
Page 2

BYRON TAHBO - Polacca, Arizona - Hopi

"We are considered to be the chosen people. We are indeed a great people. We have a noble tradition. If we were to slacken in our efforts, it would be tragic. Our image as a great people would fall. We need to put forth individual efforts so that we can remain a great people. We have much to teach the world and much to offer to other cultures. "If America should go down soon, it would be too early."

JUDITH CURLEY - Dilkon, Arizona - Navajo

"We belong to a chosen people and our potential is great. We are of the house of Israel, and our heritage is choice. As someone has said, "The American Indian is just entering the threshold to his great progress and growth". I am so grateful I can have a part in this. I am thankful and grateful for the time spent in the Placement Program, for the training I have received. As I look into the future, I know happier and better times are in store for me and my posterity."

CALVIN YAZZIE - Ganado, Arizona - Navajo

"During all the three years I have spent with a foster family, one phase of life here is most prominent in my mind. I came all the way across the desert, to share a unit with three of my sisters.

Above all else are the wonderful moments our unit members share together. I greatly cherish the closeness, love, and warmth that we experience through our family home evenings. Not only do we have the opportunity personally to express the love and appreciation we have for one another, but we also are able to kneel together in prayer to thank the Lord for our friends and families near and far and for those who made this experience here possible.

I came to this program with no goal in mind but to see what school life is like. I had no idea what this program would be like nor did I know about its religious aspects.

The behavior and conduct of the people impressed me. Most of them seemed different from other people I had met. They were a clean-living and clean-speaking people, never drinking or smoking, and very religious.

Calvin Yazzie - continued

These people were also serious about their religion and always willing to share it to me, this religion called Mormonism seemed quite strange and different from the rest.

.....Though I am far away from home, I feel that I have a big, lovable family at home. It seems natural for me to seek the love and help of my Savior and to cultivate brotherhood among all the different peoples on this wonderful and beautiful land.

Another interesting feature of the school of Utah is the large representation of many nationalities. Each group is distinguished by its own unique way of life. Although differences do exist, each group contributes something that makes this a school of which we can be proud."

NADA TALAYUMPTEWA - Tuba City, Arizona - Hopi

"I am a Hopi Indian from Tuba City, Arizona. My name is Nada Jean Talayumptewa, grand daughter of Jacob Lewis Coin. He was the first Hopi Indian to ever go to school. Although he did not want to. I respect him very much for the courage he showed when the government officials came for him. Because my grandfather did go to school, the rest of the Hopis now have an opportunity to become better educated and teach our people the ways of life.

.....I came on the Placement Program in 1965. I was very frightened at first but I will always be very grateful to my parents for letting the missionaries into our home, and letting me have the opportunity to come to Utah."

PATRICK LEE - Shiprock, New Mexico - Navajo

Chief Sitting Bull, a great champion of his people, once said to his people: "Pick up the good things along the white man's trail and put aside bad things."

Perhaps one of the good things we, as Indian youth, can pick along the whiteman's trail in our generation is balanced education - a very essential "tool" necessary to face our ever changing complex modern world.

.....On our reservation in Arizona there is a large, flat-topped ridge known as Navajo Mountain. When an old Navajo was asked how many trails there were to the top, he replied, "There are a

Patrick Lee - continued

thousand trails to the top of the mountain, but when you get there you will all be at the same place." And so it is with education. There are a thousand trails that lead to good, sound education."

ANNA ROSE WILLIE - Steamboat, Arizona - Navajo

"So far I enjoy everything, and I am glad I got a good family, just like my real family. I have learned so many things like what's right for me, but everything is different, by comparing with natural families. Anyway I'm thankful for my both families."

PHYLLIS PHILLIPS - Second Mesa, Arizona - Hopi

"The Placement Program is helping us to become teachers and leaders among our people."

LOUISE MURPHY

"Brigham Young once said, "The Indians are just as much the children of God as we are."

JOHNSON BEGAYE - Steamboat, Arizona - Navajo

"I like my foster brothers and my two little foster sisters. My oldest foster brother, I really like him. He gives me everything like stereo tapes and pictures and things like that. I really like him but he left on his mission three weeks ago, and he really wants me to keep up with my art. He was happy that I went out for track. He told me to keep up with my work. When he left on his mission, I knew that he is a good brother. I have never seen a boy like that. He gave me all kinds of tapes, and I know that he really likes me and that the way I think about my brother. My Foster Dad he gives me everything free, but sometimes I have to buy it, and I go hunting with him and he really enjoys me to hunt with him. Sometimes when I don't feel like going hunting, he still takes me, and when I think about it I know that he likes me. And when he tells me to do something, I do whatever he says, because he treats me good. Thats how I fell about my Foster Dad. And my Foster Mother, I like the way she feeds me, and when I tell her to do something for me, she really enjoys doing it.

Johnson Begaye - continued

During the last four months, my own family came up for Thanksgiving, they were going to leave the next morning and my foster Dad and Mom told them to stay for another day. I know that my foster Mom and Dad likes my real family. That's why they told them to stay for another day, so they stayed for another day. And my foster Dad took my family for a ride and asked them if they wanted to go down to B.Y.U. to look around."

DOROTHY ANN SHEPHERD - Cameron, Arizona - Navajo

"I can still remember the day when I got on the bus going to Salt Lake City, Utah. I had tears of sadness for leaving my loved ones and going off into a strange place unknown to me. There were also the tears of joy and thankfulness that I was able to be on the Placement Program. I had always had the desire to be somebody, instead of herding sheep all my life. Deep in my heart, I wanted to improve myself to the finest point possible to qualify for life. I wanted to know something well, to do something well, and to have something to offer. I wanted to be a person who was useful to his country and have the great joy of serving my people.

Our White brothers and sisters have opened up their hearts to us. They have taught us that we are a great people and that God has blessed us with promised goals. If we are to attain our blessings of old, we should have the willingness to develop our talents. This will prepare us for the great role in life of serving our people: yes, the willingness to serve and to share with our people."

MARY ETSITTY PLATERO - Borrego Pass, New Mexico - Navajo

"Again the voice of my father brought me back to reality. "Someday, honey, you'll be thinking of the life before you ... Think straight--like an arrow, and aim high, don't linger at each obstacle, keep pushing, keep observing, keep learning." "See the little fawn over there by the thickets? Oh sure you do, his face is toward us, he is very still, very alert; he listens, observes, and learns, this protects his life". As we climbed higher and higher, thoughts began to race through my mind. The future I want will be pure as the mountain stream, my thoughts broad as the canyon. I will be fearless as the winds; I will be proud but tolerant, as my father was tolerant of me. I will be clean in mind and body so as to grow in wisdom and strength.

Mary Etsitty Platero - continued

The body can stand only so much, no more, I intend to use mine wisely; drinking, smoking and carousing can have no part in my life if I intend to realize my ambitions.

Nine years have passed and I am again dreaming, and thinking and planning for the future...Soon I'll be in college, but first, this summer, this very summer I choose to keep busy. I would like to create good moral activity for my younger sisters and brother and their numerous friends to help them influence their families to clean living and happiness. The parents of these children cannot help but feel the influence of these little souls, and they, in turn, will be the good parents our Father in Heaven meant them to be.

I would be true, a symbol to help lift the hearts of those I love.

I would simplify that they might understand.

I would have faith, that others might hope and work and live.

I would envision certain goals, to spur my ambitions. I would try to have much humbleness to give me the grace to accept material blessings. I pray that I may have the thoughtfulness and appreciation to say thanks...to my God."

KATHY WATCHMAN - Fort Defiance, Arizona - Navajo

"The Indian Placement Program began to change my life when I was ten years old. I came to Provo on my first bus trip to live with the Callahan family. I had thought I was going to live with a Navajo family and so I was surprised when white people met me at the door. My new family consisted of my foster parents, an older brother, and two sisters, and a Siamese cat name Eiko. Since then Eiko has had many families and right now she has four loveable kittens.

I went to Wasatch School in the 4th, 5th and 6th grades. I am now in the 8th grade at Farrer Junior High in Provo. I hope to go to Provo High School next year.

I have tasted new foods, I saw interesting things that I didn't know existed, and I remember seeing my first Circus. There were ballet lessons in the 5th grade, gymnastics in the 7th grade, and now I am taking guitar lessons.

With my foster parents I went to California to Disney Land. We had fun on the beach wading in the water and picking up sea shells and star fish. My sister and I got our pants all wet.

Kathy Watchman - continued

We like to go camping in the mountains and go fishing. In the winter we like to go ice skating and roller skating. We also like to have Family Home Evenings around the fireplace. Recently we took a trip down to New Mexico to bring my married foster sister home for a visit.

I am learning to sew and I make a few of my own clothes. I do a little cooking and go baby sitting. I love to play basketball and go horseback riding.

My two real sisters live in Springville and my brother in Provo so I don't get homesick much. I enjoy doing the activities with the Indian Placement students.

I am learning to organize my house work to get it done better and faster.

What are my feelings about the Church and the Indian Placement Program? There are some good things up here and good things down at my natural home, such as: I am learning more in school than I would be learning at home. Since I have come up here on the Placement Program I have learned alot more than I other wise would have and so I will be able to live a better life when I grow up."

RAY LEE BEGAY - Kaibito, Arizona - Navajo

"I only can create the future by setting examples for my Indian brethern and sisters. What a good feeling it is to be an Indian, though. Proud!!! Though my hair is black, my skin is brown and I feel no inferiority before my white brethern here at American Fork or any other place where there are white people. I feel no hatred against them. I only feel proud and they (my white brethern and sisters) only made me feel proud. I'm proud because the color of the earth is brown and the sky is usually black before the rains fall and and bring forth good into the world. For my people, for tomorrow I want to be a leader because I was blessed at birth with the precious gifts of independence and pride and this I will treasure to live proud and free. I must and we, the Indians, must progress in the white man's hunting ground, for it is our land too.

It is our land, it was given by God to us to cherish, to harken unto, to preserve and to protect. It is our duty to learn to live in our changed homeland. We can no longer use the bow and arrow to obtain our necessities.

To show our Indian brethern and sisters and to serve them, we must use our new tools. That is, ambition, education and our spirituality. As we see it, "The Lamanites(Indians) shall

Ray Lee Begay - continued

blossom as a rose." This shall happen and it is happening right now. I am blossoming, we are blossoming, my Indian brothers and sisters. Let's stand tall and proud to pursue our progression. Let us break the binding chains of poverty and ignorance for our people and serve them.

Be thankful for who you are and be thankful for your parents. Also remember God. He is the one who has given us talents to use, and he has given us a special mission. He has given us a land to be proud of and to preserve and to cherish our freedom. Make our people realize this, so that they can be proud and free."

BEVERLY FOSTER - Flagstaff, Arizona - Navajo

Whom am I --- I wonder? To those studying history I am the first American. My ancestors were here where Columbus first discovered America. Some of my ancestors helped to keep the pilgrims alive during their first hard winter in New England. To the child watching the western on television I am that renegade who is attacking the wagon train or burning down the settlers' rough log homes. Many think of me as a member of a starving, underpriviledged group pushed onto reservations where no one else wanted to live. I am uneducated, backward, and unable to cope with the modern world that surrounds me.

Who am I -- I wonder? Who were my ancestors? Do I have any future? Slowly I am beginning to receive some answers to my questions. Two years ago I left my mother and little brother and came to live with a new family. This was not easy and many times I wished that I could go back to the comfort and security of my old home, ways and habits. But my new family seemed to care about me and they kept telling me I was a child of God. The color of my skin made no difference. At family home evening they talked about a book and told me that it was a history of my ancestors.

Who am I? I am a Lamanite(Indian) with great blessings promised me if I will learn about and live the teachings of the Church of Jesus Christ. I am an American with the freedom to be educated and the opportunity to learn to work. I have an obligation to become a leader and help my people to lift themselves up to assume the responsibility of their heritage. Whom am I? I am a child of God."

The Big Sky Country

STATE OF MONTANA
SOCIAL AND REHABILITATION SERVICES
HELENA, MONTANA 59601

September 14, 1976

THOMAS L. JUDGE
GOVERNOR

PATRICK E. MELBY
ACTING DIRECTOR

William T. Quick, Chief
Office of Social Services
Department of Social and Health Services
P. O. Box 1788
Olympia, WA 98504

Dear Mr. Quick:

Please find enclosed the ICPC 100A form as per the request of the Compact Secretariat on the children being placed by the LDS Social Services program into the state of Idaho. As you may recall from the correspondence from the Secretariat and from the minutes of the annual meeting in May, our hopes are to minimize the paperwork for the volume of the LDS foster care placements. Therefore the brief information provided on the attached list is all that has been required as of this date from LDS pending further discussion of the matter by the Western States Compact Administrators at a meeting hopefully in November. We appreciate your assistance and cooperation in these placements.

Sincerely,

SOCIAL SERVICES BUREAU

Pete W. Surdock, Jr., ACSW
Deputy Compact Administrator
Interstate Compact for the
Placement of Children

PS/so

INTERSTATE COMPACT APPLICATION
REQUEST TO PLACE CHILD

TO: (Name and Address of Compact Administrator of Receiving State)	FROM: (Name and Address of Compact Administrator of Sending State)
Wm T. Quick, Chief, Office of Social Services of Social and Health Services Box 1788 Olympia, WA 98504	Pete W. Surdock, Jr., ACSW, Assistant Chie Social Services Bureau P. O. Box 1723 Helena, MT 59601

SECTION I - IDENTIFYING DATA

It is requested for the placement of:

CHILD	DATE OF BIRTH
PLEASE SEE ATTACHED LISTING	
MOTHER	NAME OF FATHER
AGENCY OR PERSON RESPONSIBLE FOR PLACING FOR CHILD	TELEPHONE NO.
ADDRESS OF PERSON ULTIMATELY RESPONSIBLE FOR CHILD	TELEPHONE NO.

SECTION II - PLACEMENT

PLACE CHILD IS TO BE PLACED WITH	TELEPHONE NO.

CARE

- ☐ Foster Family Care
- ☐ Residential Treatment Center
- ☐ Adoption
- ☐ Group Home Care
- ☐ Institutional Care
- ☐ Placement with Relative
  Relationship

TO BE COMPLETED BY

- ☐ Sending State
- ☐ Receiving State

SECTION III - SUPERVISION

Sending Agency to Supervise

Another Agency Agreed to Supervise

Reports Requested:

- ☐ Quarterly
- ☐ Upon Request
- ☐ Semi Annually
- ☐ Other:

ADDRESS OF SUPERVISING AGENCY IN RECEIVING STATE

Sending Agency requests Receiving Agency to arrange for Supervision:

Enclosed:

- ☐ Summary for Child as suggested in the Compact Procedures
- ☐ Other Enclosures
- ☐ Summary of Home Study as suggested in the Compact Procedures

SIGNATURE OF SENDING STATE COMPACT ADMINISTRATOR OR ALTERNATE — DATE SIGNED: 9/14/76

SECTION IV - ACTION BY RECEIVING STATE

- Approval Granted
- Approval Not Granted

REMARKS

SIGNATURE OF RECEIVING STATE COMPACT ADMINISTRATOR OR ALTERNATE — DATE SIGNED

DISTRIBUTION

Five copies of this form

Sending Agency retains one copy and forwards 5 copies to:

Receiving Compact Administrator who retains one copy and forwards four copies to:

Receiving Compact Administrator indicates action (Section IV) and forwards one copy to Receiving Agency and 3 copies

AMERICAN PUBLIC WELFARE ASSOCIATION

1155 Sixteenth Street, N.W., Suite 201
Washington, D.C. 20036

Telephone: (202) 293-7550

Edward T. Weaver, Executive Director

TO: Administrators of the Interstate Compact on the Placement of Children

FROM: The Secretariat

SUBJECT: LDS Indian Education Program

DATE: Friday, June 4, 1976

At the annual meeting of the Association of Administrators of the Interstate Compact on the Placement of Children (May 6-7, 1976), representatives of the Latter Day Saints Social Services described their Indian Education Program and requested that it either be considered to fall outside the Compact or that simplified procedures be adopted with respect to the handling of Indian children sent from one state to another under the Program. Correspondence received from LDS Social Services since the meeting requests an opinion from the Secretariat which would respond to several questions. The answers would in effect constitute an opinion as to whether the Indian Education Program is or is not operating in such a manner as to make the children in it the subjects of placements within the meaning of the Compact. It is pointed out that a reply is urgent because arrangements for the coming school year will be made in a period commencing almost immediately and concluding before the end of summer.

We are informed that, on the basis of past experience with the Indian Education Program, it may be anticipated that approximately 2,300 Indian children from reservations will be sent across state lines and will enter homes in off reservation communities in order to enable them to go to school in these communities and so that they may have the experience of living in these communities. Almost all of these will be concentrated in a few states.

The arguments made by LDS Social Services raise both legal and policy issues. The situation is an intricate one. In addition, we are mindful that the smooth operation of an established and large program is involved.

The Secretariat has done some work on the subject since the annual meeting brought the matter to our attention. However, it is apparent to us that satisfactory resolution of the question will require more time than is available before something must be known for the functioning of this year's Indian Education Program, both by the Compact Administrators and LDS Social Services. Moreover, we are presently of the opinion that, even if the method chosen to resolve the issue is a Secretarial opinion,

6/16
cc Tallent - to review with Indian Unit.

much more is involved than is normally the case when we are asked to give advice on the fact situation presented by a single case. In this instance, we would believe it appropriate to consult with the Compact Administrators of the states in which the Indian Education Program is most active, with the Association's Executive Committee, and perhaps with the entire Association. Indeed, it is possible that action by the Executive Committee or the association as a whole will turn out to be the preferred method of making a decision.

The Secretariat proposes to make a thorough analysis of the problem and to present its recommendations in concrete form. However, it is apparent that the process will take at least several months and that the Association may wish to consider the question at its next annual meeting early in 1977.

Accordingly, we suggest an approach which will assure LDS that it can proceed in a reasonable manner with its arrangements for the coming school year and that will look toward a definitive resolution of the issue before the summer of 1977.

Such a timetable seems especially desirable because some of the states most heavily affected by the Indian Education Program have been operating under the Compact for only a short time. If some or all of them have been unaware of the heavy load of notices of intention to place Indian children that could require simultaneous processing during the next month or two. Accordingly, the Secretariat suggests the following:

LDS should be requested to furnish the Compact Administrator in each state the following:

(a) Name of Indian child, together with age, sex and such other basic identifying information as may be appropriate.

(b) Names of parents or responsible relative and reservation address.

(c) Identification by name and address of family home in which the child is being placed.

(d) Notification during the school year promptly, if the child is returned to his reservation home or sent to another home as part of an arrangement to facilitate continuance in the Indian Education Program.

(e) Prompt notification of the child's return to his reservation home at the end of the school year.

Page Three
Administrators of the ICIE
June 4, 1976

(f) A statement that LDS Social Services is familiar with the conditions in the home and with the family members and that, on the basis of such familiarity, has determined that having the child there for the school year does not appear to be contrary to the best interests of the child.

(g) A statement from LDS Social Services that it undertakes to return any child to its parents or to make an alternative arrangement for the child whenever and if the then current arrangement becomes inadequate or when the parent requests return.

The foregoing should be provided by LDS Social Services for each child sent or brought into the Compact Administrator's state as part of the Indian Education Program.

It is suggested that each Compact Administrator in a state where the Indian Education Program operates inform LDS Social Services that for children in the Indian Education Program during the 1976-1977 school year, compliance with the above procedure will, in the view of the Compact Administrator, be sufficient to permit satisfactory operations for the coming year; provided that LDS Social Services also complies with all applicable licensing and child care requirements.

It should also be made clear that this is an interim measure and that its continuance past the coming school year, or modification, or replacement by another determination is under study.

Sincerely yours,

Brendan Callanan

Brendan Callanan, Project Director

TO WHOM IT MAY CONCERN:

It has been brought to our attention that legislation has been passed or is in the process of being passed that takes away our constitutional rights of raising our children in the manner that we feel is neccessary for them to receive the proper education and social values; ie: being able to send our children to boarding schools, private schools, placement programs, etc. off the Navajo reservation without governmental control and regulations. We feel that by being able to make these decisions without outside interference we can then take advantage of sending our children off the reservation into an environment that they will learn to adapt to be better suited to carry on a role in the American way of life. If you take these rights away from us, you will not only be taking away our rights as parents, but you will be hurting our children by alienating them from the other children of our country. We have seen the difference between our children who stay on the reservation to go to school and those children who get the opportunity to go away to schools that have better teachers, better equipment, and most important is the fact that they are able to associate with a large majority of children of other races. Those who have the opportunity to go away to school get not only a much better education, but also learn the roles and social values of the average American citizen by living with children of other races. Don't take our parental rights away from us. We want to be the ones to decide what is best for our children without having the government intervene.

1. Henry Morgan
2. Lena Toledo
3. Sharry Sandoval
4. Mae Ellen Toledo
5. Caroline S. [illegible]
6. Evelyn Negale
7. Sam P Toledo
8. Lucille Martinez
9. Emilio Castillo
10. Marie Cayaditto
11. [illegible] Toledo
12. Tommie Mace
13. George Chiquito
14. Rite Molt
15. Frank More
16. Wallace Toledo
17. Jones Toledo
18. Raul Pinto
19. [illegible]
20. Lillie Toledo
21. Clifford Trujillo
22. Tony Trujillo
23. [illegible]
24. Bobby Castillo
25. Juanita Toledo
26. Jean T Lopez
27. Victoria Toledo
28. Lucia Toledo
29. Martha W Toledo
30. Lorraine Toledo
31. Flora Toledo
32. Edison Irvine
33. Rose Castillo
34. Leo [illegible]
35. Bessie S Castillo
36. Nellie Sandoval
37. Sam Charley
38. [illegible]
39. Mary T. Cayaditto
40. [illegible] Toledo
41. Shirley H Sandoval
42. Lecita Trujillo
43. Lillie H. Woody
44. Raymond Toledo
45. Lowell Toledo
46. [illegible]
47. [illegible]
48. Gracy Trujillo
49. Genevieve Trujillo
50. Louise Sandoval
51. Mae Ann Sandoval
52. Tracy L. Sandoval
53. Marie B. Sandoval
54. Ava Sandoval
55. Eva Sandoval

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1. Emerson Castillo
2. David Watson
3. Cecilia Rafael
4. Roy Rafael
5. Fred Castillo
6. Samson Castillo
7. Sandra Toledo
8. Peter Toledo
9. [illegible] Toledo
10. [illegible]
11. Donald Herold
12. HERBERT TOLEDO
13. [illegible] Sandoval
14. Irene J. Dalton
15. Anita S. Begaye
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1. Molly M Chavez
2. Emma Chavez
3. [illegible] Sandoval
4. Luther [illegible]
5. Marilyn Lewis
6. Lorene Yazzie
7. [illegible]
8. [illegible]
9. Billie Martin
10. Rhonda Alonzo
11. Marie Cayadito
12. Jose P. Toledo
13. [illegible] Toledo
14. Woody Castillo
15. [illegible] Castillo
16. Freddie Sandoval
17. Sandra Toledo
18. Cecilia Cayadito
19. Glenn [illegible]
20. [illegible]
21. Samson Castillo
22. Lorenzo Herrera
23. Jimmy Mace
24. Rita C. Toledo
25. Rosalie C. Mace
26. Jim [illegible]
27. [illegible] P Castillo
28. Rose R. Toledo
29. [illegible] Toledo
30. [illegible]
31. [illegible] Castillo
32. [illegible]
33. Larry Toledo
34. Dickie Sandoval
35. John Lewis
36. Milton [illegible]
37. [illegible] Chavez
38. IGNACIO LEWIS
39.
40. Cecil Cowboy
41. Elzota Cowboy
42. [illegible]
43. [illegible]
44. [illegible] Lewis
45. [illegible] Cayadito
46. [illegible] Cayadito
47. Betty Cayadito
48. Herbert Lewis
49. Catherine Willeto
50. Jasper Willeto
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1. [illegible]
2. Marcella Willetto
3. Sam Chee
4. Betty Lee Jake
5. Frankie Bia
6. Hannah C. Morgan
7. Jerry Gorman
8. Elaine Blueeyes
9. George Willie
10. Pauline C. Henderson
11. Hazel Henderson
12. Wilson Sandoval
13. Mary Jacobs
14. Mary J. Toledo
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1. Roy F. Martin
2. Katherine Willetto
3. Laverne Begaye
4. Sherry Willetto
5. Betty Pinto
6. Bessie Pinto
7. Pauline Sandovals
8. Fred J. Sandoval
9. Evelyn Sandoval
10. Ethelyn Sandoval
11. Laura Rafael
12. Nellie Rafael
13. Nora Rafael
14. George JR. Toledo
15. John K Tohutsa
16. Joseph Castillo
17. William J. Augustine
18. [illegible]
19. [illegible]
20. [illegible]
21. [illegible]
22. Anna Rose Tachine
23. Nettie Y. Bambridge
24. Zelma Castillo
25. [illegible]
26. [illegible]
27. George Augustine
28. Rose Ann Joe
29. Charley Joe
30. Irene B. Norberto
31. Juanita Begay
32. Virginia Toledo
33. Bertha Simpson
34. Stella Whitehorse
35. James Whitehorse
36. Dixie Rose James
37. Bob E. James
38. Joseph J. Antonio
39. Virginia Antonio
40. Raelann Antonio
41. Georgia Yazz
42. George C. Yazz
43. Edna Mae J. Castillo
44. Lyle Yazz
45. Emma Yazzie
46. Nelson C. Yazzie
47. Harry Jim
48. Lucy Jim
49. Leonard Ignacio
50. Edison Horda
51. Gibson Ignacio
52. [illegible]
53. Lenny Ignacio
54. Albert Yazzie

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1. Irene Tully
2. Kenneth Antonio
3. [redacted] Richard Revol
4. Judie Betone
5. Lucy D. Lopez
6. Rita Ramone
7. David Haines
8. Betty C. Haines
9. Shirley M. Nelson
10. Joann Antonio
11. Ethel Antonio
12. Alfred Sandoval
13. Lena Sandoval
14. Lavon Bicunt
15. Rose Holiday
16. Paul Sandoval
17. Kee Y. Begay
18. Alice S Costello
19. Rubie Antonio
20. Emerson Sandoval
21. Alfred Willie
22. Dion Sandoval
23. Frank Sandoval
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1. [illegible]
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3. [illegible]
4. James H. Whitehorse
5. Stella Whitehorse
6. Margret Whitehorse
7. Carleen Kinlicho
8. Julian Jim
9. Henry K Bidtah
10. Raymond Martinez
11. Anne Martinez
12. Annie Rafael
13. Charlie J Toledo
14. Elsie J Toledo
15. Bill Mortensen
16. Frank Ramone
17. Kenneth Norbert
18. Frank Chiulletti
19. Marvin Dennison
20. Emma Dennison
21. Priscilla Willetto
22. Bob Toledo
23. Eddie JONES
24. BEN Tsosie
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APPENDIX E—LETTERS

DAVID LARUE CRABB

Post Office Box 281
Dedham, Massachusetts 02026

August 9, 1977

The Honorable James G. Abourezk, Chairman
Select Committee on Indian Affairs
United States Senate
Dirksen Senate Office Building, Room 1105
Washington, D.C. 20510

Dear Senator Abourezk:

I write to record my whole-hearted support for your legislative efforts on behalf of the American Indian people. I am especially impressed with the standards which your Indian Child Welfare proposal seeks to establish for the placement of Indian children in foster or adoptive homes. These clearly defined standards recognize the unique values of Indian culture and are bound to promote the stability and security of Indian family life.

By way of copies of this letter to your colleagues on the Select Committee on Indian Affairs and to members of the Massachusetts Congressional delegation, I am urging their favorable consideration and support for the legislation proposed by Senate Bill 1214.

I wish you well.

Sincerely,

David L. Crabb

TO WHOM IT MAY CONCERN:

It has been brought to our attention that legislation has been passed or is in the process of being passed that takes away our constitutional rights of raising our children in the manner that we feel is neccessary for them to receive the proper education and social values; ie: being able to send our children to boarding schools, private schools, placement programs, etc. off the Navajo reservation without governmental control and regulations. We feel that by being able to make these decisions without outside interference we can then take advantage of sending our children off the reservation into an environment that they will learn to adapt to be better suited to carry on a role in the American way of life. If you take these rights away from us, you will not only be taking away our rights as parents, but you will be hurting our children by alienating them from the other children of our country. We have seen the difference between our children who stay on the reservation to go to school and those children who get the opportunity to go away to schools that have better teachers, better equipment, and most important is the fact that they are able to associate with a large majority of children of other races. Those who have the opportunity to go away to school get not only a much better education, but also learn the roles and social values of the average American citizen by living with children of other races. Don't take our parental rights away from us. We want to be the ones to decide what is best for our children without having the government intervene.

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By way of copies of this letter to your colleagues on the Select Committee on Indian Affairs and to members of the Massachusetts Congressional delegation, I am urging their favorable consideration and support for the legislation proposed by Senate Bill 1214.

I wish you well.

Sincerely,

David L. Crabb

VIRGIL L. KIRK, SR.
Chief Justice
Navajo Nation
(602) 871-4138

JUDICIAL BRANCH
P. O. Box 447
Window Rock
Navajo Nation, 86515

STEPHEN M. GUDAC
General Counsel
Judicial Branch
(602) 871-4137

June 8, 1977

Mr. Herm Wade Olsen
Office of Congressman McKay
1203 Longworth Building
Washington, D. C. 20515

Dear Herm,

Here are my comments on Abourezk's bill. I hope they prove useful.

I will be in Washington in late June or early July and hope to see you then.

Sincerely,

Steve

Stephen M. Gudac

SMG/ms

Enclosures

Comments on Senate Bill S. 1214

A close review of Senator Abourezk's bill, entitled "Indian Child Welfare Act of 1977" and numbered S. 1214, shows that this bill is bad legislation.

First, it includes every Indian tribe in the scope of the policy of the act. This makes no sense. Indian tribes range in population from a few hundred to over 160,000. The territories of the tribes range from as little as fifteen acres to millions of acres. Most tribes have no judicial system at all, if they even have a court. The Navajo have a system as sophisticated as that of many states and far more advanced than any other tribe's. One must wonder at the stupidity of such all-inclusive legislation on a matter so delicate and so complex as child welfare, given the varied conditions described above.

Second, while certain aspirations apparently inherent in the bill are laudatory, the approach and the draftsmanship would lead to chaos and protracted litigation, rather than to the accomplishment of the good intentions.

For instance, Section 102 (b), Page 9 line 3, speaks of the "overwhelming" weight of the evidence. There is no such standard recognized in American law. Section 102 (d) requires that a child who is the subject of a placement be represented by counsel. No matter how young the child? Regardless of whether the tribe has funds to reimburse such counsel? The Indian Civil Rights Act does not even require tribes to furnish counsel in criminal cases. Yet this act seems to require a tribe to furnish at its expense - if the parents cannot hire or choose not to hire - counsel for both the child and the parents.

Section 102 (b) also states that misconduct and alcohol abuse cannot be considered prima facie evidence as to the need to modify the parental custody rights.

Notice that the very next sentence says, however, that the standards of the Indian community are to be used in determining whether damage to the child will occur.

What happens, then, if the standards of the community are that severe abuse of alcohol by the parents warrants modifying their custody rights?

It should be readily apparent that this legislation gives rise to contradictory interpretations. This then is prima facie evidence of bad legislation.

Section 103 (b) mandates certain preferences but then says any tribal council can change these. All this does is impose a legislative burden on the tribes. Obviously, given this provision, even if a tribe presently has set different

priorities, that tribe will probably have to re-legislate on this matter.

Section 104 represents certain "modern" thinking on the rights of adopted children. This kind of thinking is actually two hundred years out of date.

Adopted children would no longer be considered the equal of "natural" children, nor would adoptive parents have equal rights compared with natural parents.

For all the years until a child reaches eighteen, the adoptive parents and the natural parents who relinquished custody will have this false issue hanging over them, waiting to intrude into and disrupt their lives. The same would be true of brothers and sisters who would all of a sudden be subjected to an intrusion with shattering consequences.

What rights do the adoptive parents, natural parents and other relatives have? What happens to their right to have the issue of adoption settled and to expect to lead their lives normally after the case has been closed?

Finally, what real good would Section 104 do? If the information required to be disclosed to the child were really needed, as in a medical emergency, the judge can always disclose that portion of information vitally necessary to the person needing it, without disrupting everyone's lives.

Whereas the judge, in almost every jurisdiction including the Navajo, presently has a scalpel which he can use as he determines it to be needed, Section 104 puts a shotgun in his hands and orders him to use it, unless someone else can convince him not to.

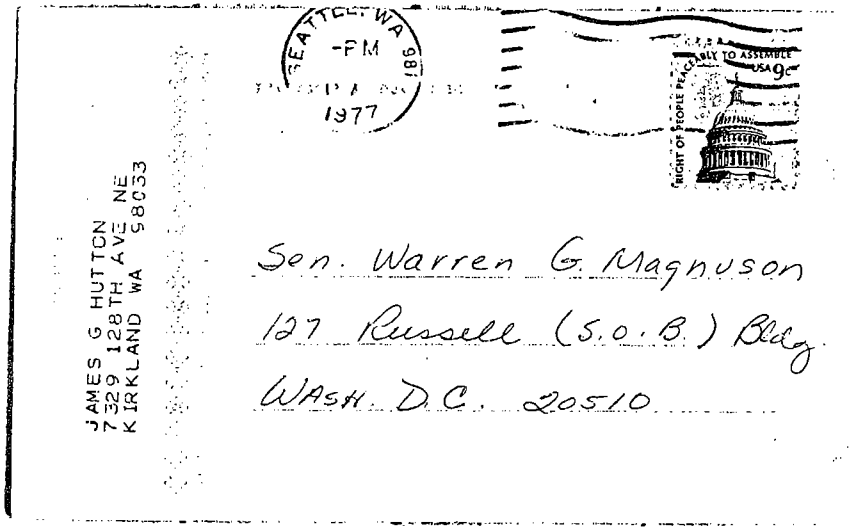
My last comment is that Title II simply does not budget enough money to carry out the provisions of Title II. The amounts suggested are laughable, given the purposes stated in Section 202.

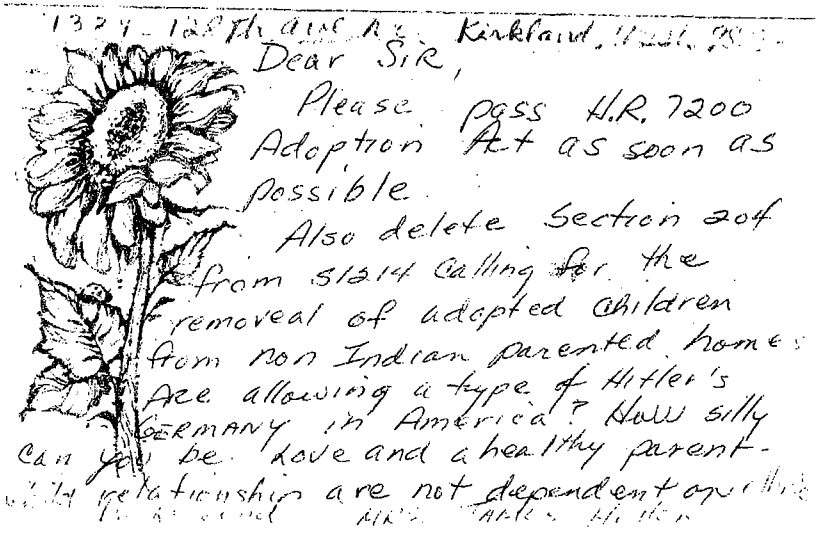
In any case, as any student of Congress knows, this bill cannot appropriate funds, regardless of the language of Section 201 (d).

I seriously doubt that adequate funds for the projects listed in Section 202 (a) will be forthcoming. Indian legal systems are not even sufficiently funded. Why should this program be any different? All this bill does is impose further meddlesome, unfunded burdens on Indian and state courts.

Therefore, I must strongly oppose passage of this bill

Stephen M. Gabica



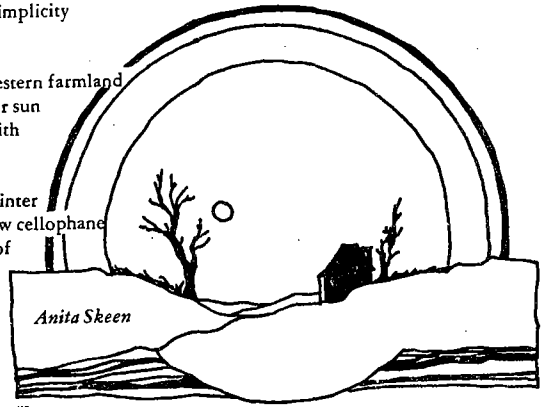


a Christmas gift

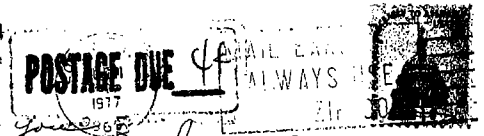
i would choose from the tapestry
of my days
those threads of simplicity
yet perfection

solitude in midwestern farmland
frost on December sun
trees feathered with
morning chill

i would choose winter
wrapped in yellow cellophane
and the stillness of
Christmas snow



Cold Mountain Holiday Post Card
Illustration © 1974 Gretchen Reed
Text © 1974 Anita Skeen



I strongly urge you to work against Sec. 204 of S-1214. It would be a great injustice to all adoptive families if it is allowed to pass!

Karen Penta

Karen Penta
1419 22nd Ave.
Longview, WA 98632

Sen. W. Mgnuson
127 Senate Office Bldg.
Washington, DC
20510

100 copies were signed by poet and artist.

Cold Mountain Press, 4406 Duval, Austin, Texas 78751

American Indians for Development, Inc.
P. O. BOX 11
MARLBORO, CT. 06252

July 7, 1977

Dear Friends:

A number of individual Indian People here in Massachusetts who are aware of the Indian Child Welfare Act of 1977 (S.1214) are in basic support of the Act and Senator Abourezk's efforts in the protection and welfare of our Indian Children. Copies of this Act have been sent out to Tribal Councils, Tribal Governments, and Inter-Tribal Organizations in the New York and New England areas.

We are urging Indians and non-Indians alike who support this proposed legislation to voice their support to their appropriate Congress people. We feel that this Act provides for the appropriate people, the Indian People, to have control concerning the placement of Indian Children in adoptive and foster homes. As we all know, too many Indian Children are taken from their Tribal communities and are placed in non-Indian homes. The effects of this action need not be enumerated here.

We are, however, suggesting amendments primarily because the bill, as it is written, will go through the BIA and therefore exclude East Coast Indians, non-reservation Indians and Canadian Indian People living in the United States. We are suggesting that the bill be removed from the Department of the Interior and be put through the Department of Health, Education and Welfare. HEW services nearly all Indian People whereas the BIA does not. We are also requesting redefinitions of "Indian","Indian Tribe" and "Indian Organization". (See following form letters for those definitions.)

Enclosed you will find a copy of the Indian Child Welfare Act of 1977, one set of form letters in support of the bill designed for Indian People to send, one set of form letters for friendly non-Indian people to send in support of the bill, and a list of the names and addresses of the members of the members of the Senate and House Sub-Committe on Indian Affairs. It will be very helpfull if you also send support letters to your local Congress people. Significant numbers of support letters from as many states as possible can only help the passage of the bill. It is important to let the government know that a great many people are aware of and watching this bill.

We sincerely hope that you will lend your support to this Indian Child Welfare Act of 1977 and that you will recruit other interested parties to lend their support as well.

As it stands now, the bill is scheduled tentatively for another hearing before the Senate Select Committee on Indian Affairs on July 28, 1977. Let's all work together to help this bill pass in the interest of all our Indian Children, and Sisters and Brothers.

In the Spirit of Brotherhood,

Jacob Thompson

JT/c-js

P.O. Box 782
South Bend, Wa 98586
July 31, 1977

Dear Sen. Magnuson,

It is our understanding that Senate Bill 1214 - Pages 18 and 19, is under consideration, concerning invalidating the adoption of Indian Children by non-Indians.

It is hard for us to emagine that intelgent lawmakers could get so involved in the "Cause" of undoing [illegible] past wrongs, that the good of todays Children could be so misplaced or ignored.

We have three "homemade" children, all grown, one grown foster Son, one lovely adopted Korean Daughter, two wonderfull adopted Indian Children, who are natural Brother and Sister, and our little "Special Angel". She has Downs Syndrome Also adopted.

We were foster Parents for about 10 yrs. and interim Parents for about 2 yrs. We have seen just about everything from battered babies to teenagers in trouble with the law.

2.

When we applied for a foster care license we just wanted to help in our community. We don't have much money, but loving kids, that was one way we could help. At that time the State paid $68.00 a month so you know that money had nothing to do with it.

It just happened that our Indian Children were what we got.

They were then six and seven yrs. old. They had been in Childrens Homes, left with relatives, left alone, hungry, neglected, mistreated and in another foster home, all of which they still remember, before they come to us.

We had them about five years before they were freed for adoption. We had loved and taken care of them as our very own [illegible] even considered not adopting them as soon as they were free, even though by then foster payments had raised so much it meant losing nearly half our income.

3.

Our son had been so badly affected by his early years, it took years to help him have a sense of self-worth and confidence enough to get along with others, as in school, and in everyday life. He is a very sensitive boy, and now very loving & outgoing and happy.

This bill would be cruel to not only our own children, but hundreds of others who are now & could be in the future, living normal, happy, productive lives.

My husband is part Indian, though not enrolled in his tribe. We have always encouraged all our children to be proud of what and who they are.

From our dealings with their tribe and their (family-biological) who work in the tribal offices, they express so much concern, but for the tribe ~~losing this~~ losing its children to the whites. Not for the children!

We beg you to reconsider this bill!

4.

We know of several families this bill would destroy! There must be hundreds more!

Please think of the potential for happy adults raised in loving families and put the children's happy lives before the "Cause" of a Race.

Sincerely,
Mr. and Mrs. Tom McOney

AUG 3

27341 S.E. 403 St
Enumclaw, Wa
98022
Aug. 4, 1977

Warren G. Magnuson
127 Russell (50B) Bldg.
Washington, D.C. 20510

Senator Magnuson:

I am writing to object to Senate Bill 1214 which deals with investigation of all adoptions of Indian Children in the last 16 years.

It runs counter to creating permanent and secure adoptions. It leaves adopted children as pawns of people who care about a cause rather than the happiness of children. This bill deals with Indians, but sets a precedent for all adoptions.

Sincerely,
Judith E Kiser

3903 N. Cincinnati St.
Spokane, Wash. 99207
Aug. 3, 1977.

AUG 09 1977

Sen. Warren G. Magnuson
127 Russell Building
Senate Office Building
Washington, D.C. 20510

Dear Senator Magnuson,

Please do not support Senate Bill 1214. This bill would place most adoptions of mixed-race Indian children in jeopardy. And its prime concern is not with the well-being of such children. It is merely a way to add possible numbers to the Indian count. This legislation has disturbing implications to existing and future placements of all Indian children. It does not achieve permanancy for such children and leaves such children mere pawns in the hands of people interested in the CAUSE rather than the CHILDREN.

We have an adopted Indian-white child of 6 who was placed with us at 7 weeks of age. Even though we went through a reputable agency and have no ultimate fears as to his legal placement, this bill would leave us open to a possible law suit and possible need to prove in court again the legality.

I quote from this bill "that placements of Indian children before the age of 3 months leave that placement open to suspicions of coercion."

This is backward legislation and will not further the cause of equal justice for all Indian children.

Sincerely yours,

Ross & Elenor Finley

488

1343 117th Dr. S. E.
Lake Stevens, Wa. 98258
July 29, 1977

The Honorable Warren G. Magnuson
127 Russell (SOB) Building
Washington, D. C. 20510

As parents of an adopted child (not an Indian child) we are deeply concerned and disturbed by the implications of Sec. 204 of Senate Bill 1214. We urge you to oppose this section. The heartache that could be caused to many families is hard to imagine. When people commit themselves to love and raise a child as their own through adoption, this relationship should not be disturbed .

Sincerely,

Wayne & Linda Christianson

489

Ferndale, Wash.
July 25, 1977

Senator Magnuson
Senate
Wash. D.C.

Dear Sir;

I am writing in regard to Senate bill 1214,

Because we adopted an American Indian girl seven years ago and because we feel the adoption has worked out so well we are very much in favor of such adoptions. We feel they should be permitted. She has friends and does well in school. We encourage her to

I could go on Indian politics, etc. and to be proud of our Indian heritage.

Sincerely,

Mr. & Mrs. Jim Cain

727 W Pole Rd.

Lynden, Wash. 98248

17801 Robinhood Lane
Snohomish, Washington 98290
July, 29, 1977

Senator Warren G. Magnuson
127 Russell (SOB) Building
Washington D. C. 20510

Dear Senator Magnuson:

I am writing about Senate Bill 1214, Section 204. My husband and I have read this section and we are opposed to it because of its implications for permanency for children.

We are amazed that our legislators would wish to remove a child, even one child, from the adoptive family of which he/she has become a part for the sake of a "cause." Doubtless the cause, Indian rights, is a good one. Indeed we aplaud all efforts to achieve justice for our native Americans. But this proposed law would deny innocent children <u>their</u> rights! No child should be forcibly removed from the parents he/she knows and loves unless those parents have failed in their parental duty to him/her.

Please don't make pawns of adopted children in order to promote Indian rights. We urge you to vote against this bill.

Sincerely,

Bernice Krahn

Bernice Krahn (Mrs. C linton D.)

Sen. Warren G. Magnuson
Dear Sir.

AUG 19

I am writing in regards to the Senate Bill No 1214 Sec. 204 which concerns adoption of American Indian children.

Being the mother of a legally adopted Indian daughter under the age 2 1/2 this bill concerns me a great deal.

The possibility of persons checking for Reservation blood and then being able to take away my child is a very frightening thought.

Our Indian Child is no different than any other child who may be adopted and I see no reason for them to be singled out. They need to know that they are secure with those they love and who love them.

I think the money could be put to better use, possibly to help Indian families keep their children or help people find these children to adopt or even to balance the budget.

Before you act on this bill Please consider what you will be doing to the Children.

Sincerely
Mrs Judith McClure Comstock
P.O. Box 584
Vashon, Wash.
98070

E. 1118 Baldwin Ave.
Spokane, Wash. 99207
August 10, 1977

Senator Warren G. Magnuson,
127 Russell (SOB) Bldg.,
Washington, D. C. 20510

Dear Senator Magnuson:

Re: Senate Bill #1214

This bill aims to discourage the adoption of Indian or part-Indian babies by white or other non-Indian families. In fact, it is so worded that it could nullify already existing adoptions.

I wonder why? Surely the type of white parents who are glad to adopt an Indian child are the type who would have the child's best interests at heart. Furthermore, I think it is an encouraging effort towards unifying Indians and whites.

Much of this individual assistance is going to be necessary to raise children of Indian heritage to be leaders of their own people. Simply forcing any and all of them to be head-counted on reservations cannot be done with the true interests of Indians at heart.

Among my grandchildren is a bright lovable half-Indian boy, and it is the hope and aim of his adoptive parents that he will eventually make it his life-work to help Indians generally towards a self-respecting and productive life.

We cannot point with pride to the results of government policies during the past 150 years; in fact we should be ashamed of the way the Indians have been treated. It seems to me that this present-day trend towards person-to-person assistance should be encouraged, not frustrated.

I hope you will oppose this bill when it comes to a vote. Thanking you in advance, I am

Very truly yours,

(Mrs. Winifred M. Kromholtz)

9701 Waters Avenue South
Seattle, Washington 98118
August 12, 1977

Senator Warren G. Magnuson
Old Senate Office Building
Washington, D.C. 20510

Dear Senator Magnuson,

I am writing in regard to Senate Bill 1214. Its provisions to discontinue placement of Indian children in white adoptive homes seems a constructive policy and will help to keep alive our valuable Indian cultures. However, Section 204, which seeks to apply this policy retroactively, would it seems to me work great injustice on those white families which adopted Indian orphans in the best of good faith, and have been raising them as their own. Morever, and especially, the uprooting of the children after coming to consider themselves part of the adoptive family couldn't help but be bad for their emotional health.

I urge you to remove this retroactive thrust before working for passage of the bill.

Yours truly,
Dorothy Whittington
Dorothy Whittington

July 26, 1977

Senator Hubert Humphrey
U.S. Senate Office Building
Washington, D.C. 20510

Dear Senator Humphrey:

I am writing to ask your immediate attention to highly dangerous sections of Senate Bill 1214, the "Indian Child Welfare Act" introduced April 1, 1977. I understand a hearing is to be held in the Select Committee on Indian Affairs the week of July 22, 1977. If some of these are overlooked and passed, it will be the saddest day in the U.S. history as far as "child welfare" is concerned.

All the sections having to do with the placement (adoptive and foster) of Indian and part Indian children are highly questionable. But Title II, Sec. 204 is the worst. It provides that all adoptions (and foster) placements of Indian and part Indian children made in the past sixteen years be reviewed by the Secretary of the Interior to see if legal flaws can be found. If so the Secretary will provide free legal services to Indians, as well as participate in the suits, so that the children can be returned to the Indian natural parents or relatives.

Can you imagine what havoc that will play in the lives of the adopted children and their adoptive parents. Can you imagine the fear that will be struck into the hearts of all such families when they learn they may or will have to fight in court (at great expense while the other side has government paid lawyers) to keep adopted children whom they have loved, supported and nurtured all these years. Most of the children so included are part Indian - mainly white, black, Chicano and Asian. (Most any part Indian child is "eligible for enrollment" I understand, though not for benefits). This is grossly unfair.

Also, all of the complicated steps and processes being asked before an Indian (or even more unfairly a part Indian) child can currently be placed for adoption or foster care are also poor practice. Especially since even one step omitted "makes an adoption invalid". Who would even want to take the risks to adopt under these circumstances?

I have analyzed the bill point by point and attach this for your review.

I suggest that the only good part of the bill - and it is a commendable part, is setting up social services by and for Indians on or off the reservations. That is the solution. If this were done, then the Indian and non-Indian parents who want these services could choose to go there or those who prefer public, or private, non-racial, non-sectarian, or denominational social services could go to the agency of their choice.

Parents of Indian and part Indian children have the right to make plans for their children freely, just as do all our citizens. This bill denies them that right. It does not even allow an option for the parent to waive

all this complicated process and have their child placed as they wish. A good many parents of Indian or part Indian children (e.g., a white mother of a part Indian child) may not want an Indian family for their child. Have the natural parents no right to decide this?

Also enclosed are some articles from Washington State newspapers (Seattle and Bellevue). We already have (since 1976) an "Indian administrative code" here. I guess Indian leaders think it is working well but from the children's point of view and the adoptive/foster families who have been their "real" families for years, it is causing only heartache and distress. The articles tell only a small part of the sadness caused here by these codes. The thought of such distress multiplied a thousand fold throughout the nation causes me to write you now and ask that you take a very close look at Senate Bill 1214.

May I hear from you as to your thinking after you have given this bill further consideration.

Thank you kindly,

Mildred Wright

(Mrs.) Mildred Wright
1624 North 55th
Seattle, Washington 98103

Encl.

ANALYSIS OF S 1214

Although parts of the "Indian Child Welfare Act of 1977" are good i.e., efforts to set up social services for Indians on and off the reservations, there are other sections which are highly dangerous to children's welfare and still others which would only complicate (not improve) services to Indian and part Indian children.

SECTION 204

I will mention the area of greatest concern, i.e., Section 204 of Title II on page 18. In essence it says that the Secretary of the Interior will review all child placements (foster and adoption) of Indian or part Indian children made in the past 16 years (unless the child is now over 18). The court cases will be reviewed to see if a legal flaw can be found. If so the Secretary of the Interior can issue a habeas corpus action, or other legal proceeding, bring the case to court, provide attorneys fees to natural parents or certain blood relatives, with a view to upsetting the adoption decree and returning the child to the natural family.

This would apply to many children (probably most) who are only part Indian, perhaps predominantly white, Black, Asian, Chicano, etc. Anyone "eligible for enrollment". We have been told that even those with small precentages of Indian heritage are eligible for enrollment - not benefits perhaps, but enrollment.

The dangers are obvious:

1. Children being taken from homes in which they are permanently settled for years perhaps.

2. Extensive legal expenses on the part of adoptive parents to fight to keep these children, as they are opposed in court by people who have free legal service and the U.S. Government behind them.

3. Emotional agony as children and adoptive/foster parents are separated from each other.

It would seem that the writers of this bill are operating on the assumption that Indian and part Indian children have been kidnapped from the natural families and tribe. But this is a false assumption. Some may well have been given up for adoption (or foster care) voluntarily to offer the child a better life. (The same reason any children are voluntarily relinquished). Other parents were deprived in court because of neglect or abandonment or some similar serious reason. I have been a social worker for 25 years and I have yet to hear of a "deprivation" that was made for a frivolous reason. One can be well meaning and even love children but if one leaves young children alone for days and nights, or places them in foster care and then not return for months and years, that is neglect and abandonment. Parents of all races who do this risk losing the children to other families who are willing to nurture and provide for them. But natural parents' rights are almost sacred in our court system. And "deprivations" are made only after numerous, long drawn out efforts to find, to help, the natural family. These Indian and part Indian children, therefore, were not "kidnapped". They are in foster or adoptive homes either by wish of the natural parent, or because a court decided that all efforts to return the child have been hopeless.

I am not saying that (with all races) there may not be a few isolated cases where a reopening is warranted. But those cases can and have always been handled as individual cases. If natural parents wish to reopen a case, they

can secure an attorney (Legal Services (free) are available for those of low income).

Moreover, Adoption Records are "legally sealed" and even the Secretary of the Interior would not have access to them unless the adoption court judges ordered that

SECTION 102 (c)
On page 10, lines 11 through 25, the stipulations are preposterous. Moreover, they are an insult to the Indian People, e.g., "Consent by the natural parent or parents of an Indian child given within 90 days of the birth of the child shall be presumed to be involuntary". It implies Indian people (or parents of an Indian or part Indian child) do not have the same mental powers as other races. If people of other races can decide and sign surrenders in the first 90 days, so can parents of an Indian child. I contend Indians are as bright and capable and responsible as anyone else. The writers of this bill must think otherwise.

Likewise the ability of parents of an Indian child to withdraw consent anytime up to the final decree will make it impossible to find an adoptive couple (including Indian adoptive couples) to take such a child. They would live in fear of losing the child for a year or more (in most states) until the final decree. And even then if someone could show that in some way the whole process did not comply with the complicated steps set out in this Act the decree could be set aside. Whoever wrote this bill obviously did not consider human nature, human love between parent and child (adoptive and foster being the "real" parent in these cases), or did not care about the feelings, lives, welfare of the children and parents involved.

This Section should be totally removed from the Act.

OTHER POINTS
Page 1, line 3. The Act is misnamed - it is not a "Child Welfare" Act. It may be a "Tribal Welfare Act" but the welfare of children is not its purpose nor would it be the result.

Page 2, lines 1 through 7. The reason children are separated from the parents was either the wish of certain parents or(in other cases) the neglect of them by the parents. The "agencies" stepped in to care for children who otherwise were not being cared for by family or tribe. The blame is placed in the wrong place.

Page 3, lines 1 and 2. My comment here is that I doubt the statistics show the high rate of "drop outs, alcoholism, drug abuse, suicide, crime" among the children who were reared in adoptive or foster homes. A study might be indicated to see if those rates are higher among those reared by natural parents or relatives, or higher among those placed for adoption and in foster care. Here we should separate adoption from foster care. I would guess that the rates are lowest among those placed for adoption.

Page 3, lines 5 through 10. Here we have, I believe, the purpose of the Act. "For Indians generally, the child placement activities of non-tribal government agencies undercut the continued existence of tribes as self-governing communities and, in particular, subvert tribal jurisdiction in the sensitive field of domestic and family relations. "It is stated clearly: Not welfare of the children, but welfare of the tribe.

Also in this regard, it should be repeated, many if not most of the children included in this Act are only part Indian. Do these children lose their

rights as free U.S. citizens because they have some Indian blood. Why should a half or predominantly White, Black, Asian, Chicano child be subject to "tribal jurisdiction in the sensitive field of domestic and family relations".

TITLE I CHILD PLACEMENT STANDARDS
The whole title is bad. Some I have discussed earlier. But, in general, the complicated system of dealing with Indian or part Indian children means in essence that no social services from private or public social agencies can be made available to the children. Who has the staff to go through all those processes? And if, later, it could be shown that one step was missed, a placement (even adoptive) could be claimed invalid.

Even the way in which parents of Indian and part Indian children can consent to a placement is different than other people's methods. See my earlier comments.

The saddest part, I think, is that the wishes of the natural parents are totally ignored. There is no option left open that if the natural parents want to waive all this, they can be allowed to do so. In essence this is dictating to U.S. citizens, (Indian and non Indian alike) how this is to be done. The White or Black girl pregnant by even a part Indian man will no longer be able to surrender her baby for adoption like other girls. She will have to go through this complicated process and her baby will first have to be offered to the man's relatives. Only if they do not want the child, can the child be placed for adoption with a family of her race.

TITLE II
Sections 201, 202 and 203 of this title are fine. The development of Indian services, by and for Indians, on the reservations and off is a worthwhile and necessary development. The strengthening of Indian families will prevent most removals of children. That is everyone's goal.

But Section 204, page 18 as I have already discussed, is totally preposterous and should be totally removed from this Act.

As far as the practicalities are concerned, if the adoption related parts of this Act were ever passed, the whole concept of adoption would be changed. No adopted child or adoptive parent could ever feel safe. If the Federal Government can step in retroactively and help overturn decrees of courts throughout the land in Indian and part Indian cases, then it can do so in other cases. Why not?

The rights of all other races are being ignored by the Act. The child "eligible for membership in a tribe" is somehow to be part of and under the rule of this Act whether the child, his natural parents (often at least one is not Indian) or legal adoptive parents consent or not.

By being even part Indian these children and these parents lose the freedom our Constitution gives them. Other parents (of non-Indian children) have the freedom to plan for them as they see fit. But parents of Indian and non-Indian children have to plan for them as this Act decrees. It is unequal protection under the law.

Mr. Humphrey
Senate Office Building
Washington D.C. 20510

July 19, 1977

Dear Mr. Humphrey,

We are writing in reference to Bill #S.1214 entitled the "Indian Child Welfare Act of 1977".

We are greatly concerned about this bill as adoptive parents and people interested in child welfare.

We feel passage of this bill will create massive problems with Indian families, adoptive families (past and prospective), and licensed placement agencies.

One of the most terrifying aspects of this bill centers around the powers entrusted to the Secretary to look into past adoptions. Although recognizing that some past placements were misdirected, allowing such excessive powers will endanger many successful placements and the related family units. No one should have such undefined and opened powers as this bill would allow. The potential abuses could lead to many nightmares. As a parent, how would you react to the threat of possible removal of your child? And who should have this power? How would you feel as a child, being taken away from the home and people you love.

While the purpose of this bill is to protect the Indian family unit, in fact it takes away their freedoms. Under this bill an Indian family does not have the right to decide the fate of its members. These rights would be entrusted to the tribal authorities, the results of which could be disastrous to Indian families.

The bill attempts to improve Indian life through home improvement and subsidy programs for families interested in becoming adoptive or foster homes. This could lead to families desiring placement of children for the wrong reasons, resulting in child abuse and family stress. This bills affords no legal protection to these children, which other children are entitled to. The bill indicated that children placed outside the reservation and their natural parents develop excessive social instabilities. This is utterly absurd! So many other factors are involved in the Indian socio problems that external adoption is entirely insignificant.

This bill creates tremendous problems to licensed agencies in rendering services to families. Several provisions would encumber placements,

if not completely curtail beneficial activities with the Indian families.

This bill is an extremely misguided attempt to help Indian families. It is outrageously discriminatory! It takes away individual rights and freedoms. It appears to us that this bill is trying to confine Indians to the reservation with no concern for their well being, personal desires, or future welfare.

If you, as a well meaning representative of the people, feel that the minority rights of Indians require discriminatory legislation, do you plan similar legislation for Blacks, Mexican-Americans, Japanese-Americans, Irish-American, etc. who have also been unjustly treated?

With deep concern,

Mr. and Mrs. David James
2137 West Verde Lane
Phoenix, Arizona 85105

AS COSPONSER OF THIS BILL, <u>HAVE YOU</u> <u>REALLY READ IT</u> ??

AUG 2 2 1977

RECEIVED AUG 22 1977

8/17/77
Rt 2 Box 28
Raymond, Wn 98577

Chairman Abourezk
Senate Office Bldg.
Wa., D.C. 98501

Dear Sir,

I am Writing to you to see if you know What you Would be doing to a lot of Children & families if you pass the bill 12-14 These children have been happy with their families, & the people [illegible] adopted them [illegible] them as their own. [illegible] you don't know this bill, Would [illegible] the Indian Children back to their people. Please I pray you won't pass this bill. Please [illegible] How you do this to the children.

Thank you

Mrs. [illegible]

P.S. The bill [illegible] page 19 Indian Child [illegible]

95TH CONGRESS
1ST SESSION

S. 1928

IN THE SENATE OF THE UNITED STATES

JULY 26 (legislative day, JULY 19), 1977

Mr. CRANSTON (for himself, Mr. MOYNIHAN, Mr. RIEGLE, Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr. ANDERSON, Mr. BROOKE, Mr. DURKIN, and Mr. INOUYE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Social Security Act to strengthen and improve the program of Federal support for foster care of dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Welfare Amendments of 1977".

FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE

SEC. 2. (a) Title IV of the Social Security Act is amended by adding at the end thereof the following new part:

"PART E—FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE

"STATE PLAN FOR FOSTER CARE AND ADOPTION ASSISTANCE

"SEC. 470. (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which provides—

"(1) that the State agency responsible for administering the program authorized by part B of this title shall administer the program authorized by this part;

"(2) that the plan shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

"(3) that the State shall assure that the programs at the local level assisted under this part will be coordinated with the programs at the State or local level assisted under parts A and B of this title, under title XX of this Act, or under any other appropriate provision of Federal law;

"(4) that the State will, in the administration of its programs under this part, use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the programs, except that the Secretary shall exercise

no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

"(5) that the State agency referred to in paragraph (1) (hereinafter in this part referred to as the 'State agency') will make such reports, in such form and containing such information as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

"(6) that the State agency will monitor and conduct periodic evaluations of activities carried out under this part;

"(7) that the State agency will conduct a program of foster care maintenance payments as described in section 471 and a program of adoption assistance as described in section 472;

"(8) safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, C, or D of this title or under title I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX, or the

supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, and (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need; and the safeguards so provided shall prohibit disclosure, to any committee or a legislative body, of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosure to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

"(9) that where any agency of the State has reason to believe that the home or institution in which a child resides whose care is being paid for in whole or in part with funds provided under this part or part B of this title is unsuitable for the child because of the neglect, abuse, or exploitation of such child, it shall bring such condition to the attention of the appropriate court or law enforcement agency;

"(10) that the standards referred to in section 2003 (d) (1) (F) shall be applied by the State to any

foster family home or child care institution receiving funds under this part or part B of this title;

"(11) for periodic review of the standards referred to in the preceding paragraph and amounts paid as foster care maintenance payments and adoption assistance payments to assure their continuing appropriateness;

"(12) that any individual who is denied a request for benefits available pursuant to this part or part B of this title (or whose request for benefits is not acted upon within a reasonable time) will be informed of the reasons for the denial or delay and, if requested, will be offered an opportunity to meet with a representative of the agency administering the plan to discuss the reasons for the denial or delay; and

"(13) that the State shall arrange for a periodic and independently conducted audit of the programs assisted under this part and part B of this title, which shall be conducted no less frequently than once every three years.

"(b) The Secretary shall approve any plan which complies with the provisions of subsection (a) of this section. However, in any case in which the Secretary finds, after reasonable notice and opportunity for a hearing, that a State plan which has been approved by the Secretary no longer complies with the provisions of subsection (a), or that in

the administration of the plan there is a substantial failure to comply with the provisions of the plan, the Secretary shall notify the State that further payments will not be made to the State under this part, or that such payments will be made to the State but reduced by an amount which the Secretary determines appropriate, until the Secretary is satisfied that there is no longer any such failure to comply, and until he is so satisfied he shall make no further payments to the State, or shall reduce such payments by the amount specified in his notification to the State.

"FOSTER CARE MAINTENANCE PAYMENTS PROGRAM

"SEC. 471. (a) Each State with a plan approved under this part may make foster care maintenance payments (as defined in section 475 (7)) under this part only with respect to a child who would meet the requirements of section 406 (a) or of section 407 of this Act but for his removal from the home of a relative (specified in section 406 (a)) if—

"(1) the removal from the home was (A) the result of a judicial determination to the effect that (i) such removal was necessary to protect the child from harm or the likelihood of harm, and (ii) effective with respect to any such removal occurring after December 31, 1977, the child will be ordered placed in the least restrictive (family-like) setting available and in close proximity to the parents' home, consistent with the best

interests and special needs of the child; (B) carried out on an emergency basis, in accordance with the laws of the State, in order to protect the health or safety of the child and is or was followed by a judicial determination, meeting the conditions specified in clause (A) of this paragraph, within seventy-two hours of the time of the child's removal from the home; or (C) the result of a voluntary placement pursuant to a voluntary placement agreement: *Provided*, That, if a child remains in voluntary placement for a period in excess of one hundred and eighty days, there is, within that period, a judicial determination or administrative review (as defined in section 475 (1) of this part) to the effect that (i) such placement was, and continues to be, in the best interest of the child and continues to be voluntary on the part of the parents, and (ii) effective with respect to any such placement occurring after December 31, 1977, the child will be ordered placed in the least restrictive (family-like) setting available and in close proximity to the parents' home, consistent with the best interests and special needs of the child;

"(2) such child's placement and care are the responsibility of (A) the State agency administering the State plan approved under section 470, or (B) any other public agency with whom the State agency admin-

istering or supervising the administration of the State plan approved under section 470 has made an agreement which is still in effect;

"(3) such child has been placed in a foster family home or child-care institution following his removal from the home;

"(4) such child—

"(A) received aid under the State plan approved under section 402 in or for either the month in which court proceedings leading to the removal of such child from the home was initiated or the month in which such removal occurred, or

"(B) (i) would have received such aid in or for either such month if application had been made therefor, or (ii) had been living with a relative specified in section 406 (a) within six months prior to the month in which such proceedings were initiated or the month in which such removal occurred, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made; and

"(5) there is a case plan (as defined in section 475 (2) of this part) for such child (including periodic

review of the necessity for the child's being in a foster family home or child-care institution).

"(b) Foster care maintenance payments may be made under this part only in behalf of a child described in subsection (a) of this section—

"(1) in the foster family home of any individual, whether the payments therefor are made to such individual or to a public or nonprofit private child-placement or child-care agency, or

"(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or nonprofit private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term 'foster care maintenance payment' for purposes of foster care in the foster family home of an individual.

"(c) For the purposes of this part and part B of this title, (1) the term 'foster family home' means a foster family home for children which is licensed by the State in which it is situated or has been approved by the agency of such State responsible for licensing homes of this type, as meeting the standards established for such licensing; and (2) the term 'child-care institution' means a nonprofit pri-

vate child-care institution, or a public child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing; but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily to accommodate children who are delinquent.

"(d) For purposes of title XIX of this Act, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of this title.

"ADOPTION ASSISTANCE PROGRAM

"SEC. 472. (a) (1) Each State with a plan approved under this part may, directly or through another public or nonprofit private agency, make adoption assistance payments pursuant to an adoption assistance agreement in amounts determined under paragraph (3) of this subsection to parents who are eligible for such payments pursuant to paragraph (2) of this subsection and who, after the effective date of this section, adopt a child who would meet the requirements of section 406(a) or of section 407 of

this Act but for his removal from the home of a relative (specified in section 406(a)), and who the State has determined, pursuant to subsection (d) of this section, is a child with special needs.

"(2) Parents may be eligible for adoption assistance payments under this part only if their income at the time of the adoption does not exceed 115 per centum of the median income of a family of four in the State, adjusted in accordance with regulations of the Secretary to take into account the size of the family after adoption. Notwithstanding the preceding sentence, parents whose income is above the limit specified therein may be eligible for assistance payments under this part if the State or local agency administering the program under this section determines that there are special circumstances (as defined in regulations of the Secretary) in the family which warrant adoption assistance payments.

"(3) The amount of the adoption assistance payments shall be determined by the State or local agency administering the program under this section, based upon the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may

the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

"(4) Notwithstanding the preceding two paragraphs, (A) no payment may be made to parents pursuant to this section with respect to any month in a calendar year following a calendar year in which the income of such parents exceeds the limits specified in paragraph (2), unless the State or local agency administering the program under this section has determined, pursuant to paragraph (2), that there are special circumstances in the family which warrant adoption assistance payments, (B) no payment may be made to parents with respect to any child who has attained either the age of eighteen, or, if the State determines that there are special circumstances (as defined in regulations of the Secretary) which warrant a continuation of adoption assistance payments, the age of twenty-one, and (C) no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this section shall keep the State

or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

"(5) For the purposes of this part, individuals with whom a child (who the State determines, pursuant to subsection (d), is a child with special needs) is placed for adoption, pursuant to an interlocutory decree, shall be eligible for adoption assistance payments under this subsection, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted a child.

"(b) In addition to any payments which may be made pursuant to subsection (a) of this section, a State may pay the parents who agree to adopt a child who the State determines, pursuant to subsection (d) of this section, is a child with special needs, an amount necessary to cover part or all of the nonrecurring expenses (as defined in regulations of the Secretary) associated with the proceedings related to the adoption of the child.

"(c) Any child—

"(1) who the State determines, pursuant to subsection (d), is a child with special needs;

"(2) who the State determines has a medical con-

dition which is a contributing factor to the determination made by the State pursuant to paragraph (1);

"(3) who is placed for adoption or adopted following such determination; and

"(4) who was, in the month preceding his placement for adoption, or adoption, eligible for medical assistance under title XIX of this Act

shall retain such eligibility until the age of eighteen, or, if the State determines that there are special circumstances (as defined in regulations of the Secretary) which warrant the continuation of medical assistance payments under XIX, until the age of twenty-one. However, a State may limit a child's eligibility for medical assistance, which is provided on account of this subsection, to medical assistance necessary for the treatment of the medical condition (or medical conditions) referred to in paragraph (2) of this subsection.

"(d) For purposes of this section, a child shall not be considered a child with special needs unless—

"(1) the State has determined that the child cannot or should not be returned to the home of his parents; and

"(2) the State has first determined that a reasonable effort, consistent with the best interest of the child, has been made to place the child with appropriate adoptive parents without providing adoption assistance

under this section but has been unable to do so on account of his ethnic background, age, membership in a minority or sibling group, or the presence of factors such as physical, mental, or emotional handicaps.

"AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS TO STATES

"SEC. 473. (a) For the purpose of carrying out this part, other than section 476, there are authorized to be appropriated for the fiscal years 1978 and 1979 such sums as may be necessary; for the fiscal years 1980, 1981, 1982, 1983, and 1984 a sum equal to 110 per centum of the amount appropriated in the preceding fiscal year; and for each fiscal year thereafter an amount equal to the amount appropriated in the fiscal year 1984. Beginning with the fiscal year 1980, sums appropriated pursuant to this section which a State determines will not be required for carrying out this part may be expended for the purpose of carrying out the program authorized by part B of this title.

"(b) (1) For the fiscal years 1978 and 1979, each State shall be entitled to an allotment from the appropriation pursuant to subsection (a) equal to the amount such State is entitled to be paid pursuant to section 474(a).

"(2) For the fiscal years 1980, 1981, 1982, 1983, and 1984, each State shall be entitled to an allotment from the appropriation pursuant to subsection (a) equal to 110 per

centum of the amount of its allotment for the preceding fiscal year.

"(3) For the fiscal year 1985 and each fiscal year thereafter, each State shall be entitled to an allotment from the appropriation pursuant to subsection (a) equal to the amount of its allotment for the fiscal year 1984 (as calculated pursuant to the preceding paragraph).

"PAYMENT TO STATES

"SEC. 474. (a) For each quarter beginning after September 30, 1977, and ending prior to October 1, 1979, each State which has a plan approved under this part shall be entitled to a payment equal to the sum of—

"(1) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as foster care maintenance payments under section 471 for children in foster family homes or child-care institutions which accommodate no more than twenty-five children and as adoption assistance payments under section 472; plus

"(2) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as foster care maintenance payments under section 471 for children in child-care institutions which accommodate more than twenty-five children; plus

"(3) an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision, and

"(B) one-half of the remainder of such expenditures.

"(b) For each quarter beginning after September 30, 1979, each State which has a plan approved under this part shall be entitled to a payment from its allotment equal to the sum of—

"(1) an amount equal to that described in subsection (a) (1); plus

"(2) an amount equal to 80 per centum of that described in subsection (a) (2); plus

"(3) an amount equal to that described in subsection (a) (3).

"(c) For the fiscal year 1980, and each fiscal year thereafter, sums available to a State from its allotment under subsection (a) for carrying out this part, which the State does not claim as reimbursement for expenditures in such year pursuant to subsection (b) of this section, may be claimed by the State as reimbursement for expenditures in such year pursuant to part B of this title, in addition to such sums available pursuant to section 420 for carrying out that part.

"DEFINITIONS

"SEC. 475. As used in this part or part B of this title:

"(1) The term 'administrative review' means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

"(2) The term 'case plan' means a written document which includes at least the following information: a description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the judicial determination made with respect to the child in accordance with section 471

(a) (1); a plan of services that will be provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the plan of services that have been provided to the child under the plan.

"(3) The term 'parents' means biological or adoptive parents or legal guardians, as determined by applicable State law.

"(4) The term 'voluntary placement' means an out-of-home placement of a minor, by or with the participation of a State agency, after the parents or guardians of the minor have requested the assistance of the agency and signed a voluntary placement agreement.

"(5) The term 'voluntary placement agreement' means a written and consensual agreement, binding on the parties to the agreement, between the State agency, or any other agency acting on its behalf, and the parents of a minor which specifies, at a minimum, the legal status of the minor and the rights and obligations of the parents while the child is in placement.

"(6) The term 'adoption assistance agreement' means a written and consensual agreement, binding on the parties to the agreement, between the State agency, other relevant

agencies, and the prospective adopting parents of a minor which specifies, at a minimum, the amounts of the adoption assistance payments and any additional services and assistance which are to be provided as part of such agreement.

"(7) The term 'foster care maintenance payments' means payments to cover the cost of food, clothing, shelter, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation, but may not be used to cover the cost of educational services or construction or other capital costs or any other costs which the Secretary may specify in regulations.

"TECHNICAL ASSISTANCE; DATA COLLECTION AND EVALUATION; INTERSTATE COOPERATION

"SEC. 476. (a) The Secretary may provide technical assistance to the States to assist them to develop the programs authorized under this part and shall periodically (1) evaluate the programs authorized under this part and part B of this title and (2) collect and publish data pertaining to the incidence and characteristics of foster care and adoptions in this country.

"(b) The Secretary may make grants to, and enter into contracts with, the State agencies referred to in section 470(a)(1) for the purpose of assisting each such agency to develop interstate systems, in cooperation with the State

agencies of other States, for facilitating the exchange of information pertaining to the programs authorized under this part and part B.

"(c) There are authorized to be appropriated $1,500,000 for fiscal year 1978 and each fiscal year thereafter to permit the Secretary to carry out his responsibilities under subsections (a) and (b) of this section.

"PERIOD FOR FILING OF CLAIMS

"SEC. 477. (a) No Federal payment may be made under this part or part B of this title with respect to any State expenditure made in fiscal years beginning after September 30, 1977, unless the Secretary receives a claim from the State for Federal reimbursement for such expenditure on or before the last day of the second fiscal year following the fiscal year in which the expenditure was made.

"(b) For purposes of subsection (a):

"(1) expenditures for assistance payments under this part or part B of this title shall be considered to have been made in the fiscal year in which payment was made to the assistance recipient, his protective payee, or a vendor payee, notwithstanding that the expenditure was made with respect to a month in a previous fiscal year; and

"(2) expenditures for administration, training, and the provision of services under those parts shall be con-

sidered to have been made on the date payment was made by a public agency to a private agency or individual or in the fiscal year or fiscal quarter to which costs were allocated in accordance with regulations of the Secretary;

except that the Secretary may, at the request of any State, approve with respect to that State standards other than those specified in this subsection for determining when an expenditure shall be considered to have been made.".

(b) Effective with respect to expenditures after September 30, 1977, section 408 of the Social Security Act is repealed.

LIMITS ON USE OF FUNDS PROVIDED UNDER PART B OF TITLE IV

SEC. 3. Section 422 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of this part, beginning with the fiscal year 1978, no State may spend from sums paid to it pursuant to this section in any fiscal year a total amount for foster care maintenance payments and adoption assistance payments and for the provision of child day care which is solely because of the employment, or training to prepare for employment, of a parent, which is greater than the total amount of its payment under this

section with respect to the fiscal year ending September 30, 1977.".

CONVERSION OF CHILD WELFARE SERVICES TO AN ENTITLEMENT PROGRAM

SEC. 4. Effective with respect to fiscal years beginning after September 30, 1977, section 421 of the Social Security Act is amended to read as follows:

"ALLOTMENTS TO STATES

"SEC. 421. For each fiscal year, each State shall be entitled to an allotment under this part for use by cooperating State public welfare agencies which have plans developed jointly by the State agency and the Secretary. Each State's allotment shall be in an amount equal to $70,000 plus an amount which bears the same ratio to the amount authorized to be appropriated in such year under section 420, after first deducting $70,000 for each and every State, as the product of (1) the population of such State under the age of twenty-one and (2) the allotment percentage of such State (as determined under section 423) bears to the corresponding products of all the States.".

MODIFICATION OF FEDERAL SHARE

SEC. 5. (a) Effective with respect to fiscal years beginning after September 30, 1977, section 422(a) of the Social Security Act is amended in the matter following paragraph (2) by striking out "the Federal share (as

determined under section 423)" and inserting instead "75 per centum".

(b) (1) Section 423 of such Act is amended by striking out subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(2) Section 423(b) of such Act, as redesignated by the preceding paragraph, is amended by striking out "Federal share and" and by striking out "Federal shares and".

PURPOSES OF ADDITIONAL TITLE IV-B FUNDS

SEC. 6. (a) Section 422(a) of the Social Security Act, as amended by the preceding section, is amended in the matter following paragraph (2) by striking out "(including the cost of administration of the plan)" and inserting instead "(including the cost of administration of the plan, but subject to the conditions specified in subsections (d), (e), and (f) of this section)".

(b) Section 422 of such Act, as amended by section 3 of this Act, is further amended by adding at the end thereof the following new subsections:

"(e) (1) Notwithstanding any other provision of this part, except as authorized by paragraph (2) of this subsection, a State may not be paid under this part with respect to any fiscal year after 1977 an amount greater than it was paid under this part with respect to fiscal year 1977

unless the Secretary determines that the State has met the requirements of paragraph (2).

"(2) In order to be eligible for payment of the full amount of its allotment determined under section 421, each State must—

"(A) conduct an inventory of all children who have been in foster care under the responsibility of the State for a period of six months preceding the inventory; determine the appropriateness of, and necessity for, the current foster placement, whether the child can be or should be returned to his parents or should be freed for adoption, and the services necessary to facilitate either the return of the child or the placement of the child for adoption; which inventory shall include, in the aggregate, the number of children in placement over six months, the ages and appropriate demographic characteristics of such children, the type of placement in which they reside, the length of time they have been in placement, the reason for the initial placement, the legal status of the child, and the number of children, by category, for whom the current plans envision an eventual return to parents, adoption, or legal guardianship; and which inventory, upon completion, shall be made public by the State; and

"(B) design, develop, and implement to the satisfaction of the Secretary—

"(i) a statewide information system from which the status, demographic characteristics, location, and goals for the placement of every child in foster care or who has been in such care within the preceding twelve months can be readily determined;

"(ii) a case review system to assure that each child receiving foster care under the supervision of the State has a case plan, and that the status of each child is reviewed no less frequently than once every six months by either a court or by administrative review (as defined in section 475(1) of this title) in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship;

"(iii) a service program designed to help children remain with their families and, where appropriate, help children return to families from which

they have been removed or be placed for adoption or legal guardianship; and

"(iv) procedural safeguards to protect the rights of parents, foster parents, and children, which safeguards shall, among other things, assure each child in foster care under the supervision of the State of a dispositional hearing to be held, in a family or juvenile court or another court of competent jurisdiction, or by an administrative body appointed by the court, no later than eighteen months after the original placement, which hearing shall determine whether the child—

"(I) should be returned to the parent,

"(II) requires continued placement for a specified period of time not to exceed six months, unless extended by the court (or administrative body) because of special needs or special circumstances which prevent immediate reunification,

"(III) should be placed with a legal guardian,

"(IV) should be freed for adoption through appropriate proceedings and placed in an adoptive home, or

"(V) requires a permanent long-term foster care placement because the child cannot or should not be returned home or placed in an adoptive home;

and shall apply with respect to parental rights, to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents.

In order to assist States to comply with the conditions specified in this paragraph, the Secretary shall, notwithstanding the limitation on payments specified in paragraph (1) of this subsection, pay to each State for any fiscal year after 1977, in addition to an amount equal to such State's payment under this part for fiscal year 1977, an amount equal to 30 per centum of the remainder of the State's allotment under section 421 after deducting the amount of the State's payment under this part for fiscal year 1977.

"(f) With respect to fiscal years beginning after September 30, 1978, in the case of any State which the Secretary determines has complied with the conditions specified in subsection (e), the limitation on a State's payment contained in paragraph (1) of that subsection shall not apply. However, in the case of any such State—

"(1) no less than 40 per centum of the amount by

which its payment in any fiscal year exceeds its payment under this part for fiscal year 1977 must be expended by such State for preventive and restorative services, including at least one of the following services: homemakers, day care, twenty-four-hour crisis intervention, emergency caretakers, emergency shelters, or any other services specified in regulations of the Secretary, which are designed to help children remain with their families or, where appropriate, help children return to families from which they have been removed; and

"(2) no payment in excess of the payment made under this part with respect to fiscal year 1977 may be made under this part with respect to any fiscal year in which the total of State expenditures for child welfare services (excluding expenditures for activities specified in subsection (d) of this section) is less than the total of such State expenditures in fiscal year 1977.".

CONFORMING AMENDMENTS TO CHILD WELFARE SERVICES STATE PLAN REQUIREMENTS

SEC. 7. (a) Section 422(a)(1) of the Social Security Act is amended by adding after clause (C) the following new clauses:

"(D) provides that after the Secretary determines that the State has designed, developed, and implemented the systems and procedures described in subsection

(e) (2) (B) the State will maintain such systems and procedures, and

"(E) provides that the conditions specified in section 470(a) of this Act which are applicable to funds paid under part E of this title will apply to any funds paid under this part which the State uses to cover expenditures for which financial assistance is available under part E of this title, and".

REPEAL OF REALLOTMENT PROVISION

SEC. 8. Section 424 of the Social Security Act is repealed.

TECHNICAL CONFORMING CHANGES; REPORT REQUIREMENT; TWO-YEAR AVAILABILITY OF FUNDS; EFFECTIVE DATE

SEC. 9. (a) (1) Section 402(a)(20) of the Social Security Act is amended to read as follows:

"(20) provide for foster care maintenance payments and adoption assistance payments in accordance with part E of this title;".

(2) Section 406(b)(2) is amended by inserting "and" after clause (C), striking out clause (D), and redesignating clause (E) as clause (D).

(b) Not later than March 1, 1980, the Secretary of Health, Education, and Welfare shall submit a report on the implementation of the amendments made by this Act to the

Committee on Ways and Means, the Committee on Education and Labor, and the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Finance and the Committee on Human Resources of the Senate.

(c) Notwithstanding any other provision of law, funds appropriated for fiscal year 1978 pursuant to section 420 of the Social Security Act, and allotted to States for that year pursuant to section 421 of that Act, shall remain available for expenditure for child welfare services under part B of title IV of that Act until September 30, 1979.

(d) The amendments made by this Act shall be effective after September 30, 1977.

APPENDIX G

INDIAN CHILD WELFARE STATISTICAL SURVEY, JULY 1976

ASSOCIATION ON AMERICAN INDIAN AFFAIRS, INC.

The Association on American Indian Affairs (432 Park Avenue South, New York, New York 10016) is a private, non-profit, national citizens' organization supported by members and contributors. Founded in 1923, it assists American Indian and Alaska Native communities in their efforts to achieve full economic, social and civil equality, and to defend their rights. Policies and programs of the Association are formulated by a Board of Directors, the majority of whom are Indian and Alaska Native.

One of the special publications of the Association is "Indian Family Defense," a newsletter exclusively concerned with Indian child welfare issues.

INTRODUCTION

This report presents the results of a nation-wide Indian child-welfare statistical survey done by the Association on American Indian Affairs (AAIA) at the request of the American Indian Policy Review Commission, an agency of the United States Congress, in July 1976.

The report indicates that Indian children are being removed from their families to be placed in adoptive care, foster care, special institutions, and federal boarding schools at rates far out of proportion to their percentage of the population.

The disparity in placement rates for Indian and non-Indian children is shocking and cries out for sweeping reform at all levels of government.

In Maine, Indian children are today placed in foster care at a per capita rate 19 times greater than that for non-Indian children. In Minnesota, an Indian child is 17 times more likely than a non-Indian child to be placed in foster care. In South Dakota per capita foster-care rate for Indians is 22 times the rate for non-Indians. The statistics from other states demonstrated that these rates are not uncommon elsewhere.

Most of the Indian children in foster care are placed with non-Indian families. In Maine, for example, 64 per cent of Indian foster children are living with non-Indian families. In New York approximately 97 per cent of Indian foster children are in non-Indian families, and in Utah 88 per cent of the Indian foster-care placements are with non-Indian families.

Indian children are also placed in adoptive homes at a rate far disproportionate to that for non-Indian children. In California, Indian children were adopted in 1975 at a per capita rate 8 times that for non-Indian children, and 93 per cent of such adoptions were made by non-Indian parents. In Montana, Indian children are adopted at a per capita rate almost 5 times that for non-Indian, and 87 per cent of such adoptions were made by non-Indians.

In states such as Alaska, Arizona, and New Mexico, which have large numbers of Indian children in boarding schools or boarding home programs, the rates at which Indian children are separated from their families indicate an even greater disproportion to the non-Indian rate. In New Mexico, when adoptive care, foster care, and federal boarding school placements are added together, Indian children are being separated from their families today at a per capita rate 74 times that for non-Indian children.

Nationwide, more than 20,000 Indian children (many as young as six years old) are placed in U.S. Bureau of Indian Affairs boarding schools. Enrollment in BIA boarding schools and dormitories is not based primarily 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 arbitrary as are standards for Indian foster care placements.

The data base for the individual state reports consists of statistics supplied to the AAIA by responsible federal and state agencies. The statistics do not include many Indian children living outside their natural families for which there are no statistics, among them: (1) informal placements of Indian children that do not go through any legal process; (2) private boarding home programs which, in some western states, place thousands of Indian children away from their families for the entire school year; (3) Indian-to-Indian on-reservation placements which, while preferable to placements with non-Indian families off the reservation, are nevertheless an indication of family breakdown; and (4) Indian juveniles incarcerated in correctional institutions.

The state-wide figures presented here often mask important variations within a state. Those states for which the Association has been able to do county-by-county breakdowns of Indian foster care generally demonstrate a wide variation between communities. This indicates a need for greater precision in how child-welfare statistics are compiled and analyzed by the states and federal government.

The separation of Indian children from their families frequently occurs in situations where one or more of the following exist:

(1) the natural parent does not understand the nature of the documents or proceedings involved;

(2) neither the child nor the natural parents are represented by counsel or otherwise advised of their rights;

(3) the public officials involved are unfamiliar with, and often disdainful of, Indian culture and society;

(4) the conditions which led to the separation are not demonstrably harmful or are remediable or transitory in character; and

(5) responsible tribal authorities and Indian community agencies are not consulted about or even informed of the actions.

On August 27, 1976 Senator James Abourezk, Chairman of the U.S. Senate Subcommittee on Indian Affairs, introduced a bill drafted by the Association on American Indian Affairs and entitled the "Indian Child Welfare Act of 1976" (S. 3777). That bill, if enacted, would establish standards for the placement of Indian children in foster or adoptive homes, assure that Indian families will be accorded a full and fair hearing when child placement is at issue, establish a priority for Indian adoptive and foster families to care for Indian children, support Indian family development programs, and generally promote the stability and security of Indian family life.

INDIAN CHILDREN IN ADOPTIVE AND FOSTER CARE (SUMMARY)

State	Indian and Alaska Native under 21 yr old	Adopted Indian children (estimate)	Per capita rate of Indians adopted non-Indians (percent)	Indian children in foster care	Per capita rate of Indians in foster care non-Indians (percent)	Indian children in adoptive and foster care combined (estimate)	Per capita rate of Indians in foster and adoptive care compared to non-Indians (percent)
Alaska	28,334	957	460	[1] 393	[1] 300	[1] [2] 3,777	[1] [2] 1,110
Arizona	54,709	1,039	420	[1] 558	[1] 270	[1] 1,597	[1] 350
California	39,579	1,507	840	319	270	1,826	610
Idaho	3,808	[3]	[4] 1,110	296	640	[3]	[3]
Maine	1,084	[3]	[5] 100	82	1,910	[3]	[3]
Michigan	7,404	912	370	82	710	994	390
Minnesota	12,672	1,594	390	737	1,650	2,331	520
Montana	15,124	541	480	534	1,280	1,075	730
Nevada	3,739	[3]	[5] 100	73	700	[3]	[3]
New Mexico	41,316	[3]	[6] 150	287	240	[3]	[3]
New York	10,627	[3]	[7] 330	142	300	[3]	[3]
North Dakota	8,186	269	280	296	2,010	565	520
Oklahoma	45,489	1,116	440	337	390	1,453	430
Oregon	6,839	402	[1] 110	247	820	649	[1] 170
South Dakota	18,322	1,019	160	832	2,240	1,851	270
Utah	6,690	328	340	249	1,500	577	500
Washington	15,980	740	1,880	558	960	1,298	1,330
Wisconsin	10,176	733	1,790	545	1,340	1,278	1,560
Wyoming	2,832	[3]	[5] 400	98	1,040	[3]	[3]

[1] Minimum estimates, see State report.
[2] Includes Alaska Native children living away from home full time during the school year in the State's boarding home and boarding school program.
[3] Not available.
[4] Based only on the 3-yr period 1973–75.
[5] Based only on the 2-yr period 1974–75.
[6] Based only on fiscal year 1976 figures.
[7] Based only on 1976 figures.
[8] Based only on the 4-yr period 1972–75.

Note: For definitions and sources of data see individual State reports.

INDIAN FOSTER CARE (10 WORST STATES BY RATE OF INDIAN PLACEMENTS)

State	Foster care placements per thousand		Per capita rate of Indians in foster care compared to non-Indians (percent)
	Indian children	Non-Indian children	
Idaho	77.5	12.1	640
Maine	75.8	4.0	1,910
Minnesota	58.1	3.5	1,650
Wisconsin	53.5	4.0	1,340
South Dakota	45.5	2.0	2,240
Utah	37.2	2.5	1,500
North Dakota	36.1	1.8	2,010
Oregon	36.1	4.4	820
Montana	35.3	2.8	1,280
Washington	35.0	3.6	960

Note: For definitions and sources of data see individual State reports.

Alaska Native Adoption and Foster Care

Basic Facts

1. There are 137,044 under twenty-one year olds in Alaska.[1]
2. There are 28,334 under twenty-one year old Alaska Natives (Indian, Eskimo, and Aleut) in Alaska.[2]
3. There are 108,710 non-Natives under twenty-one in Alaska.

I. ADOPTION

In the State of Alaska, according to the Alaska Department of Health and Social Services Division of Family and Children Services, there is an average of 59 public agency adoptions per year of Alaska Native children.[3] Using federal age-at-adoption figures,[4] 83 percent (or 49) are under one year of age when placed. Another 13 percent (or eight) are one year to less than six years old when placed; and 4 percent (or two) are six years or older when placed. Using the formula, then: 49 Alaska Native children per year are placed in adoption for at least 17 years, eight Alaska Native children are placed in adoption for a minimum average of 14 years, and two Alaska Native children are placed in adoption for a minimum average of six years; there are 957 Alaska Natives under twenty-years old in adoption in Alaska. This represents one out of every 29.6 Alaska Native children in the State.

Using the same formula for non-Natives (there is an average public agency placement of non-Natives in adoptive homes in Alaska of 50 per year),[5] there are 807 under twenty-one year old non-Alaska Natives in adoption in Alaska. This represents one out of every 134.7 non-Alaska Native children in the State.

Conclusion

There are therefore by proportion 4.6 times (460 percent) as many Alaska Native children in adoptive homes as non-Alaska Natives; 93 percent of the adopted Native children are placed in non-Native adoptive homes.[6]

II. FOSTER CARE

According to statistics from the U.S. Bureau of Indian Affairs, there were 263 Alaska Native children (under twenty-one years old) in BIA-administered foster care in 1972–73.[7] The Alaska Division of Family and Children Services does not have a racial breakdown of its foster care placements.[8] Assuming then that the Division of Family and Children Services places Alaska Natives in foster care in direct proportion to their percentage of the total population under twenty-one years old, there were 130 Alaska Native children in State-administered foster

[1] U.S. Bureau of the Census, 1970 Census of the Population, Vol. I: Characteristics of the Population, Part III: Alaska (Washington, D.C.: U.S. Government Printing Office: 1973), Table 19, pp. 3–34.

[2] Ibid., p. 3–34 (Table 19), pp. 3–205, 3–206 (Table 139). Alaska Natives (Indian, Eskimo and Aleut) comprise 81.2 percent of the total non-white population according to Table 139. According to Table 19 there are 34,894 non-whites under 21. 34,894 times 81.2 percent equals 28,334.

[3] Letter from Connie M. Hansen, ACSW, Foster Care and Child Protection Consultant, State of Alaska Department of Health and Social Services, Division of Family and Children Services, Sept. 11, 1973.

[4] National Center for Social Statistics, U.S. Department of Health, Education and Welfare, Adoptions in 1971. DHEW Publication No. (SRS) 73–03259, NCSS Report E–10 (1971), May 23, 1973. Table 6 "Children adopted by unrelated petitioners: Percentage distribution by age at time of placement, by type of placement, 1971."

[5] Letter from Connie M. Hansen, ACSW, *op. cit.*

[6] *Ibid.*

[7] U.S. Bureau of Indian Affairs, "Fiscal Year 1973—Child Welfare (Unduplicated Case-count by States)."

[8] Letter from Connie M. Hansen, ACSW, *op. cit.*

care in 1973.[9] The combined figures (393 children) represent one out of every 72 Alaska Native children in the State.

By comparison (assuming the Division of Family and Children Services also places non-Natives in foster care in direct proportion to their percentage of the population), there were 496 non-Native children in foster care in 1973,[10] representing one out of every 219 non-Native children in the State.

Conclusion

By rate, therefore, Alaska Native children are placed in foster homes 3.0 times (300 percent) more often than non-Alaska Natives in Alaska. (Because the Division of Family and Children Services was unable to supply a racial breakdown for foster care, these figures are based on the conservative assumptions stated above. Were it to be assumed that Alaska Natives represent the same percentage of foster care placements as they do adoptive placements, the dispropotrion in foster care rates would more than double.)

III. ADOPTIVE CARE, FOSTER CARE, AND BOARDING PROGRAMS

A large number of Native students live away from home full-time during the school year. In 1972–73, 2,427 (94%) of the 2,585 village Native students in public high schools were enrolled in a boarding home or boarding school program.[11] A more proper way of computing the number of Indian children who do not live in their natural homes in the State of Alaska is to include the boarding school figures. When this is done, the combined total of Native children in foster homes, adoptive homes and boarding programs is 3,777, representing one out of every 7.5 Alaska Native children in the State.

Since few, if any, non-Natives must enroll in boarding programs, the non-Native figure of 1,303 children in adoptive homes and foster homes remains the same, representing one in every 83.4 non-Natives.

Conclusion

Alaska Native children are out of their homes and in foster homes, adoptive homes, or in boarding programs at a rate 11.1 times (1,110 percent) greater than that for non-Natives in Alaska.

The Alaska statistics do not include placements made by private agencies, and therefore are minimum figures.

Methodological note to the Alaska statistics.—The Alaska State Division of Children Services probably removes very few Native children from their parents in the small rural villages. The population base for this report is all Natives, rural and urban; if the percentage of children outside their natural homes was based on only the urban Native population—likely the most revealing comparison—the percentage would of course be much higher. It is virtually certain, therefore, that these are absolutely minimum figures.

[9] National Center for Social Statistics, U.S. Department of Health, Education and Welfare, "Children Served by Public Welfare Agencies and Voluntary Child Welfare Agencies and Institutions March 1973." DHEW Publication No. (SRS) 76–03258, NCSS Report E–9 (3/73), November 1975. Table 1, "Children receiving social services from State and local public welfare agencies," p. 7. Indian people comprise 20.7 percent of the total under twenty-one year of population of Alaska. There were 626 children in foster family homes in 1973. 626 times 20.7 percent equals 130.

[10] *Ibid.* 626 times 79.3 percent equals 496.

[11] Judith Kleinfeld, "A Long Way From Home" (Fairbanks: Center for Northern Educational Research and Institute of Social, Economic and Government Research of the University of Alaska: 1973), p. 3.

ARIZONA ADOPTION AND FOSTER CARE STATISTICS

Basic Facts

1. There are 740,460 under twenty-one-year-olds in the State of Arizona.[1]
2. There are 54,709 under twenty-one-year-old American Indians in the State of Arizona.[2]
3. There are 685,751 non-Indians under twenty-one in the State of Arizona.

I. ADOPTION

In the State of Arizona, according to the Arizona Department of Economic Security, there were an average of 65 public agency adoptions per year of American Indian children from 1969–1972.[3] Using federal age-at-adoption figures,[4] 83 percent (or 54) are under one year of age when placed. Another 13 percent (or eight) are one year to less than six years old when placed; and 4 percent (or three) are six years or older when placed. Using the formula, then, 54 Arizona Indian children per year are placed in adoption for at least 17 years, eight Arizona Indian children are placed in adoption for a minimum average of 14 years; and three are in adoption for a minimum average of three years; there are 1,039 Indians under twenty-one year olds in adoption in Arizona. This represents one out of every 52.7 Indian children in the state.

Using the same formula for non-Indians (there were an average public agency placement of non-Indians in adoptive homes in Arizona of 194 per year from 1969–1972),[5] there are 3,111 under twenty-one-year-old non-Indians in adoption in Arizona. This represents one out of every 220.4 non-Indian children in the State.

Conclusion

By rate, therefore, Indian children are placed in adoptive homes 4.2 times (420%) more often than non-Indian children in Arizona.

II. FOSTER CARE

In the State of Arizona, according to statistics from the Arizona Department of Economic Security, there were 139 Indian children in foster care in April 1976 under a State contract with the U.S. Bureau of Indian Affairs.[6] There are no statistics giving a racial breakdown for the other State-administered foster care programs that include Indian children. However, making the most conservative assumption possible, that is, that the Arizona Social Services Bureau placed Indian children in foster care in direct proportion to their percentage of the population, there were an additional 208 Indian children in State-administered foster care.[7] (That this is indeed a most conservative assumption is demonstrated by the appendix to this report. The appendix, based on a random sam-

[1] U.S. Bureau of the Census, Census of Population: 1970, Volume I, Characteristics of the Population, Part 4, *Arizona* (U.S. Government Printing Office: Washington, D.C.: 1973), pp. 4–30.

[2] U.S. Bureau of the Census, Census of Population: 1970, Subject Reports, Final Report PC(2)-1F, "American Indians" (Washington, D.C.: U.S. Government Printing Office: 1973), Table 2, "Age of the Indian Population by Sex and Urban and Rural Residence: 1970," p. 6.

[3] Office of Research and Reports, Social Services Bureau, Arizona Department of Economic Security, "Children placed in adoption during 1969, 1970, 1971, and 1972," (Chart).

[4] National Center for Social Statistics, U.S. Department of Health, Education and Welfare, "Adoptions in 1971." DHEW Publication No. (SRS) 73–03259, NCSS Report F–10 (1971), May 23, 1973, Table 6, "Children adopted by unrelated petitioners: Percentage distribution by age at time of placement, by type of placement, 1971."

[5] "Children placed in adoption during 1969, 1970, 1971, and 1972," op. cit.

[6] Telephone interview with Mr. Wally Earl, Arizona Department of Economic Security, July 22, 1976.

[7] *Ibid.* Arizona reported 2,809 children in foster care in April 1976, excluding those on the BIA contract. Indian children comprise 7.4 percent of the under twenty-one year olds in Arizona. 2,809 times .074 equals 208.

ple of children in State-administered foster care made by the Arizona Social Services Bureau in March 1974, demonstrates that Indian children are in fact placed in state-administered foster care at rates far disproportionate to their percentage of the population.) Thus, there was a combined total of 347 Indian children in State-administered foster care during April 1976. In addition, the Navajo and Phoenix area offices of the BIA report a combined total of 211 Indian children in foster care in Arizona during April 1976.[8] Combining the State and BIA figures, there were at least 558 Indian children in foster care in April 1976. This represents one out of every 98 Indian children in the State. By comparison, there were 2,601 non-Indian children in foster care in April 1976,[9] representing one out of every 263.6 non-Indian children.

Conclusion

By rate, therefore, Indian children are placed in foster care at least 2.7 times (2.0 percent) more often than non-Indians in Arizona.

See the county-by-county analysis in the appendix for projections of the actual rates at which Indian children are placed in state-administered foster care.

III. COMBINED FOSTER CARE AND ADOPTIVE CARE

Using the above figures, a total of 1,597 under twenty-one year old Indian children are either in foster homes or adoptive homes in the state of Arizona. This represents one out of every 34.3 Indian children. Similarly, for non-Indians in the state, 5,712 under twenty-one year olds are either in foster care or adoptive care, representing one in every 120.1 non-Indian children.

Conclusion

By rate, therefore, Indian children are removed from their homes and placed in adoptive or foster care 3.5 times (350 percent) more often than non-Indian children in the State of Arizona.

U.S. BUREAU OF INDIAN AFFAIRS BOARDING SCHOOLS

More than 10,000 Indian children in Arizona, in addition to those in foster care or adoptive care, are away from home and their families most of the year attending boarding schools operated by the U.S. Bureau of Indian Affairs. (See Note on boarding schools.) These children properly belong in any computation of children separated from their families. Adding the 10,977 Indian children in federal boarding schools in Arizona[10] to those in adoptive or foster care, there are a minimum of 12,574 Indian children separated from their families. This represents one in every 4.4 Indian children in Arizona.

Conclusion

By rate, therefore, Indian children are separated from their families to be placed in adoptive care, foster care, or federal boarding schools 27.3 times (2,730 percent) more often than non-Indian children in Arizona.

APPENDIX TO THE ARIZONA STATISTICS

I. YAVAPAI COUNTY

In Yavapai County in a random sample of the children in State-administered foster care made by the Arizona Social Services Bureau in March 1974, 35 percent of the children were known to be American Indian.[1] 42 percent of the children in the random sample were known to be non-Indian.[2] Indian people comprise 1.9 percent of the population of Yavapai County.[3] Assuming then that the random sampling made by the Social Services Bureau is representative of the state-administered foster care population through Yavapai County, the following tentative conclusion can be drawn.

Conclusion

There are by proportion 18.4 times (1,840 percent) as many Indian children as non-Indian children in state-administered foster care in Yavapai County, Arizona.

II. NAVAJO COUNTY

In Navajo County, in a random sample of the children in state-administered foster care made by the Arizona Social Services Bureau in March 1974, 77 percent were known to be American Indian.[4] 19 percent of the children in the random sample were known to be non-Indian.[5] Indian people comprise 48.3 percent of the population of Navajo county.[6] Assuming then that the random sampling made by the Social Services Bureau is representative of the state-administered foster care population throughout Navajo County, the following tentative conclusion can be drawn.

Conclusion

There are by proportion 1.6 times (160 percent) as many Indian children as non-Indian children in state-administered foster care in Navajo County, Arizona.

III. COCONINO COUNTY

In Coconino County, in a random sample of the children in state-administered foster care made by the Arizona Social Services Bureau in March 1974, 58 percent of the children in the random sample were American Indian.[7] 42 percent of the children in the random sample were non-Indian.[8] Indian people comprise 24.8 percent of the population of Coconino County.[9] Assuming then that the random sampling made by the Social Services Bureau is representatives of the state-administered foster care population throughout Coconino County, the following tentative conclusion can be drawn.

Conclusion

There are therefore by proportion 2.3 times (230 percent) as many Indian children as non-Indian children in state-administered foster care in Coconino County, Arizona.

IV. YUMA COUNTY

In Yuma County, in a random sample of the children in state-administered foster care made by the Arizona Social Services Bureau in March 1974, 13 percent of the children were American Indian.[10] 87 percent of the children in the random sample were non-Indian.[11] Indian people comprise 3.7 percent of the population of Yuma County.[12] Assuming then that the random sampling made by the Social Services Bureau is representative of the state-administered foster care population throughout Yuma County, the following tentative conclusion can be drawn.

[8] The BIA Phoenix Area Office reported 300 Indian children in foster care in Arizona in April 1976. (Telephone interview with Mr. Bert Grabes, Division of Social Services, Phoenix Area Office, July 23, 1976.) The BIA Navajo Area Office reported 50 Indian children in foster care in Arizona in April 1976. (Telephone interview with Mr. Steve Lacy, Child Welfare Specialist, Navajo Area Office, July 26, 1976.) Thus the BIA had a combined total of 350 Indian children in foster care in Arizona, from which those under the BIA foster care contract with the State should be subtracted: 350 minus 139 equals 211.

[9] Telephone interview with Mr. Walley Earl, op. cit. There were a total of 2,948 children in foster care in April 1976. We have estimated that 347 of these are Indian (see Report). 2,948 minus 347 equals 2,601.

[10] Office of Indian Education Programs, U.S. Bureau of Indian Affairs, "Fiscal Year 1974 Statistics concerning Indian Education" (Lawrence, Kans.: Haskell Indian Junior College: 1975). Table 4, "Boarding Schools Operated by the Bureau of Indian Affairs, Fiscal Year 1974," pp. 13–15.

[11] State of Arizona Social Services Bureau, Program Development and Evaluation, "Foster Care Evaluation Program (July 1974)," District III Foster Care Evaluation, Appendix I, Yavapai County: Evaluation of Foster Children Records, p. 13.

[1] Ibid. The race of 23 percent of the children was unknown. (Ibid.) If the figures used in this report were to be based only on the percentage of children for whom race is known, Indian children would comprise 45 percent of the foster care placements in the random sample—thus further increasing the disproportion between Indian and non-Indian placements.

[2] U.S. Bureau of the Census, Census of the Population: 1970 Supplementary Report PC (S1)–104, "Race of the Population by County: 1970" (U.S. Government Printing Office: Washington, D.C.: 1975), p. 5.

[3] State of Arizona Social Services Bureau, op. cit., District III Foster Care Evaluation, Appendix III, Navajo County: Evaluation of Foster Children Records, p. 19.

[4] *Ibid.* The race of 4 percent of the children was unknown. (Ibid.) If the figures used in this report were to be based only on the percentage of children for whom race is known, Indian children would comprise 80 percent of the foster care placements in the random sample—thus further increasing the disproportion between Indian and non-Indian placements.

[5] "Race of the Population by County: 1970," *op. cit.*, p. 5.

[6] State of Arizona Social Services Bureau, *op. cit.*, District III Foster Care Evaluation, Appendix V, Coconino County: Evaluation of Foster Children Records, p. 25.

[7] *Ibid.*

[8] "Race of the Population by County: 1970," *op cit.*, p. 5.

[9] State of Arizona Social Services Bureau, *op. cit.*, District IV Foster Care Evaluation, Appendix III, Yuma County: Evaluation of Foster Children Records, p. 16.

[10] *Ibid.*

[11] "Race of the Population by County: 1970," *op. cit.*, p. 5.

Conclusion

There are therefore by proportion 3.5 times (350 percent) as many Indian children as non-Indian children in state-administered foster care in Yuma County, Arizona.

V. GILA COUNTY

Gila County, in a random sample of the children in state-administered foster care made by the Arizona Social Services Bureau in March 1974, 17% of the children were known to be American Indian.[13] 79% of the children in the random sample were known to be non-Indian.[14] Indian people comprise 15.7% of the population of Gila County.[15] Assuming then that the random sampling made by the Social Services Bureau is representative of the state-administered foster care population throughout Gila County, the following tentative conclusion can be drawn.

Conclusion

There are by proportion 1.1 times (110 percent) as many Indian children as non-Indian children in state-administered foster care in Gila County, Arizona.

VI. GRAHAM COUNTY

In Graham County, in a random sample of the children in state-administered foster care made by the Arizona Social Services Bureau in March 1974, 18% of the children were American Indian.[16] 81% of the children in the sample were non-Indian.[17] Indian people comprise 10.1% of the population of Graham County.[18] Assuming then the random sampling made by the Social Services Bureau is representative of the state-administered foster care population throughout Gila County, the following tentative conclusion can be drawn.

Conclusion

There are by proportion 1.8 times (180 percent) as many Indian children as non-Indian children in state-administered foster care in Graham County, Arizona.

VII. COCHISE COUNTY

In Cochise County, in a random sample of the children in state-administered foster care made by the Arizona Social Services Bureau in March 1974, 9 percent of the children were American Indian.[19] 91 percent of the children in the random sample were non-Indian.[20] Indian people comprise 0.2 percent of the population of Cochise County.[21] Assuming then that the random sampling made by the Social Services Bureau is representative of the state-administered foster care population throughout Cochise County, the following tentative conclusion can be drawn.

Conclusion

There are by proportion 45 times (4500 percent) as many Indian children as non-Indian children in state-administered foster care in Cochise County, Arizona.

VIII. PINAL COUNTY

In Pinal County, in a random sample of the children in State-administered foster care made by the Arizona Social Services Bureau in March 1974, 20 percent of the children were known to be American Indians.[22] 74 percent of the children in the random sample were known to be non-Indian.[23] Indian people comprise 9.4

[13] State of Arizona Social Services Bureau, *op. cit.*, District V Foster Care Evaluation, Appendix III, Gila County: Evaluation of Foster Children Records, p. 16.
[14] *Ibid.* The race of 4 percent of the children was unknown. (Ibid.)
[15] "Race of the Population by County: 1970," op. cit., p. 5.
[16] State of Arizona Social Services Bureau, op. cit., District VI Foster Care Evaluation, Appendix III, Gila County: Evaluation of Foster Children Records, p. 16.
[17] *Ibid.* 1 percent of the children are unaccounted for by the Social Services Bureau. (Ibid.)
[18] "Race of the Population by County: 1970," op. cit., p. 5.
[19] State of Arizona Social Services Bureau, op. cit., District VI Foster Care Evaluation, Appendix V, Cochise County: Evaluation of Foster Care Children Records, p. 24.
[20] *Ibid.*
[21] "Race of the Population by County: 1970," op. cit., p. 5.
[22] State of Arizona Social Services Bureau, op. cit., District V Foster Care Evaluation, Appendix I, Pinal County: Evaluation of Foster Children Records, p. 10.
[23] *Ibid.* The race of 6 percent of the children was unknown. If the figures used in this report were to be based only on the percentage of children for whom race is known, Indian children would comprise 21 percent of the foster care placements in the random sample—thus further increasing the disproportion between Indian and non-Indian placements.

percent of the population of Pinal County.[24] Assuming then that the random sampling made by the Social Services Bureau is representative of the state-administered foster care population throughout Pinal County, the following tentative conclusion can be drawn.

Conclusion

There are by proportion 2.1 times (210 percent) as many Indian children as non-Indian children in state-administered foster care in Pinal County, Arizona.

IX. MARICOPA COUNTY

In Maricopa County, in a random sample of the children in state-administered foster care made by the Arizona Social Services Bureau in March 1974, 7 percent of the children were known to be American Indian.[25] 86 percent of the children in the random sample were known to be non-Indian.[26] Indian people comprise 1.2 percent of the population of Maricopa County.[27] Assuming then that the random sampling made by the Social Services Bureau is representative of the state-administered foster care population throughout Maricopa County, the following tentative conclusion can be drawn.

Conclusion

There are by proportion 5.8 times (580 percent) as many Indian children as non-Indian children in state-administered foster care in Maricopa County, Arizona.

X. PIMA COUNTY

In Pima County, in a ramdom sample of the children in state-administered foster care made by the Arizona Social Services Bureau in March 1974, 12% of the children were known to be American Indian.[28] 83 percent of the children in the random sample were known to be non-Indian.[29] Indian people comprise 2.5 percent of the population of Pima County.[30] Assuming then that the random sampling made by the Social Services Bureau is representative of the state-administered foster care population throughout Pima County, the following tentative conclusion can be drawn.

Conclusion

There are by proportion 4.8 times (480 percent) as many Indian children as non-Indian children in state-administered foster care in Pima County, Arizona.

Methodological notes.—(1) Since the data on which this appendix is based comes from a random sample (comprising 462 children out of a total of 1,808 children in state-administered faster care) [31] made by the Program Development and Evaluation Department of the Arizona Social Services Bureau, it is subject to the uncertainty of the random sample itself.

(2) It should be emphasized that these statistics include only state-administered placements; no BIA placements—which would undoubtedly be substantial in some counties—are included.

[24] "Race of the Population by County: 1970," op. cit., p. 5.
[25] State of Arizona Social Services Bureau, op. cit., District I Foster Care Evaluation, Appendix I: Evaluation of Foster Children Records, p. 12. Confirmed by telephone interview with Mr. Bob Hoogistraat, Program Development and Evaluation Department, July 12, 1976.
[26] *Ibid.*
[27] "Race of the Population by County: 1970," op. cit., p. 5.
[28] State of Arizona Social Services Bureau, op. cit., District II Foster Care Evaluation, Appendix I: Evaluation of Foster Children Records, p. 11. Confirmed by telephone interview with Mr. Bob Hoogistraat, Program Development and Evaluation Department, July 12, 1976.
[29] *Ibid.* The race of 4 percent of the children was unknown; and 1 percent of the children were unaccounted for by the Social Services Bureau. (Ibid.)
[30] "Race of the Population by County: 1970," op. cit., p. 5.
[31] State of Arizona Social Services Bureau, op. cit., p. 1.

CALIFORNIA ADOPTION AND FOSTER CARE STATISTICS

Basic Facts

1. There are 6,969,307 under twenty-one-year-olds in the state of California.[1]
2. There are 39,579 under twenty-one-year-old American Indians in the state of California.[2]
3. There are 6,929,728 non-Indians under twenty-one in the state of California.

I. ADOPTION

In the state of California, according to the California Department of Health, there were 93 Indian children placed for adoption by public agencies in 1975.[3] Using federal age-at-adoption figures,[4] 83 percent (or 77) are under one year of age when placed. Another 13 percent (or 12) are one year to less than six years old when placed; 3 percent (or three) are six years, but less than twelve years old when placed; and 1 percent (or one) are twelve years of age and older. Using the formula then that: 77 Indian children per year are placed in adoption for at least 17 years, 12 Indian children are placed in adoption for a minimum average of 14 years, three Indian children are placed in adoption for an average of nine years, and one Indian child is placed for adoption for an average of three years; there are 1,507 Indian children under twenty-one years old in adoption at any one time in the State of California. This represents one in every 26.3 Indian children under the age of twenty-one in the State.

Using the same formula for non-Indians (there were 1,942 non-Indian children placed for adoption by public agencies in 1975)[5] there are 31,525 non-Indians under twenty-one years old in adoptive homes at any one time; representing one in every 219.8 non-Indian children.

Conclusion

There are therefore, by proportion, 8.4 times (840 percent) as many Indian children as non-Indian children in adoptive homes in California; 92.5 percent of the Indian children placed for adoption by public agencies in 1975 were placed in non-Indian homes.[6]

II. FOSTER CARE

According to statistics from the State of California Department of Health there were 319 Indian children in foster family homes in 1974.[7] This represents one out of every 124 Indian children in the State. By comparison there were 20,590 non-Indian children in foster family homes in 1974,[8] representing one out of every 336.6 non-Indian children in the state.

Conclusion

There are therefore, by proportion, 2.7 times (270 percent) as many Indian children as non-Indian children in foster family homes in California.

[1] U.S. Bureau of the Census, Census of Population: 1970, Volume I, Characteristics of the Population, Part 6, Section 1, *California* (U.S. Government Printing Office: Washington, D.C.: 1973), p. 6–88.
[2] U.S. Bureau of the Census, Census of Population: 1970; Subject Reports, Final Report PC(2)–1F, "American Indians" (Washington, D.C.: U.S. Government Printing Office: 1973), Table 2, "Age of the Indian Population by Sex and Urban and Rural Residence: 1970," p. 6.
[3] AAIA child-welfare survey questionnaire completed by Mrs. T. Chu and Ms. Betsy Strong, Center for Health Statistics, California Department of Health, July 16, 1976.
[4] National Center for Social Statistics, U.S. Department of Health, Education, and Welfare, "Adoptions in 1971." DHEW Publication No. (SRS) 73–03259, NCSS Report E–10 (1971), May 23, 1973. Table 6, "Children adopted by unrelated petitioners: Percentage distribution by age at time of placement, by type of placement, 1971."
[5] AAIA child-welfare survey questionnaire, op. cit.
[6] *Ibid.*
[7] *Ibid.*
[8] *Ibid.*

III. COMBINED FOSTER CARE AND ADOPTIVE CARE

Using the above figures, a total of 1,826 under-twenty-one Indian children are either in foster homes or adoptive homes in the state of California. This represents one in every 21.7 Indian children. Similarly for non-Indians in the state, 52,115 under-twenty-one-olds are either in foster homes or adoptive homes, representing one in every 133 non-Indian children.

Conclusion

By per capita rate, Indian children are removed from their homes and placed in adoptive homes and foster homes 6.1 times (610 percent) more often than non-Indian children in the state of California.

The above figures are based only on the statistics of the California Department of Health and do not include private agency placements. They are therefore minimum figures.

NOTE. In addition to the above figures, approximately 100 California Indian children between the ages of thirteen and eighteen attend a boarding school in California operated by the U.S. Bureau of Indian Affairs (Sherman Indian High School, Riverside, California).[9] An additional 175 California Indian children attend BIA boarding schools in Utah, Nevada, Arizona, and New Mexico.[10] Were these children to be added to the total above, Indian children would be away from their families at a per capita rate 7.1 times (710 percent) greater than that for non-Indians.

[9] *Ibid.*
[10] *Ibid.*

CALIFORNIA: APPENDIX

County-by-County Analysis of California Foster Care Statistics

ALAMEDA COUNTY

In Alameda County, according to statistics from the California Department of Health, there were 24 Indian children in state-administered foster family homes in 1974.[1] There are 2,548 Indian children under twenty-one years old in Alameda County.[2] Thus one out of every 106.2 Indian children is in a foster family home.

Conclusion

In Alameda County Indian children are in state-administered foster family homes at a per capita rate 3.2 times (320 percent) greater than the state-wide rate for non-Indians in California.

II. ALPINE COUNTY

In Alpine County, according to statistics from the California Department of Health, there was one Indian child in a state-administered foster family home in 1974.* There are 43 Indian children under twenty-one years old in Alpine County.† Thus one out of 43 Indian children is in a family foster home.

Conclusion

In Alpine County Indian children are in state-administered foster homes at a per capita rate 7.8 times (780 percent) greater than the state-wide rate for non-Indians in California.

III. AMADOR COUNTY

In Amador County, according to statistics from the California Department of Health, there were no Indian children in state-administered foster family homes in 1974.* There are 72 Indian children under twenty-one years old in Amador County.†

IV. BUTTE COUNTY

In Butte County, according to statistics from the California Department of Health, there were six Indian children in state-administered foster family homes in 1974.* There are 399 Indian children under twenty-one years old in Butte County.† Thus, one out of every 66.5 Indian children is in a foster family home.

Conclusion

In Butte County Indian children are in state-administered foster family homes at a per capita rate 5.1 times (510 percent) greater than the statewide rate for non-Indians in California.

V. CALAVERAS COUNTY

In Calaveras County, according to statistics from the California Department of Health, there were five Indian children in state-administered foster family

[1] AAIA child-welfare survey questionnaire completed by Ms. Tulane Chu, Public Health Statistician, Center for Health Statistics, California Department of Health, July 16, 1976.

[2] 44.8 percent of the California Indian population is under twenty-one years old. [U.S. Bureau of the Census, Census of Population: 1970; Subject Report PC(2)–1F, "American Indians" (Washington, D.C.: U.S. Government Printing Office: 1973), Table 2, "Age of the Indian Population by Sex and Urban and Rural Residence: 1970," pp. 6–7.] The total Indian population of Alameda County is 5,688. [U.S. Bureau of the Census, Census of Population: 1970 Supplementary Report PC(S1)–104, "Race of the Population by County": 1970 (Washington, D.C.: U.S. Government Printing Office: 1975), p. 6.] 5,688 times .448 equals 2,548. The same formula is used to determine the Indian under twenty-one year old population in the other California counties. Hereafter cited as "Race."

*AAIA Questionnaire, *op. cit.*

†Race of the Population by County: *op. cit.* 1970: 6, 7.

homes in 1974.* There are 77 Indian children under twenty-one years old in Calaveras County.† Thus, one out of every 15.4 Indian children is in a foster family home.

Conclusion

In Calaveras County Indian children are in state-administered foster family homes at a per capita rate 21.9 times (2,190 percent) greater than the state-wide rate for non-Indians in California.

VI. CONTRA COSTA COUNTY

In Contra Costa County, according to statistics from the California Department of Health, there were no Indian children in state-administered foster family homes in 1974.* There are 762 Indian children under twenty-one years old in Contra Costa County.†

VII. DEL NORTE COUNTY

In Del Norte County, according to statistics from the California Department of Health, there were 15 Indian children in state-administered foster family homes in 1974.* There are 326 Indian children under twenty-one years old in Del Norte County.† Thus, one out of every 21.7 Indian children is in a foster family home.

Conclusion

In Del Norte County Indian children are in foster family homes at a per capita rate 15.5 times (1,550 percent) greater than the state-wide rate for non-Indians in California.

VIII. EL DORADO COUNTY

In El Dorado County, according to statistics from the California Department of Health, there were no Indian children in state-administered foster family homes in 1974.* There are 103 Indian children under twenty-one years old in El Dorado County.†

IX. FRESNO COUNTY

In Fresno County, according to statistics from the California Department of Health, there were 22 Indian children in state-administered foster family homes in 1974.* There are 961 Indian children under twenty-one years old in Fresno County.† Thus, one out of every 43.7 Indian children is in a foster family home.

Conclusion

In Fresno County Indian children are in foster family homes at a per capita rate 7.7 times (770 percent) greater than the state-wide rate for non-Indians in California.

X. GLENN COUNTY

In Glenn County, according to statistics from the California Department of Health, there were five Indian children in state-administered foster family homes in 1974.* There are 84 Indian children under twenty-one years old in Glenn County.† Thus, one out of every 16.8 Indian children is in a foster family home.

Conclusion

In Glenn County Indian children are in foster family homes at a per capita rate 20 times (2,000 percent) greater than the state-wide rate for non-Indians in California.

XI. HUMBOLDT COUNTY

In Humboldt County, according to statistics from the California Department of Health, there were 18 Indian children in state-administered foster family homes in 1974.* There are 1,369 Indian children under twenty-one years old in Humboldt County.† Thus, one out of every 76.1 Indian children is in a foster family home.

*AAIA Questionnaire, *op. cit.*

†Race of the Population by County: *op. cit.* 1970: 6, 7.

Conclusion

In Humboldt County Indian children are in foster family homes at a per capita rate 4.4 times (440 percent) greater than the state-wide rate for non-Indians in California.

XII. IMPERIAL COUNTY

In Imperial County, according to statistics from the California Department of Health, there were seven Indian children in state-administered foster family homes in 1974.* There are 398 Indian children under twenty-one years old in Imperial County.† Thus, one out of every 56.9 Indian children is in a foster family home.

Conclusion

In Imperial County Indian children are in foster family homes at a per capita rate 5.9 times (590 percent) greater than the state-wide rate for non-Indians in California.

XIII. INYO COUNTY

In Inyo County, according to statistics from the California Department of Health, there were eight Indian children in state-administered foster family homes in 1974.* There are 524 Indian children under twent-one years old in Inyo County.† Thus, one out of every 65.5 Indian children is in a foster family home.

Conclusion

In Inyo County Indian children are in State-administered foster family homes at a per capita rate 5.1 times (510 percent) greater than the State-wide rate for non-Indians in California.

XIV. KERN COUNTY

In Kern County, according to statistics from the California Department of Health, there were three Indian children in State-administered foster family homes in 1974.* There are 913 Indian children under twenty-one years olds in Kings County.† Thus, one out of every 304 Indian children is in a foster family home.

Conclusion

In Kern County Indian children are in State-administered foster family homes at a per capita rate 10.5 times (1,050 percent) greater than the State-wide rate for non-Indians in California.

XV. KINGS COUNTY

In Kings County, according to statistics from the California Department of Health, there were five Indian children in state-administered foster family homes in 1974.* There are 160 Indian children under twenty-one years old in Kings County.† Thus, one out of every 32 Indian children is in a foster family home.

Conclusion

In Kings County Indian children are in State-administered foster family homes at a per capita rate 10.5 times (1,050 percent) greater than the state-wide rate for non-Indians in California.

XVI. LAKE COUNTY

In Lake County, according to statistics from the California Department of Health, there were two Indian children in state-administered foster family homes in 1974.* There are 145 Indian children under twenty-one years old in Lake County.† Thus, one out of every 72.5 Indian children is in a foster family home.

*AAIA Questionnaire, *op. cit.*
†Race of the Population by County: *op. cit.* 1970; 6, 7.

Conclusion

In Lake Couny Indian children are in state-administered foster family homes at a per capita rate 4.6 times (460 percent) greater than the State-wide rate for non-Indians in California.

XVII. LASSEN COUNTY

In Lassen County, according to statistics from the California Department of Health, there was one Indian child in a State-administered foster family home in 1974.* There are 156 Indian children under twenty-one years old in Lassen County.† Thus, one out of 156 Indian children is in a foster family home.

Conclusion

In Lassen County Indian children are in State-administered foster family homes at a per capita rate 2.2 times (220 percent) greater than the State-wide rate for non-Indians in California.

XVIII. LOS ANGELES COUNTY

In Los Angeles County, according to statistics from the California Department of Health, there were 45 Indian children in State-administered foster family homes in 1974.* There are 10,980 Indian children under twenty-one years old in Los Angeles County.† Thus, one out of every 244 Indian children is in a foster family home.

Conclusion

In Los Angeles County Indian children are in State-administered foster family homes at a per capita rate 1.4 times (140 percent) the State-wide rate for non-Indians in California.

XIX. MADERA COUNTY

In Madera County, according to statistics from the California Department of Health, there were two Indian children in State-administered foster family homes in 1974.* There are 335 Indian children under twenty-one years old in Madera County.† Thus, one out of every 168 Indian children is in a foster family home.

Conclusion

In Madera County Indian children are in State-administered foster family homes at a per capita rate 2.0 times (200 percent) greater than the State-wide rate for non-Indians in California.

XX. MARIN COUNTY

In Marin County, according to statistics from the California Department of Health, there were no Indian children in State-administered foster family homes in 1974.* There are 171 Indian children under twenty-one years old in Marin County.†

XXI. MENDOCINO COUNTY

In Mendocino County, according to statistics from the California Department of Health, there were eight Indian children in State-administered foster family homes in 1974.* There are 642 Indian children under twenty-one years old in Mendocino County.† Thus, one out of every 80.3 Indian children is in a foster family home.

Conclusion

In Mendocino County Indian children are in State-administered foster family homes at a per capita rate 4.2 times (420 percent) greater than the State-wide rate for non-Indians in California.

XXII. MERCED COUNTY

In Merced County, according to statistics from the California Department of Health, there was one Indian child in a State-administered foster family home in 1974.* There are 159 Indian children in Merced County.† Thus, one out of 159 Indian children is in a foster family home.

*AAIA Questionnaire, *op. cit.*
†Race of the Population by County: *op. cit.* 1970; 6, 7.

Conclusion

In Merced County Indian children are in State-administered foster family homes at a per capita rate 2.1 times (210 percent) greater than the State-wide rate for non-Indians in California.

XXIII. MODOC COUNTY

In Modoc County, according to statistics from the California Department of Health, there were seven Indian children in State-administered foster family homes in 1974.* There are 78 Indian children in Modoc County.† Thus, one out of every 11.1 Indian children is in a foster family home.

Conclusion

In Modoc County Indian children are in State-administered foster family homes at a per capita rate 30.3 times (3,030 percent) greater than the State-wide rate for non-Indians in California.

XXIV. MONO COUNTY

In Mono County, according to statistics from the California Department of Health, there was one Indian child in a State-administered foster family home in 1974.* There are 85 Indian children under twenty-one years old in Mono County.† Thus, one out of 85 Indian children is in a foster family home.

Conclusion

In Mono County Indian children are in State-administered foster family homes at a per capita rate 4.0 times (400 percent) greater than the State-wide rate for non-Indians in California.

XXV. MONTEREY COUNTY

In Monterey County, according to statistics from the California Department of Health, there were no Indian children in State-administered foster family homes in 1974.* There are 510 Indian children under twenty-one years old in Monterey County.†

XXVI. NAPA COUNTY

In Napa County, according to statistics from the California Department of Health, there was one Indian child in a State-administered foster family home in 1974.* There are 96 Indian children under twenty-one years old in Napa County.† Thus, one out of 96 Indian children is in a foster family home.

Conclusion

In Napa County Indian children are in State-administered foster family homes at a per capita rate 3.5 times (350 percent) greater than the State-wide rate for non-Indians in California.

XXVII. NEVADA COUNTY

In Nevada County, according to statistics from the California Department of Health, there were no Indian children in State-administered foster family homes in 1914.* There are 50 Indian children under twenty-one years old in Nevada County.†

XXVIII. ORANGE COUNTY

In Orange County, according to statistics from the California Department of Health, there were three Indian children in State-administered foster family homes in 1974.* There are 1,756 Indian children under twenty-one years old in Orange County.† Thus, one out of every 585 Indian children is in a foster family home.

Conclusion

In Orange County, Indian children are in State-administered foster family homes at a per capita rate 0.6 times (60 percent) the State-wide rate for non-Indians in California.

*AAIA Questionnaire, *op. cit.*
†Race of the Population by County: *op. cit.* 1970; 6, 7.

XXIX. PLACER COUNTY

In Placer County, according to statistics from the California Department of Health, there was one Indian child in a State-administered foster family home in 1914.* There are 185 Indian children under twenty-one years old in Placer County.† Thus, one out of 185 Indian children is in a foster family home.

Conclusion

In Placer County Indian children are in State-administered foster family homes at a per capita rate 1.8 times (180 percent) the State-wide rate for non-Indians in California.

XXX. PLUMAS COUNTY

In Plumas County, according to statistics from the California Department of Health, there were five Indian children in State-administered foster family homes in 1974.* There are 137 Indian children under twenty-one years old in Plumas County.† Thus, one out of every 27.4 Indian children is in a foster family home.

Conclusion

In Plumas County Indian children are in State-administered foster family homes at a per capita rate 12.3 times (1,230 percent) greater than the State-wide rate for non-Indians in California.

XXXI. RIVERSIDE COUNTY

In Riverside County, according to statistics from the California Department of Health, there were six Indian children in State-administered foster family homes in 1974.* There are 1,309 Indian children under twenty-one years old in Riverside County.† Thus, one out of every 218 Indian children is in a foster family home.

Conclusion

In Riverside County Indian children are in State-administered foster family homes at a per capita rate 1.5 times (150 percent) the Statewide rate for non-Indians in California.

XXXII. SACRAMENTO COUNTY

In Sacramento County, according to statistics from the California Department of Health, there were nine Indian children in State-administered foster family homes in 1974.* There are 1,196 Indian children under twenty-one years old in Sacramento County.† Thus, one out of every 132.9 Indian children is in a foster family home.

Conclusion

In Sacramento County Indian children are in State-administered foster family homes at a per capita rate 2.5 times (250 percent) greater than the State-wide rate for non-Indians in California.

XXXIII. SAN BENITO COUNTY

In San Benito County, according to statistics from the California Department of Health, there were no Indian children in State-administered foster family homes in 1974.* There are 24 Indian children under twenty-one years old in San Benito County.†

XXXIV. SAN BERNARDINO COUNTY

In San Bernardino County, according to statistics from the California Department of Health, there were four Indian children in State-administered foster family homes in 1974.* There are 1,548 Indian children under twenty-one years old in San Bernardino County.† Thus, one out of every 387 Indian children is in a foster family home.

Conclusion

In San Bernardino County Indian children are in State-administered foster family homes at a per capita rate 0.9 times (90 percent) the State-wide rate for non-Indians in California.

*AAIA Questionnaire, *op. cit.*
†Race of the Population by County: *op. cit.* 1970; 6, 7.

XXXV. SAN DIEGO COUNTY

In San Diego County, according to statistics from the California Department of Health, there were three Indian children in State-administered foster family homes in 1974.* There are 2,634 Indian children under twenty-one years old in San Diego County.† Thus, one out of every 878 Indian children are in foster family homes.

Conclusion

In San Diego County Indian children are in State-administered foster family homes at a per capita rate 0.4 times (40 percent) the State-wide rate for non-Indians in California.

XXXVI. SAN FRANCISCO COUNTY

In San Francisco County, according to statistics from the California Department of Health, there were 11 Indian children in State-administered foster family homes in 1974.* There are 546 Indian children under twenty-one years old in San Francisco County.† Thus, one out of every 118.1 Indian children is in a foster family home.

Conclusion

In San Francisco County Indian children are in State-administered foster family homes at a per capita rate 2.9 times (290 percent) greater than the State-wide rate for non-Indians in California.

XXXVII. SAN JOAQUIN COUNTY

In San Joaquin County, according to statistics from the California Department of Health, there were three Indian children in State-administered foster family homes in 1974.* There are 546 Indiaan children under twenty-one years old in San Joaquin County† Thus, one out of every 182 Indian children is in a foster family home.

Conclusion

In San Joaquin County Indian children are in State-administered foster family homes at a per capita rate 1.8 times (180 percent) the State-wide rate for non-Indians in California.

XXXVIII. SAN LUIS OBISPO COUNTY

In San Luis Obispo County, according to statistics from the California Department of Health, there were no Indian children in State-administered foster family homes in 1974.* There are 232 Indian children under twenty-one years old in San Luis Obispo County.†

XXXIX. SAN MATEO COUNTY

In San Mateo County, according to statistics from the California Department of Health, there were no Indian children in State-administered foster family homes in 1974.* There are 600 Indian children under twenty-one years old in San Mateo County.†

XL. SANTA BARBARA COUNTY

In Santa Barbara County, according to statistics from the California Department of Health, there were no Indian children in State-administered foster family homes in 1974.* There are 452 Indian children under twenty-one years old in Santa Barbara County.†

XLI. SANTA CLARA COUNTY

In Santa Clara County, according to statistics from the California Department of Health, there were 15 Indian children in State-administered foster family homes in 1974.* There are 1,814 Indian children under twenty-one years old in Santa Clara County.† Thus, one out of every 120.9 Indian children is in a foster family home.

*AAIA Questionnaire, *op. cit.*
†Race of the Population by County: *op. cit.* 1970; 6, 7.

Conclusion

In Santa Clara County Indian children are in State-administered foster family homes at a per capita rate 2.8 times (280 percent) greater than the State-wide rate for non-Indians in California.

XLII. SANTA CRUZ COUNTY

In Santa Cruz County, according to statistics from the California Department of Health, there was one Indian child in a State-administered foster family home in 1974.* There are 161 Indian children under twenty-one years old in Santa Cruz county.† Thus, one out of 161 Indian children is in a foster family home.

Conclusion

In Santa Cruz County Indian children are in State-administered foster family homes at a per capita rate 2.1 times (210 percent) greater than the State-wide rate for non-Indians in California.

XLIII. SHASTA COUNTY

In Shasta County, according to statistics from the California Department of Health, there were 13 Indian children in State-administered foster family homes in 1974* There are 592 Indian children under twenty-one year old in Shasta County.† Thus, one out of every 45.4* Indian children is in a foster family home.

Conclusion

In Shasta County Indian children are in State-administered foster family homes at a per capita rate 7.4 times (740 percent) greater than the State-wide rate for non-Indians in California.

XLIV. SIERRA COUNTY

In Sierra County, according to statistics from the California Department of Health, there were no Indian children in State-administered foster family homes in 1974.* There are 17 Indian children under twenty-one years old in Sierra County.†

XLV. SISKIYOU COUNTY

In Siskiyou County, according to statistics from the California Department of Health there were 11 Indian children in State-administered foster family homes in 1974.* There are 434 Indian children under twenty-one years old in Siskiyou County.† Thus, one out of every 39.5 Indian children is in a foster family home

Conclusion

In Siskiyou County Indian children are in State-administered foster family homes at a per capita rate 8.5 times (850 percent) greater than the State-wide rate for non-Indians in California.

XLVI. SOLANO COUNTY

In Solano County, according to statistics from the California Department of Health, there was one Indian child in a State-administered foster family home in 1974.* There are 470 Indian children under twenty-one years old in Solano County.† Thus, one out of 470 Indian children is in a foster family home.

Conclusion

In Solano County Indian children are in State-administered foster family homes at a per capita rate 0.7 times (70 percent) the State-wide rate for non-Indians in California.

XLVII. SONOMA COUNTY

In Sonoma County, according to statistics from the California Department of Health, there were 18 Indian children in State-administered foster family homes in 1974.* There are 727 Indian children under twenty-one years old in Sonoma County.† Thus, one out of every 40.4 Indian children is in a foster family home.

*AAIA Questionnaire, *op. cit.*
†Race of the Population by County: *op. cit.* 1970; 6, 7.

Conclusion

In Sonoma County Indian children are in State-administered foster family homes at a per capita rate 8.3 times (830 percent) greater than the State-wide rate for non-Indians in California.

XLVIII. STANISLAUS COUNTY

In Stanislaus County, according to statistics from the California Department of Health, there were five Indian children in State-administered foster family homes in 1974.* There are 307 Indian children under twenty-one years old in Stanislaus County.† Thus, one out of every 61 Indian children is in a foster family home.

Conclusion

In Stanislaus County Indian children are in State-administered foster family homes at a per capita rate 5.5 times (550 percent) greater than the State-wide rate for non-Indians in California.

XLIX. SUTTER COUNTY

In Sutter County, according to statistics from the California Department of Health, there were three Indian children in State-administered foster family homes in 1974.* There are 94 Indian children under twenty-one years old in Sutter County.† Thus, one out of every 31.3 Indian children is in a foster family home.

Conclusion

In Sutter County Indian children are in State-administered foster family homes at a per capita rate 10.8 times (1,080 percent) greater than the State-wide rate for non-Indians in California.

L. TEHAMA COUNTY

In Tehama County, according to statistics from the California Department of Health, there was one Indian child in a State-administered foster family home in 1974.* There are 137 Indian children under twenty-one years old in Tehama County.† Thus, one out of 137 Indian children is in a foster family home.

Conclusion

In Tehama County Indian children are in State-administered foster family homes at a per capita rate 2.5 times (250 percent) greater than the State-wide rate for non-Indians in California.

LI. TULARE COUNTY

In Tulare County, according to statistics from the California Department of Health, there were 15 Indian children in State-administered foster family homes in 1974.* There are 613 Indian children under twenty-one years old in Tulare County.† Thus, one out of every 40.9 Indian children is in a foster family home.

Conclusion

In Tulare County Indian children are in State-administered foster family homes at a per capita rate 8.2 times (820 percent) greater than the State-wide rate for non-Indians in California.

LII. TUOLUMNE COUNTY

In Tuolumne County, according to statistics from the California Department of Health, there were two Indian children in State-administered foster family homes in 1974.* There are 246 Indian children under twenty-one years old in Tuolumne County.† Thus, one out of every 123 Indian children is in a foster family home.

Conclusion

In Tuolumne County Indian children are in State-administered foster family homes at a per capita rate 2.7 times (270 percent) greater than the State-wide rate for non-Indians in California.

*AAIA Questionnaire, *op. cit.*
†Race of the Population by County: *op. cit.* 1970; 6, 7.

LIII. VENTURA COUNTY

In Ventura County, according to statistics from the California Department of Health, there was one Indian child in a State-administered foster family home in 1974.* There are 515 Indian children under twenty-one years old in Ventura County.† Thus, one out of 515 Indian children is in a foster family home.

Conclusion

In Ventura County Indian children are in State-administered foster family homes at a per capita rate 0.7 times (70 percent) the State-wide rate for non-Indians in California.

LIV. YOLO COUNTY

In Yolo County, according to statistics from the California Department of Health, there was one Indian Child in a State-administered foster family home in 1974.* There are 213 Indian children under twenty-one years old in Yolo County.† Thus, one out of 213 Indian children is in a family foster home.

Conclusion

In Yolo County Indian children are in State-administered foster family homes at a per capita rate 1.6 times (160 percent) the State-wide rate for non-Indians in California.

LV. YUBA COUNTY

In Yuba County, according to statistics from the California Department of Health, there were no Indian children in State-administered foster family homes in 1974.* There are 94 Indian children under twenty-one years old in Yuba County.†

LVI–LVIII. COLUSA, MARIPOSA AND TRINITY COUNTIES

The California Department of Health was unable to supply any foster care data for Colusa, Mariposa and Trinity counties.* There are 278 Indian children under twenty-one years old in these three counties.*†

*AAIA Questionnaire, *op. cit.*
†Race of the Population by County: *op. cit.* 1970; 6, 7.

Idaho Indian Adoption and Foster Care Statistics

Basic Facts

1. There are 302,170 under twenty-one year olds in the State of Idaho.[1]
2. There are 3,808 under twenty-one year old American Indians in the State of Idaho.[2]
3. There are 298,902 non-Indians under twenty-one years old in the State of Idaho.

I. ADOPTION

In the State of Idaho, according to the Idaho Department of Health and Welfare, there were an average of 14 public agency adoptions per year of American Indian children from 1973–1975.[3] This data base is too small to allow realistic projection of the total number of Indian children in adoptive care. We can say though that during 1973–1975 1.1 percent of Idaho Indian children were placed for adoption.

During 1973–1975, according to the Idaho Department of Health and Welfare, there were an average of 109 public agency adoptions per year of non-Indian children in Idaho.[4] Thus, during 1973–1975, 0.1 percent of Idaho non-Indian children were placed for adoption.

Conclusion

Based on the three-year period 1973–1975, and not including any private agency placements, Indian children were placed for adoption at a per capita rate 11 times (1,100 percent) greater than that for non-Indian children; 88 percent of the Indian children placed in adoption by public agencies in Idaho in 1975 were placed in non-Indian homes.[5]

II. FOSTER CARE

According to statistics from the Idaho Department of Health and Welfare, there were 296 Indian children in foster care in Fiscal Year 1976.[6] This represents one out of every 12.9 Indian children in the State. By comparison there were 3,615 non-Indian children in foster care during Fiscal Year 1976,[7] representing one out of every 82.7 non-Indian children in the State.

Conclusion

There are therefore, by proportion, 6.4 times (640 percent) as many Indian children as non-Indian children in foster care in Idaho.

III. COMBINED FOSTER CARE AND ADOPTIVE CARE

Since we are unable to estimate the total number of Indian children currently in adoptive care in Idaho, it is not possible either to estimate the total number of Indian children receiving adoptive and foster care. The foster care statistics alone, and the adoption data we do have, make it unmistakably clear

[1] U.S. Bureau of the Census, Census of Population: 1970. Volume I, Characteristics of the Population, Part 14, "Idaho" (U.S. Government Printing Office: Washington, D.C.: 1973), pp. 14–48.

[2] Ibid., pp. 14–48 (Table 19), pp. 14–265 (Table 139). Indian people comprise 54 percent of the total non-white population according to Table 139. According to Table 19 there are 7,051 non-whites under twenty-one. 7,051 times .54 equals 3,808.

[3] Telephone interview with Ms. Shirley Wheatley, Adoptions Coordinator, Idaho Department of Health and Welfare, July 23, 1976. A total of 41 Indian children were placed for adoption by the Idaho Department of Health and Welfare during these three years.

[4] Ibid. A total of 328 non-Indian children were placed for adoption by the Idaho Department of Health and Welfare during these three years.

[5] Ibid.

[6] Telephone interview with Ms. Ruth Pefley, Bureau of Research and Statistics, Idaho Department of Health and Welfare, July 23, 1976.

[7] Ibid.

that Indian children are removed from their families at rates far exceeding those for non-Indian children.

The above figures are based only on the statistics of the Idaho Department of Health and Welfare and do not include private agency placements. They are therefore minimum figures.

Idaho Appendix

County-by-County Analysis of Idaho Foster Care Statistics

I. BENEWAH, BONNER, BOUNDARY, KOOTENAI AND SHOSHONE COUNTIES

In Benewah, Bonner, Boundary, Kootenai and Shoshone counties, according to statistics from the Idaho Department of Health and Welfare, there were 33 Indian children in State-administered foster care in Fiscal Year 1976.[1] There are 446 Indian children under twenty-one years old in these five counties.[2] Thus one in every 13.5 Indian children is in foster care.

Conclusion

In Benewah, Bonner, Boundary, Kootenai and Shoshone counties Indian children are in State-administered foster care at a per capita rate 6.1 times (610 percent) greater than the Statewide rate for non-Indians in Idaho.

II. CLEARWATER, IDAHO, LATAH, LEWIS AND NEZ PERCE COUNTIES

In Clearwater, Idaho, Latah, Lewis and Nez Perce counties, according to statistics from the Idaho Department of Health and Welfare, there were 62 Indian children in State-administered foster care in Fiscal Year 1976.[3] There are 827 Indian children under twenty-one years old in these five counties.[4] Thus one in every 13.3 Indian children is in foster care.

Conclusion

In Clearwater, Idaho, Latah, Lewis and Nez Perce counties Indian children are in State-administered foster care at a per capita rate 6.2 times (620 percent) greater than the Statewide rate for non-Indians in Idaho.

III. ADAMS, CANYON, GEM, OWYHEE, PAYETTE AND WASHINGTON COUNTIES

In Adams Canyon, Gem, Owyhee, Payette and Washington counties, according to statistics from the Idaho Department of Health and Welfare, there were 20 Indian children in State-administered foster care in Fiscal Year 1976.[5] There are 298 Indian children under twenty-one years old in these six counties.[6] Thus one in every 14.9 Indian children is in foster care.

Conclusion

In Adams, Canyon, Gem, Owyhee, Payette and Washington counties Indian children are in State-administered foster care at a per capita rate 5.6 times (560 percent) greater than the Statewide rate for non-Indians in Idaho.

[1] Letter and table ("Foster Care by Region") from Ms. Ruth Pefley, Research Analyst, Idaho Department of Health and Welfare, July 27, 1976. These counties comprise Region I of the Idaho Department of Health and Welfare.

[2] The total Indian population of Benewah, Bonner, Boundary, Kootenai and Shoshone counties is 739. [U.S. Bureau of the Census, Census of Population: 1970 Supplementary Report PC(S1)–104, "Race of the Population by County: 1970" (U.S. Government Printing Office: Washington, D.C.: 1975), pp. 12–13.] Assuming that the age breakdown of the Indian population of Benewah, Bonner, Boundary, Kootenai and Shoshone counties is similar to the State-wide age breakdown of the Indian population in Idaho, 46.3 percent are under twenty-one years old. (There are 3,808 under twenty-one year old American Indians in Idaho out of a total Indian population of 6,315. See footnote 2 to the Idaho statistics, and the U.S. Census Bureau references cited therein.) 739 times .603 equals 446 total Indian population under twenty-one years of age in these five counties. The same formula is used to determine the Indian under twenty-one year old population in the other Idaho counties.

[3] Ms. Ruth Pefley, op. cit. These counties comprise Region II of the Idaho Department of Health and Welfare.

[4] "Race of the Population by County," loc. cit.

[5] Ms. Ruth Pefley, op. cit. These counties comprise Region III of the Idaho Department of Health and Welfare.

[6] "Race of the Population by County," loc. cit.

IV. ADA, BOISE, ELMORE AND VALLEY COUNTIES

In Ada, Boise, Elmore and Valley counties, according to statistics from the Idaho Department of Health and Welfare, there were 17 Indian children in State-administered foster care in Fiscal Year 1976.[7] There are 243 Indian children under twenty-one years old in these four counties.[8] Thus one in every 14.3 Indian children is in foster care.

Conclusion

In Ada, Boise, Elmore and Valley counties Indian children are in State-administered foster care at a per capita rate 5.8 times (580 percent) greater than the State-wide rate for non-Indians in Idaho.

V. BLAINE, CAMAS, CASSIA, GOODING, JEROME, LINCOLN, MINIDOKA, AND TWIN FALLS COUNTIES

In Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls counties, according to statistics from the Idaho Department of Health and Welfare, there were 19 Indian children in State-administered foster care in Fiscal Year 1976.[9] There are 236 Indian children under twenty-one years old in these eight counties.[10] Thus one in every 12.4 Indian children is in foster care.

Conclusion

In Blain, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls counties Indian children are in State-administered foster care at a per capita rate 6.7 times (670 percent) greater than the State-wide rate for non-Indians in Idaho.

VI. BANNOCK, BEAR LAKE, BINGHAM, CARIBOU, FRANKLIN, ONEIDA, AND POWERS COUNTIES

In Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida, and Power counties, according to statistics from the Idaho Department of Health and Welfare, there were 128 Indian children in State-administered foster care in Fiscal Year 1976.[11] There are 1,647 Indian children under twenty-one years old in these seven counties.[12] Thus one in every 12.9 Indian children is in foster care.

Conclusion

In Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida and Power counties Indian children are in State-administered foster care at a per capita rate 6.4 times (640 percent) greater than the State-wide rate for non-Indians in Idaho.

VII. BONNEVILLE, BUTTE, CLARK, CUSTER, FREMONT, JEFFERSON, LEMHI, MADISON AND TETON COUNTIES

In Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison and Teton counties, according to statistics from the Idaho Department of Health and Welfare, there were 17 Indian children in State-administered foster care in Fiscal Year 1976.[13] There are 335 Indian children under twenty-one years old in these nine counties.[14] Thus one in every 19.7 Indian children is in foster care.

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Conclusion

In Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison and Teton counties Indian children are in State-administered foster care at a per capita rate 4.2 times (420%) greater than the State-wide rate for non-Indians in Idaho.

[7] Ms. Ruth Pefley, op. cit. These counties comprise Region IV of the Idaho Department of Health and Welfare.
[8] "Race of the Population by County," loc. cit.
[9] Ms. Ruth Pefley, op. cit. These counties comprise Region V of the Idaho Department of Health and Welfare.
[10] "Race of the Population by County," loc. cit.
[11] Ms. Ruth Pefley, op. cit. These counties comprise Region VI of the Idaho Department of Health and Welfare.
[12] "Race of the Population by County," loc. cit.
[13] Ms. Ruth Pefley, op. cit. These counties comprise Region VII of the Idaho Department of Health and Welfare.
[14] "Race of the Population by County"; loc. cit.

Maine Indian Adoption and Foster Care Statistics

Basic Facts

1. There are 396,110 under twenty-one year olds in Maine.[1]
2. There are 1,084 under twenty-one-year-old American Indians in the State of Maine.[2]
3. There are 395,026 non-Indians under twenty-one in Maine.

I. ADOPTION

In the State of Maine, according to the Maine Department of Human Services, there was an average of two public agency adoptions per year of Indian children during 1974–1975.[3] This data base is too small to allow realistic projection of the total number of Indian children in adoptive care. We can say though that during 1974–1975 0.4 percent of Maine Indian children were placed for adoption.

During 1974–1975, according to the Maine Department of Human Services, an average of 1,057 non-Indian children were placed for adoption in Maine.[4] Thus, during 1974–1975, 0.3 percent of Maine non-Indian children were placed for adoption.

Conclusions

Based on limited data, and not in including any private agency placements, Indian and non-Indian children are placed for adoption by public agencies at approximately similar rates.

II. FOSTER CARE

According to statistics from the Maine Department of Human Services, in 1975 there were 82 Indian children in foster homes.[5] This represents one out of every 13.2 Indian children in the State. By comparison there were 1,568 non-Indian children in foster homes in 1975,[6] representing one out of every 251.9 non-Indian children in the State.

Conclusion

By rate, therefore, Indian children are placed in foster homes 19.1 times (1,910%) more often than non-Indians in Maine. As of 1973, the last year for which a breakdown is available, 64 percent of the Indian children in foster care were in non-Indian homes.[7]

III. COMBINED FOSTER CARE AND ADOPTIVE CARE

Since we are unable to estimate the total number of Indian children currently in adoptive care in Maine, it is not possible either to estimate the total number of Indian children receiving adoptive and foster care. The foster care statistics alone make it unmistakably clear that Indian children are removed from their families at rates far exceeding those for non-Indian children.

[1] U.S. Bureau of the Census, 1970 Census of the Population, Volume I: Characteristics of the Population, Part 21: "Maine" (Washington, D.C.: U.S. Government Printing Office: 1973), Table 19, p. 21–43.
[2] Ibid., p. 21–43 (Table 19), p. 21–257 (Table 139). Indian people comprise 35 percent of the total non-white population according to Table 139. According to Table 19 there are 3,098 non-whites under twenty-one. 3,098 times 35 percent equals 1,084.
[3] Telephone interviews with Ms. Freda Plumley, Substitute Care Consultant, Maine Department of Human Services, June 29–30, 1976. Letter from Ms. Plumley, July 13, 1976.
[4] Telephone interviews with Ms. Freda Plumley, op. cit. Cf. National Center for Social Statistics, U.S. Department of Health, Education and Welfare, "Adoptions in 1974," DHEW Publication No. (SRS) 76–03259, NCSS Report E–10 (1974), April 1976. Table 1, "Children for whom adoption petitions were granted," p. 7.
[5] Telephone interviews with Ms. Freda Plumley, op. cit.
[6] Ibid.
[7] Ibid.

Appendix: Historical Note to the Maine Foster Care Statistics

I. 1969

In 1969, according to statistics from the Maine Department of Human Services, there were 82 Indian children in foster homes.[1] This represented one out of every 13.2 Indian children in the State. By comparison, there were 2,099 non-Indian children in foster homes in 1969,[2] representing one out of every 188.2 non-Indian children in the State.

Conclusion

In 1969, Indian children were placed in foster homes at a rate 14.3 times (1,430%) greater than that for non-Indians in the State of Maine.

II. 1972

In 1972, according to statistics from the Maine Department of Human Services, there were 136 Indian children in foster homes.[3] This represented one out of every eight Indian children in the State. By comparison, there were 1,918 non-Indian children in foster homes in 1972,[4] representing one of every 206 non-Indian children in the State.

Conclusion

By rate, therefore, Indian children are in foster care at a per capita rate 25.8 times (2,580%) greater than that for non-Indians in the State of Maine.

III. 1972—Aroostook County

Aroostook County (home of the Micmac and Malecite tribes accounted for more than half of the Indian foster care placements in 1972. In Aroostook County alone, according to statistics from the Maine Department of Human Services, there were 73 Indian children in foster care in 1972.[5] This represented one out of every 3.3 Indian children in Aroostook county.[6]

Conclusion.

In Aroostook County in 1972 Indian children were placed in foster homes at a rate 62.4 times (6,240 percent) greater than the State-wide rate for non-Indians.

IV. 1973

In 1973, according to statistics from the Maine Department of Human Services, there were 104 Indian children in foster homes.[7] This represented one out of every 10.4 Indian children in the State. By comparison, there were 1,861 non-Indian children in foster homes in 1973,[8] representing one out of every 212.3 non-Indian children in the State.

Conclusion

In 1973, Indian children were placed in foster homes at a rate 20.4 times (2,040 percent) greater than that for non-Indians in the State of Maine.

[1] Telephone interviews with Ms. Freda Plumley, Substitute Care Consultant, Maine Department of Human Services, June 29–30, 1976. Letter from Ms. Plumley, July 13, 1976. The years included in this historical note are the last years for which the Maine Department of Human Services is able to supply statistics.

[2] Ibid.

[3] Ibid.

[4] Ibid.

[5] Ibid. 1972 was the only year for which the Maine Department of Human Services was able to supply a county-by-county breakdown of Indian foster care placements.

[6] The total Indian population of Aroostook County is 436. (U.S. Bureau of the Census. Census of Population: 1970 Supplementary Report PC(S1)–104, "Race of the Population by County: 1970" (U.S. Government Printing Office: Washington, D.C.: 1975), p. 22.) Assuming that the age breakdown of the Indian population of Aroostook County is similar to the state-wide age breakdown of the Indian population in Maine, 55.3 percent under twenty-one years old. (There are 1,084 under twenty-one year old American Indians in Maine out of a total Indian population of 1,961. See footnote 2 to the Maine statistics, and the U.S. Census Bureau references cited therein.) 436 times 55.3 percent equals 241 total Indian population under twenty-one years of age in Aroostook County.

[7] Statistics from Ms. Freda Plumley, op. cit.

[8] Ibid.

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Conclusions

Based on limited data, and not in including any private agency placements, Indian and non-Indian children are placed for adoption by public agencies at approximately similar rates.

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Conclusion

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III. Combined Foster Care and Adoptive Care

Since we are unable to estimate the total number of Indian children currently in adoptive care in Maine, it is not possible either to estimate the total number of Indian children receiving adoptive and foster care. The foster care statistics alone make it unmistakably clear that Indian children are removed from their families at rates far exceeding those for non-Indian children.

[1] U.S. Bureau of the Census, 1970 Census of the Population, Volume I: Characteristics of the Population, Part 21: "Maine" (Washington, D.C.: U.S. Government Printing Office: 1973). Table 18, p. 21–43.

[2] Ibid., p. 21–43 (Table 19), p. 21–257 (Table 139). Indian people comprise 35 percent of the total non-white population according to Table 139. According to Table 19 there are 3,098 non-whites under twenty-one. 3,098 times 35 percent equals 1,084.

[3] Telephone interviews with Ms. Freda Plumley, Substitute Care Consultant, Maine Department of Human Services, June 29–30, 1976. Letter from Ms. Plumley, July 13, 1976.

[4] Telephone interviews with Ms. Freda Plumley, op. cit. Cf. National Center for Social Statistics, U.S. Department of Health, Education and Welfare, "Adoptions in 1974," DHEW Publication No. (SRS) 76–03259, NCSS Report E–10 (1974), April 1976. Table 1, "Children for whom adoption petitions were granted," p. 7.

[5] Telephone interviews with Ms. Freda Plumley, op. cit.

[6] Ibid.

[7] Ibid.

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Conclusion

In 1969, Indian children were placed in foster homes at a rate 14.3 times (1,430%) greater than that for non-Indians in the State of Maine.

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Aroostook County (home of the Micmac and Malecite tribes accounted for more than half of the Indian foster care placements in 1972. In Aroostook County alone, according to statistics from the Maine Department of Human Services, there were 73 Indian children in foster care in 1972.[5] This represented one out of every 3.3 Indian children in Aroostook county.[6]

Conclusion.

In Aroostook County in 1972 Indian children were placed in foster homes at a rate 62.4 times (6,240 percent) greater than the State-wide rate for non-Indians.

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[1] Telephone interviews with Ms. Freda Plumley, Substitute Care Consultant, Maine Department of Human Services, June 29–30, 1976. Letter from Ms. Plumley, July 13, 1976. The years included in this historical note are the last years for which the Maine Department of Human Services is able to supply statistics.

[2] Ibid.

[3] Ibid.

[4] Ibid.

[5] Ibid. 1972 was the only year for which the Maine Department of Human Services was able to supply a county-by-county breakdown of Indian foster care placements.

[6] The total Indian population of Aroostook County is 436. (U.S. Bureau of the Census, Census of Population: 1970 Supplementary Report PC(S1)–104, "Race of the Population by County: 1970" (U.S. Government Printing Office: Washington, D.C.: 1975), p. 22.) Assuming that the age breakdown of the Indian population of Aroostook County is similar to the state-wide age breakdown of the Indian population in Maine, 55.3 percent under twenty-one years old. (There are 1,084 under twenty-one year old American Indians in Maine out of a total Indian population of 1,961. See footnote 2 to the Maine statistics, and the U.S. Census Bureau references cited therein.) 436 times 55.3 percent equals 241 total Indian population under twenty-one years of age in Aroostook County.

[7] Statistics from Ms. Freda Plumley, op. cit.

[8] Ibid.

Note. The Maine Indian community undertook concerted action in 1972–73 concerning the massive numbers of Indian children being placed in foster care. The drop in foster care rates reflects the notable progress brought about by Maine Indian people.

The current rates reflect how much still needs to be done.

In February 1973 the Maine Advisory Committee to the United States Commission on Civil Rights held hearings into the issue. Two of the recommendations made by the Maine Advisory Committee were:

1. That Maine's Department of Health and Welfare identify and secure Federal funds to upgrade potential Indian foster homes for Indian children, and that Maine's Department of Health and Welfare upgrade the homes which it built on the Passamaquoddy Reservation.
2. That the U.S. Commission on Civil Rights initiate a national Indian foster care project to determine if there is massive deculturation of Indian children.[9]

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[9] Maine Advisory Committee to the United States Commission on Civil Rights, *Federal and State Services and the Maine Indian* (Washington, D.C.: U.S. Commission on Civil Rights: 1975), p. 89.

Michigan Indian Adoption and Foster Care Statistics

Basic Facts

1. There are 3,727,438 under twenty-one year olds in the State of Michigan.[1]
2. There are 7,404 under twenty-one year old American Indians in the State of Michigan.[2]
3. There are 3,720,034 non-Indians under twenty-one in the State of Michigan.

I. ADOPTION

In the State of Michigan, according to the Michigan Department of Social Services[3] and 12 private child placement agencies in Michigan,[4] there were 62 Indian children placed in adoptive homes during 1973. Using State figures reported to the National Center for Social Statistics of the U.S. Department of Health, Education and Welfare,[5] 63 percent (or 39) are under one year of age when placed. Another 20 percent (or 12) are one year to less than six years old when placed; 13 percent (or eight) are six years, but less than twelve when placed; and 4 percent (or three) are twelve years and over.[6] Using the formula then that: 39 Indian children per year are placed in adoption for at least 17 years, 12 Indian children are placed in adoption for a minimum average of 14 years, eight Indian children are placed in adoption for an average of nine years, and three Indian children are placed in adoption for an average of three years; there are 912 Indian children under twenty-one years old in adoption at any one time in the State of Michigan. This represents one out of every 8.1 Indian children in the State.

There were 8,302 non-Indians under twenty-one years old placed in adoptive homes in Michigan in 1973.[7] Using the same formula as above, there are 122,860 non-Indians in adoptive homes in Michigan, or one out of every 30.3 non-Indian children.

Conclusion

There are therefore by proportion 3.7 times (370 percent) as many Indian children as non-Indian children in adoption in Michigan.

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[1] U.S. Bureau of the Census, Census of Population: 1970, Volume I, Characteristics of the Population, Part 24, "Michigan" (U.S. Government Printing Office: Washington, D.C.: (1973), pp. 24–65.

[2] U.S. Bureau of the Census, Census of Population: 1970; Subject Reports, Final Report PC(2)–1F, "American Indians" (Washington, D.C.: U.S. Government Printing Office: 1973), Table 2, "Age of the Indian Population by Sex and Urban and Rural Residence: 1970," p. 8.

[3] Letter from R. Bernard Houston, Director, Michigan Department of Social Services, February 23, 1973.

[4] Leter from Bethany Christian Home, N.E. Grand Rapids (4 children); Catholic Social Services of the Diocese of Grand Rapids (11 children); Catholic Social Services, Pontiac (1 child); Child and Family Services of Michigan, Inc., Alpena (2 children), Brighton (5 children), Farmington (5 children), Fort Huron (2 children); Child and Family Services of the Upper Peninsula, Marquette (1 child); Family and Child Care Service, Traverse City (1 child); Clarence D. Fischer (1 child); Michigan Children's and Family Service, Traverse City (1 child); Regular Baptist Children's Home (2 children).

[5] National Center for Social Statistics, U.S. Department of Health, Education and Welfare, "Adoptions in 1974," DHEW Publication No. (SRS) 76–03259, NCSS Report E–10 (1974), April 1976. Table 10, "Children adopted by unrelated petitioners by age at time of placement, by state, 1974," p. 16. (Absolute numbers converted into percentages for purposes of this report.

[6] The median age at time of placement of children adopted by unrelated petitioners in 1974 in Michigan was 5.4 months. Ibid., p. 15.

[7] National Center for Social Statistics, U.S. Department of Health, Education and Welfare, "Adoptions in 1973," DHEW Publication No. (SRS) 76–03259, NCSS Report E–10 (1973), July 1975. Table 1, "Children for whom adoption petitions were granted in 41 reporting States," p. 4.

II. FOSTER CARE

According to statistics from the Michigan Department of Social Services[8] and seven private child placement agencies[9] there were 82 Indian children in foster homes in 1973. This represents one out of every 90 Indian children in the State. By comparison there were 5,801 non-Indian children in foster homes,[10] representing one out of every 641 non-Indian children in the State.

Conclusion

By rate therefore Indian children are placed in foster homes 7.1 times (710 percent) more often than non-Indian children in the State of Michigan.

III. COMBINED FOSTER CARE AND ADOPTIVE CARE

Using the above figures a total of 994 under twenty-one year old Indian children are either in foster homes or adoptive homes in the State of Michigan. This represents one out of every 7.4 Indian children. Similarly, for non-Indians in the State, 128,661 under twenty-one year olds are either in foster care or adoptive care, representing one in every 28.9 non-Indian children.

Conclusion

By rate therefore Indian children are removed from their homes and placed in adoptive care or foster care 3.9 times (390 percent) more often than non-Indian children in the State of Michigan.

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[8] Letter from R. Bernard Houston, op. cit.

[9] Letters from Bethany Christian Home, N.E. Grand Rapids (16 children); Catholic Social Services of the Diocese of Grand Rapids (3 children); Child and Family Services of the Upper Peninsula, Marquette (1 child); Detroit Baptist Children's Home, Royal Oak (2 children); Family and Child Care Service, Traverse City (5 children); Family and Children Services of the Kalamazoo Area (2 children); Michigan Children's and Family Services, Traverse City (2 children).

[10] National Center for Social Statistics, U.S. Department of Health, Education and Welfare, "Children Served by Public Welfare Agencies and Voluntary Child Welfare Agencies and Institutions March 1971," DHEW Publication No. (SRS) 73–03258, NCSS Report E–9 (3/71), April 27, 1973. Table 8, "Children receiving social services from public welfare agencies and voluntary child welfare agencies and institutions."

Minnesota Indian Adoption and Foster Care Statistics

Basic Facts

1. There are 1,585,186 under twenty-one year olds in Minnesota.[1]
2. There are 12,672 under twenty-one year old American Indians in Minnesota.[2]
3. There are 1,572,514 non-Indians under twenty-one years old in Minnesota.

I. ADOPTION

In the State of Minnesota, according to the Minnesota Department of Public Welfare, there was an average of 103 adoptions of Indian children per year from 1964–1975.[3] Using the State's own age-at-adoption figures reported to the National Center for Social Statistics of the U.S. Department of Health, Education and Welfare,[4] we can estimate that 65 percent (or 67) are under one year of age when placed. Another 9 percent (or nine) are one year to less than two years old when placed; 14% (or 15) are two years, but less than six years old when placed; 10 percent (or ten) are six years, but less than twelve when placed; and 2 percent (or two) are twelve years and over.[5] Using the formula then that: 67 Indian children per year are placed in adoption for at least 17 years, nine Indian children are placed in adoption for an average of 16.5 years, 15 Indian children are placed in adoption for an average of 14 years, ten Indian children are placed in adoption for an average of nine years, and two children are placed for adoption for an average of three years; there are 1,594 Indian under twenty-one year olds in adoption at any one time in the State of Minnesota. This represents one out of every 7.9 Indian children in the State.

Using the same formula for non-Indians (there was an average of 3,271 non-Indian children adopted per year from 1964–1975),[6] there are 50,543 under twenty-one year old non-Indians in adoption in Minnesota. This represents one out of every 31.1 non-Indian children in the State.

Conclusion

There are therefore by proportion 3.9 times (390 percent) as many Indian children as non-Indian children in adoptive homes in Minnesota. 97.5 percent of the Indian children for whom adoption decrees were granted in 1974–1975 were placed with a non-Indian adoptive mother.[7]

II. FOSTER CARE

In the State of Minnesota, according to the Minnesota Department of Public Welfare, there were 737 Indian children in foster family homes in December

[1] U.S. Bureau of the Census, Census of Population: 1970, Volume I, Characteristics of the Population, Part 25, "Minnesota" (U.S. Government Printing Office: Washington, D.C.: 1973), pp. 25–68.

[2] U.S. Bureau of the Census, Census of Population: 1970; Subject Reports, Final Report PC(2)–1F, "American Indians" (Washington, D.C.: U.S. Government Printing Office: 1973), Table 2, "Age of the Indian Population by Sex and Urban and Rural Residence: 1970," p. 8.

[3] Minnesota Department of Public Welfare, "Annual Report Adoptions 1974–1975" (Research and Statistics Division: November 1975), Table XV–A, "Decrees granted 1964–65 through 1974–75 by race," p. 20.

[4] National Center for Social Statistics, U.S. Department of Health, Education and Welfare, "Adoptions in 1974," DHEW Publication No. (SRS) 76–03259, NCSS Report E–10 (1974), April 1976. Table 10, "Children adopted by unrelated petitioners by age at time of placement by State, 1974," p. 16. (Absolute numbers converted into percentages for purposes of this report.)

[5] The median age of children adopted by unrelated petitioners in 1974 in Minnesota was 5.3 months. Ibid., p. 15.

[6] "Annual Report Adoptions 1974–1975," loc. cit.

[7] Ibid., p. 23, Table XVIII–A, "Decrees granted 1974–75 by type of adoption and race of child and race of adoptive mother."

1972.[8] This represents one out of every 17.2 Indian children. By comparison, there were 5,541 non-Indian children in foster family homes,[9] representing one out of every 283.8 non-Indian children in the State.

Conclusion

There are therefore by prportion 16.5 times (1,650 percent) as many Indian children as non-Indian children in foster family homes in Minnesota.

III. COMBINED ADOPTIVE CARE AND FOSTER CARE

Using the above figures, a total of 2,331 under twenty-one year old Indian children are either in foster family homes or adoptive homes in the State of Minnesota. This represents one out of every 5.4 Indian children. Similarly for non-Indians in the State 56,084 under twenty-one year olds are either in foster family homes or adoptive care, representing one in every 28 non-Indian children.

Conclusion

By per capita rate Indian children are removed from their homes and placed in adoptive care or foster family care 5.2 times (520 percent) more often than non-Indian children in the State of Minnesota.

[8] Minnesota Department of Public Welfare, "A Special Report: Racial Characteristics of Children Under Agency Supervision as of December 31, 1972" (Research and Statistics Division: November 1973). Table C., "Living Arrangement by Race of All Children," p. 3. In this report, the Minnesota Department of Public Welfare itself states: "A larger proportion of Indian children [receiving child-welfare services from counties and private agencies] were in foster family homes (25.2 percent) than were children of any other race." Ibid., p. 4.

[9] Ibid., p. 3.

Montana Indian Adoption and Foster Care Statistics

Basic Facts

1. There are 289,573 under twenty-one-year-olds in Montana.[1]
2. There are 15,124 under twenty-one-year-old American Indians in Montana.[2]
3. There are 274,449 non-Indians under twenty-one in Montana.

I. ADOPTION

In the State of Montana, according to the Montana Department of Social and Rehabilitation Services, there were an average of 33 public agency adoptions of Indian children per year from 1973–1975.[3] Using federal age-at-adoption figures.[4] 83 percent (or 28) are under one year of age when placed. Another 13 percent (or four) are one year to less than six years old when placed; and 3 percent (or one) are six years, but less than twelve years old when placed.[5] Using the formula then that: 28 Indian children per year are placed in adoption for at least 17 years, four Indian children are placed in adoption for a minimum average of 14 years, and one Indian child is placed in adoption for an average of nine years; there are 541 Indians under twenty-one year olds in adoption at any one time in the State of Montana. This represents one in every 30 Indian children in the State.

Using the same formula for non-Indians (there were an average of 117 public agency adoptions of non-Indians per year from 1973–1975),[6] there are 1,898 non-Indians under twenty-one years old in adoptive homes at any one time; or one out of every 144.6 non-Indian children.

Conclusion

There are therefore by proportion 4.8 times (480 percent) as many Indian children as non-Indian children in adoptive homes in Montana; 87 percent of the Indian children placed in adoption by public agencies in Montana from 1973–1975 were placed in non-Indian homes.[7]

II. FOSTER CARE

In Montana, according to the Montana Department of Social and Rehabilitation Services, there were 188 Indian children in State-administered foster care during June 1976.[8] This represents one out of every 80.4 Indian children in the State. In addition the Billings Area Office of the U.S. Bureau of Indian Affairs reported 346 Indian children in BIA foster care in 1974, the last year for which statistics have been compiled.[9] When these children are added to the State

[1] U.S. Bureau of the Census, Census of Population: 1970, Volume I, Characteristics of the Population, Part 28, "Montana" (U.S. Government Printing Office: Washington, D.C.: 1973), p. 28–35.

[2] U.S. Bureau of the Census, Census of Population: 1970; Subject Reports, Final Report PC(2)–1F, "American Indians" (Washington, D.C.: U.S. Government Printing Office: 1973), Table 2, "Age of the Indian Population by Sex and Urban and Rural Residence: 1970," p. 9.

[3] Telephone interview with Mrs. Betty Bay, Adoption Consultant, State of Montana Social and Rehabilitation Services, July 20, 1976.

[4] National Center for Social Statistics, U.S. Department of Health, Education, and Welfare, "Adoptions in 1971." DHEW Publication No. (SRS) 73–03259, NCSS Report E–10 (1971), May 23, 1973. Table 6, "Children adopted by unrelated petitioners: Percentage distribution by age at time of placement, by type of placement, 1971."

[5] 1% of the adoptions involve children twelve years and older. Ibid.

[6] Telephone interview with Mrs. Betty Bay, July 20, 1976.

[7] Ibid.

[8] Letter from Ms. Jeri Davis, Research Specialist, Bureau of Statistics and Research, State of Montana Social and Rehabilitation Services, July 12, 1976.

[9] Division of Social Services, U.S. Bureau of Indian Affairs, "Fiscal year 1974—Child Welfare (Unduplicated Case Count by Areas)." Table, p. 1.

figures, we can estimate that there are a total of 534 Indian children in foster care at any one time in Montana, representing one out of every 28.3 Indian children in the State. By comparison, there were 755 non-Indian children in State-administered foster care during June 1976,[10] representing one out of every 363.5 non-Indian children in the State.

Conclusion

By rate therefore Indian children are in foster care at a per capita rate 12.8 times (1,280 percent) greater than that for non-Indian children in Montana.

III. COMBINED ADOPTIVE CARE AND FOSTER CARE

Using the above figures, a total of 1,075 under twenty-one-year-old Indian children are either in foster homes or adoptive homes in the State of Montana. This represents one in every 14.1 Indian children. Similarly, for non-Indians in the State 2,653 under twenty-one year olds are either in foster care or adoptive care, representing one out of every 103.4 non-Indian children.

Conclusion

By rate Indian children are removed from their homes and placed in adoptive care or foster care 7.3 times (730 percent) more often than non-Indian children in the State of Montana.

The above figures are based only on the statistics of the Montana Department of Social and Rehabilitation Services and do not include private agency placements. They are therefore minimum figures.

[10] Letter from Ms. Jeri Davis, *op. cit.*

Nevada Adoption and Foster Care Statistics

Basic Facts

1. There are 191,657 under twenty-one-year-olds in Nevada.[1]
2. There are 3,739 under twenty-one-year-old American Indians in Nevada.[2]
3. There are 187,918 under twenty-one-year-old non-Indians in Nevada.

I. ADOPTION

In Nevada, according to the Nevada State Division of Welfare, there were an average of seven public agency adoptions of Indian children per year in 1974–1975.[3] This data base is too limited to permit an estimate of the total number of Indian children in adoption in Nevada. However, it does indicate that during 1974–1975 adoption petitions were granted for a yearly average of one out of every 534.1 Indian children in the State.

Using the same formula for non-Indians (there were an average of 345 public agency adoptions of non-Indians in Nevada in 1974–1975),[4] adoption petitions were granted for one out of every 555.5 non-Indian children in the State.

Conclusion

Based on limited data, by per capita rate therefore, Indian children are adopted approximately as often as non-Indian children in Nevada.

II. FOSTER CARE

In Nevada, according to the Nevada State Division of Welfare, there were 48 Indian children in foster care in June 1976.[5] In addition, the Inter-Tribal Council of Nevada reported 25 Indian children in foster care.[6] This combined total (73) represents one in every 51.2 Indian children. By comparison, there were 527 non-Indian children in foster care,[7] representing one in every 356.6 non-Indian children in the State.

Conclusion

By per capita rate, therefore, Indian children are placed in foster care 7.0 times (700 percent) as often as non-Indian children in Nevada.

III. COMBINED FOSTER CARE AND ADOPTIVE CARE

Since we are unable to estimate the total number of Indian children currently in adoptive care in Nevada, it is not possible either to estimate the total number of Indian children receiving adoptive and foster care. The foster care statistics alone make it unmistakably clear that Indian children are removed from their families at rates far exceeding those for non-Indian children.

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[1] U.S. Bureau of the Census, 1970 Census of the Population, Volume I: Characteristics of the Population, Part 30: "Nevada" (Washington, D.C.: U.S. Government Printing Office: 1973), Table 19, p. 30–36.

[2] Ibid., p. 30–36 (Table 19), p. 30–207 (Table 139). Indian people comprise 18.8 percent of the total non-white population according to Table 139. According to Table 19 there are 19,889 non-whites under twenty-one. 19,889 × 18.8 percent=3,739.

[3] Telephone interview with Mr. Ira Gunn, Chief of Research and Statistics, Nevada State Division of Welfare, July 15, 1976. The 1974 adoption figures are also available in: National Center for Social Statistics, U.S. Department of Health, Education and Welfare. "Adoptions in 1974." DHEW Publications No. (SRS) 76–03259. NCSS Report F–10 (1974), April 1976. Table 3, "Children adopted by unrelated petitioners," p. 9. (All of the Indian children placed for adoption by the Nevada State Division of Welfare in 1974 were adopted by unrelated petitioners.)

[4] Telephone interview with Mr. Ira Gunn, July 15, 1976.

[5] Letter from Mr. Ira Gunn, August 2, 1976.

[6] Telephone interview with Mr. Efraim Estrada, Chief, Field Services, Inter-Tribal Council of Nevada (NITC), August 5, 1976. NITC reported a total of 42 Indian children in foster care, of whom 17 were in foster homes (mostly non-Indian) under a BIA contract with the State. These 17 have been subtracted from the total to avoid duplication of State figures.

[7] Telephone interview with Mr. Ira Gunn, July 15, 1976.

New Mexico Indian Adoption and Foster Care Statistics

Basic Facts

1. There are 461,535 under twenty-one-year-olds in the State of New Mexico.[1]
2. There are 41,316 under twenty-one-year-old American Indians in the State of New Mexico.[2]
3. There are 420,219 non-Indians under twenty-one in the State of New Mexico.

I. ADOPTION

In the State of New Mexico, according to the New Mexico Department of Health and Social Services, there were 13 American Indian children placed for adoption by public agencies in Fiscal Year 1976.[3] This data base is too small to allow realistic projection of the total number of Indian children in adoptive care. We can say though that during Fiscal Year 1976, 0.003 percent of New Mexico Indian children were placed for adoption by public agencies.

During fiscal year 1976, according to the New Mexico Department of Health and Social Services, there were 77 non-Indian children placed for adoption by public agencies.[4] Thus during FY 1973, 0.02 percent of New Mexico non-Indian children were placed for adoption by public agencies.

Conclusion

Based on limited data, and not including any private agency placements, Indian children were placed for adoption by public agencies in fiscal year 1976 at a per capita rate 1.5 times (150 percent) the rate for non-Indian children.

II. FOSTER CARE

In the State of New Mexico, according to statistics from the New Mexico Department of Health and Social Services, there were 142 Indian children in foster homes in June 1976.[5] In addition the Navajo and Albuquerque area offices of the U.S. Bureau of Indian Affairs report a combined total of 145 Indian children in foster homes in New Mexico.[6] Combining the State and BIA figures, there were 287 Indian children in foster homes in June 1976. This represents one out of every 144 Indian children in the State. By comparison there were 1,225 non-Indian children in foster care in June 1976,[7] representing one out of every 343 non-Indian children.

Conclusion

By per capita rate Indian children are placed in foster care 2.4 times (240 percent) as often as non-Indian children in New Mexico.

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[1] U.S. Bureau of the Census, Census of Population: 1970, Volume I, Characteristics of the Population, Part 33, "New Mexico" (U.S. Government Printing Office: Washington, D.C.: 1973), p. 33–34.

[2] U.S. Bureau of the Census, Census of Population: 1970; Subject Reports, Final Report PC(2)–1F, "American Indians" (Washington, D.C.: U.S. Government Printing Office: 1973), Table 2, "Age of the Indian Population by Sex and Urban and Rural Residence: 1970," p. 10.

[3] Telephone interview with Ms. Heidi Illanes, Assistant Adoption Director, New Mexico Department of Health and Social Services, July 23, 1976.

[4] Ibid.

[5] Telephone interview with Ms. Pat Diers, Social Services Agency, New Mexico Department of Health and Social Services, July 26, 1976.

[6] The BIA Navajo Area Office reported 18 Indian children in foster care in New Mexico during April 1976. (Telephone interview with Mr. Steve Lacy, Child Welfare Specialist, Navajo Area Office, July 26, 1976.) The BIA Albuquerque Area Office reported 172 Indian children in foster homes in New Mexico during June 1976. (Telephone interview with Ms. Betty Dillman, Division of Social Services, Albuquerque Area Office, July 28, 1976). Of the 190 children the BIA had in foster homes in New Mexico, 45 were under a BIA contract with the State under which the BIA reimburses the State for foster care expenses. These 45 children have been subtracted from the BIA total. 190–45=145.

[7] Telephone interview with Ms. Pat Diers, *op. cit.*

III. COMBINED FOSTER CARE AND ADOPTIVE CARE

Since we are unable to estimate the total number of Indian children currently in adoptive care in New Mexico, it is not possible either to estimate the total number of Indian children receiving adoptive and foster care. The foster care statistics alone, and the adoption data we do have, make it unmistakably clear that Indian children are removed from their families at rates disproportionate to their percentage of the population.

U.S. BUREAU OF INDIAN AFFAIRS BOARDING SCHOOLS

In addition to those Indian children in foster care or adoptive care, 7,428 Indian children in New Mexico are away from home and their families most of the year attending boarding schools operated by the U.S. Bureau of Indian Affairs.[8] An additional 1,324 Indian children in New Mexico live in BIA-operated dormitories while attending public schools.[9] These children properly belong in any computation of children separated from their families. Adding the 8,752 Indian children in federal boarding schools or dormitories in New Mexico to those in foster care alone, there are a minimum (excluding adoptions) of 9,039 Indian children separated from their families. This represents one in every 4.6 Indian children in New Mexico.

Conclusion

By per capita rate therefore Indian children are separated from their families to be placed in foster care or boarding schools 74.6 times (7,460 percent) more often than non-Indian children in New Mexico.

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[8] Office of Indian Education Programs, U.S. Bureau of Indian Affairs, "Fiscal Year 1974 Statistics Concerning Indian Education" (Lawrence, Kansas: Haskell Indian Junior College: 1975), pp. 12–13.

[9] Ibid., pp. 22–23.

New York Adoption and Foster Care Statistics

Basic Facts

1. There are 6,726,515 under twenty-one-year-olds in the State of New York.[1]
2. There are 10,627 under twenty-one-year-old American Indians in the State of New York.[2]
3. There are 6,715,888 non-Indians under twenty-one in the State of New York.

I. ADOPTION

In the State of New York, according to the New York Board of Social Welfare, there were 12 Indian children placed for adoption as of June 1976.[3] This data base is too small to allow realistic projection of the total number of Indian children in adoptive care. We can say, though, that as of June 1976, 0.1 percent of New York Indian children were placed for adoption.

As of March 1976, according to the New York State Board of Social Welfare, 1,807 non-Indian children were placed for adoption in New York.[4] Thus, as of March 1976, 0.03% of New York non-Indian children were placed for adoption.

Conclusion

Based on limited data, Indian children are placed for adoption at a per capita rate 3.3 times (330%) the rate for non-Indian children in New York.

II. FOSTER CARE

According to statistics from the New York State Board of Social Welfare, there were 142 Indian children in foster (family) boarding homes in June 1976.[5] This represents one out of every 74.8 Indian children in the State. By comparison there were 30,170 non-Indian children in foster (family) boarding homes in March 1976,[6] representing one out of every 222.6 non-Indian children in the State.

Conclusion

By per capita rate therefore Indian children are placed in foster homes 3.0 times (300 percent) as often as non-Indian children in New York.

An estimated 96.5% of the Indian children in foster (family) boarding homes are placed in non-Indian homes.[7]

III. COMBINED FOSTER CARE AND ADOPTIVE CARE

Since we are unable to estimate the total number of Indian children currently in adoptive care in New York, it is not possible either to estimate the total number of Indian children receiving adoptive and foster care. The foster care statistics

[1] U.S. Bureau of the Census, Census of Population: 1970, Volume I, Characteristics of the Population, Part 34, Section 1, "New York" (U.S. Government Printing Office: Washington, D.C.: 1973), p. 34–75.

[2] U.S. Bureau of the Census, Census of Population: 1970; Subject Reports, Final Report PC(2)–1F, "American Indians" (Washington, D.C.: U.S. Government Printing Office: 1973), Table 2, "Age of the Indian Population by Sex and Urban and Rural Residence: 1970," p. 10.

[3] Letter and computer print-out from Mr. Bernard S. Bernstein, Director, Bureau of Children's Services, New York State Board of Social Welfare, July 16, 1976.

[4] Telephone interview with Mr. Bernard S. Bernstein, New York State Board of Social Welfare, July 21, 1976.

[5] Letter and computer print-out from Mr. Bernard S. Bernstein, *op. cit.*

[6] Telephone interview with Mr. Bernard S. Bernstein, *op. cit.*

[7] This estimate is based on telephone interviews from July 22–27, 1976 with Department of Social Services personnel in Cattaraugus, Erie, Niagara and Onondaga counties. 115 out of a total of 135 Indian children under public care in foster (family) boarding homes in June 1976 were placed in these four counties—and approximately 111 of such placements were in non-Indian homes.

alone, and the adoption data we do have, make it unmistakably clear that Indian children are removed from their families at rates far exceeding those for non-Indian children.

NOTE. A report on the numbers of American Indian children in adoption in New York State would be incomplete without mentioning those Indian children placed by the Indian Adoption Project, a cooperative effect of the U.S. Bureau of Indian Affairs and the Child Welfare League of America. From 1958–1967, the nine full years of operation by the Indian Adoption Project, 74 Indian children, mostly from Arizona and South Dakota, were placed for adoption in New York.[1]

New York Appendix

Analysis of Upstate New York Counties With Greater Than 1,000 Total Indian Population

I. CATTARAUGUS COUNTY

In Cattaraugus County, according to statistics from the New York State Board of Social Welfare, there were 23 Indian children in foster (family) boarding homes in June 1976.[1a] There are 548 Indian children under twenty-one years old in Cattaraugus County.[2] Thus one out of every 23.8 Indian children is in a foster (family) boarding home.

Conclusion

In Cattaraugus County Indian children are in foster (family) boarding homes at a per capita rate 9.4 times (940 percent) greater than the State-wide rate for non-Indians in New York.

II. ERIE COUNTY

In Erie County, according to statistics from the New York State Board of Social Welfare, there were 53 Indian children in foster (family) boarding homes in June 1976.[3] There are 1,654 Indian children under twenty-one years old in Erie County.[4] Thus one out of every 31.2 Indian children is in a foster (family) boarding home.

Conclusion

In Erie County Indian children are in foster (family) boarding homes at a per capita rate 7.1 times (710 percent) greater than the State-wide rate for non-Indians in New York.

III. FRANKLIN COUNTY

In Franklin County, according to statistics from the New York State Board of Social Welfare, there were five Indian children in foster (family) boarding homes in June 1976.[3] There are 696 Indian children under twenty-one years old in Franklin county.[4] Thus one out of every 139.2 Indian children is in a foster (family) boarding home.

Conclusion

In Franklin County Indian children are in foster (family) boarding homes at a per capita rate 1.6 times (160 percent) the State-wide rate for non-Indians in New York.

[1] David Fanshel, *Far From the Reservation: The Transracial Adoption of American Indian Children* (Metuchen, N.J.: The Scarecrow Press, Inc.: 1972), pp. 34–35. The Indian Adoption Project placed a total of 395 American Indian children for adoption in 26 states and Puerto Rico, virtually always with non-Indian families.

[1a] Letter and computer print-out from Mr. Bernard S. Bernstein, Director, Bureau of Children's Services, New York State Board of Social Welfare, July 16, 1976.

[2] 41.3% of the New York Indian population is under twenty-one years old. [U.S. Bureau of the Census, Census of Population: 1970: Subject Report PC(2)–1F, "American Indians" (Washington, D.C.: U.S. Government Printing Office: 1973), Table 2, "Age of the Indian Population by Sex and Urban and Rural Residence: 1970," p. 10.] The total Indian population of Cattaraugus County is 1,318. [U.S. Bureau of the Census, Census of Population: 1970 Supplementary Report PC(S1)–104, "Race of the Population by County: 1970" (Washington D.C.: U.S. Government Printing Office: 1976), p. 32.] 1,318×.416=548. The same formula is used to determine the Indian under twenty-one year old population in the other New York counties.

[3] Mr. Bernard S. Bernstein, *op. cit.*

[4] "Race of the Population by County: 1970," *op. cit.*, p. 32.

IV. MONROE COUNTY

In Monroe County, according to statistics from the New York State Board of Social Welfare, there were four Indian children in foster (family) boarding homes in June 1976.[5] There are 520 Indian children under twenty-one years old in Monroe County.[6] Thus one out of every 130 Indian children is in a foster (family) boarding home.

Conclusion

In Monroe County Indian children are in foster (family) boarding homes at a per capita rate 1.7 times (170 percent) the State-wide rate for non-Indians in New York.

V. NIAGARA COUNTY

In Niagara County, according to statistics from the New York State Board of Social Welfare, there were 12 Indian children in foster (family) boarding homes in June 1976.[5] There are 749 Indian children under twenty-one years old in Niagara County.[6] Thus one out of every 62.4 Indian children is in a foster (family) boarding home.

Conclusion

In Niagara County Indian children are in foster (family) boarding homes at a per capita rate 3.6 times (360 percent) greater than the State-wide rate for non-Indians in New York.

VI. ONONDAGA COUNTY

In Onondaga County, according to statistics from the New York State Board of Social Welfare, there were 27 Indian children in foster (family) boarding homes in June 1976.[5] There are 942 Indian children under twenty-one years old in Onondaga County.[6] Thus one out of every 34.9 Indian children is in a foster (family) boarding home.

Conclusion

In Onondaga County Indian children are in foster (family) boarding homes at a per capita rate 6.4 times (640 percent) greater than the State-wide rate for non-Indians in New York.

[5] Mr. Bernard S. Bernstein, *op. cit.*
[6] "Race of the Population by County: 1970," *op. cit.*, p. 33.

North Dakota Adoption and Foster Care Statistics

Basic Facts

1. There are 261,998 under twenty-one year olds in the State of North Dakota.[1]
2. There are 8,186 under twenty-one-year-old American Indians in the State of North Dakota.[2]
3. There are 253,812 non-Indians under twenty-one in the State of North Dakota.

I. ADOPTION

In the State of North Dakota, according to the Social Service Board of North Dakota, there were 16 Indian children placed for adoption in 1975.[3] Using State figures reported to the National Center for Social Statistics of the U.S. Department of Health, Education and Welfare,[4] we can estimate that 86 percent (or 14) are under one year of age when placed. One child is between one and two years old; and one child is between two and six years old.[5] Using the formula then that: 14 Indian children are placed in adoption for at least 17 years, one Indian child is placed in adoption for 16.5 years, and one Indian child is placed in adoption for 14 years; there are an estimated 269 Indian children in adoption in North Dakota. This represents one out of every 30.4 Indian children in the State.

Using the same formula for non-Indians (there were 178 non-Indian children placed for adoption in North Dakota in 1975),[6] there are an estimated 2,943 under twenty-one-year-old non-Indians in adoption in North Dakota. This represents one out of every 86.2 non-Indian children in the State.

Conclusion

There are, therefore, by proportion 2.8 times (280 percent) as many Indian children as non-Indian children in adoptive homes in North Dakota; 75 percent of the Indian children placed for adoption in 1975 were placed in non-Indian homes.[7]

II. FOSTER CARE

In the State of North Dakota, according to the Social Services Board of North Dakota, there were 218 Indian children in foster care in May 1976.[8] This represents one out of every 37.6 Indian children in the State. In addition, there were 78 North Dakota Indian children receiving foster care from the U.S. Bureau of

[1] U.S. Bureau of the Census, Census of Population: 1970, Volume I. Characteristics of the Population, Part 36, "North Dakota" (U.S. Government Printing Office: Washington, D.C.: 1973), p. 36–38.
[2] U.S. Bureau of the Census, Census of Population: 1970; Subject Reports, Final Report PC(2)–1F, "American Indians" (Washington, D.C.: U.S. Government Printing Office: 1973), Table 2, "Age of the Indian Population by Sex and Urban and Rural Residence: 1970," p. 12.
[3] Telephone interview with Mr. Donald Schmid, Administrator, Child Welfare Services, Social Services Board of North Dakota, July 21, 1976. These children were placed by three private agencies that do virtually all the adoptions in North Dakota. The Social Services Board rarely, if ever, handles adoptions.
[4] National Center for Social Statistics, U.S. Department of Health, Education and Welfare, "Adoptions in 1974," DHEW Publication No. (SRS) 76–03259, NCSS Report F–10 (1974), April 1976, Table 10, "Children adopted by unrelated petitioners by age at time of placement, by State, 1974," p. 16. (Absolute numbers converted into percentages for purposes of this report.)
[5] 3% of the children are between six and twelve years old; and 1% are twelve or older. (*Ibid.*). The median age for children placed in adoption in North Dakota was two months. *Ibid.*, p. 15.
[6] Telephone interview with Mr. Donald Schmid, *op. cit.* (See footnote 3.)
[7] *Ibid.*
[8] *Ibid.*

Indian Affairs in May 1976.[9] The combined total of 296 Indian children in foster care represents one out of every 27.7 Indian children in the State. By comparison there were 455 non-Indian children in foster care in May 1976,[10] representing one out of every 557.8 non-Indian children.

Conclusion

There are therefore by proportion 20.1 times (2,010 percent) as many Indian children as non-Indian children in foster care in North Dakota.

III. COMBINED ADOPTIVE CARE AND FOSTER CARE

Using the above figures, a total of 565 under twenty-one-year-old Indian children are either in foster homes or adoptive homes in the State of North Dakota. This represents one out of every 14.5 Indian children. Similarly for non-Indians in the State 3,398 under twenty-one year olds are either in foster care or adoptive care, representing one out of every 74.7 non-Indian children.

Conclusion

By per capita rate Indian children are removed from their homes and placed in adoptive care or foster care 5.2 times (520 percent) more often than non-Indian children in the State of North Dakota.

[9] Telephone interviews with Mr. Roger Lonnevik and Ms. Beverly Haug, Division of Social Services, U.S. Bureau of Indian Affairs Aberdeen Area Office, July 20–21, 1976. The BIA had 114 North Dakota Indian children in foster care in May 1976. As of April 1976 (the last month for which the BIA has statistics—BIA indicates that the numbers do not fluctuate significantly from month to month), 36 Indian children were in foster care administered by the State, but paid for by the BIA. 114—36=78.

[10] Telephone interview with Mr. Donald Schmid, *op. cit.*

Oklahoma Indian Adoption and Foster Care Statistics

Basic Facts

1. There are 974,937 under twenty-one-year-olds in the State of Oklahoma.[1]
2. There are 45,489 under twenty-one-year-old American Indians in the State of Oklahoma.[2]
3. There are 929,448 non-Indians under twenty-one in the State of Oklahoma.

I. ADOPTION

In the State of Oklahoma, according to the Oklahoma Public Welfare Commission, there were 69 Indian children placed in adoptive homes in 1972.[3] Using federal age-at-adoption figures,[4] 83 percent (or 57) are under one year of age when placed. Another 13 percent (or nine) are one year to less than six years old when placed; 3 percent (or two) are six years, but less than twelve years old when placed; and 1 percent (or 1) are twelve years of age and older. Using the formula then that: 57 Indian children per year are placed in adoption for at least 17 years, nine Indian children are placed in adoption for a minimum average of 14 years, two Indian children are placed in adoption for an average of nine years, and one Indian child is placed for adoption for an average of three years; there are an estimated 1,116 Indian children in adoption in Oklahoma. This represents one out of every 40.8 Indian children in the State.

Using the same formula for non-Indians (there were 317 non-Indian children placed in adoptive homes in 1972),[5] there are an estimated 5,144 under twenty-one year old non-Indians in adoption in Oklahoma. This represents one out of every 180.7 non-Indian children in the State.

Conclusion

There are therefore by proportion 4.4 times (440 percent) as many Indian children as non-Indian children in adoptive homes in Oklahoma.

II. FOSTER CARE

In the State of Oklahoma, according, to the Oklahoma Public Welfare Commission, there were 335 Indian children in State-administered foster care in August 1972.[6] In addition, there were two Oklahoma Indian children receiving foster care from the U.S. Bureau of Indian Affairs in 1972.[7] The combined total of 337 Indian children in foster care represents one out of every 135 Indian children in the State. By comparison there were 1,757 non-Indian children in foster care,[8] representing one out of every 529 non-Indian children.

[1] U.S. Bureau of the Census, Census of Population: 1970, Volume I, Characteristics of the Population, Part 38, "Oklahoma" (U.S. Government Printing Office: Washington, D.C.: 1973), p. 38–48.

[2] U.S. Bureau of the Census, Census of Population: 1970; Subject Reports, Final Report PC(2)–1F, "American Indians" (Washington, D.C.: U.S. Government Printing Office: 1973), Table 2, "Age of the Indian Population by Sex and Urban and Rural Residence: 1970," p. 12.

[3] Letter from L. E. Rader, Director of Institutions, Social and Rehabilitative Services, Oklahoma Public Welfare Commission, May 2, 1974.

[4] National Center for Social Statistics, U.S. Department of Health, Education and Welfare, "Adoptions in 1971," DHEW Publication No. (SRS) 73–03259, NCSS Report E–10 (1971), May 23, 1973, Table 6, "Children adopted by unrelated petitioners: Percentage distribution by age at time of placement, by type of placement, 1971."

[5] Letter from L. E. Rader, *op. cit.*

[6] *Ibid.*

[7] Division of Social Services, U.S. Bureau of Indian Affairs, "Fiscal year 1972—Child Welfare—Unduplicated Case Count [by States]" (Table).

[8] National Center for Social Statistics, U.S. Department of Health, Education and Welfare, "Children Served by Public Welfare Agencies and Voluntary Child Welfare Agencies and Institutions March 1971," DHEW Publication No. (SRS) 73–03258; NCSS Report E–9 (March 1971), April 27, 1973, Table 8.

Conclusion

There are therefore by proportion 3.9 times (390 percent) as many Indian children as non-Indian children in foster care in Oklahoma.

III. COMBINED FOSTER CARE AND ADOPTIVE CARE

Using the above figures, a total of 1,453 under twenty-one-year-old Indian children are either in foster care or adoptive homes in the State of Oklahoma. This represents one out of every 31.3 Indian children. Similarly for non-Indians in the State 6,901 under twenty-one year olds are either in foster care or adoptive care, representing one out of every 134.7 non-Indian children.

Conclusion

By per capita rate Indian children are removed from their homes and placed in adoptive care or foster care 4.3 times (430 percent) more often than non-Indian children in the State of Oklahoma.

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

OREGON ADOPTION AND FOSTER CARE STATISTICS

Basic Facts

1. There are 807,211 under twenty-one year olds in the State of Oregon.[1]
2. There are 6,839 under twenty-one-year-old American Indians in the State of Oregon.[2]
3. There are 800,372 non-Indians under twenty-one in the State of Oregon.

I. ADOPTION

In the State of Oregon, according to the Oregon Children's Services Division, there were 26 American Indian children placed in adoptive homes during fiscal year 1975.[3] Using the State's own figures reported to the National Center for Social Statistics of the U.S. Department of Health, Education and Welfare,[4] 61 percent (or 16) were under one year of age when placed. Another 8 percent (or two) were between one and two years old; 17 percent (or five) were between two and six years old; and 12 percent (or three) were between six and twelve years old.[5] Using the formula then that: 16 Indian children are placed in adoption for at least 17 years, two Indian children are placed in adoption for an average of 16.5 years, five Indian children are placed in adoption for an average of 14 years, and three are placed in adoption for an average of nine years; there are 402 Indian children under twenty-one years old in adoption at any one time in the State of Oregon. This represents one out of every 17 Indian children in the State.

Using the same formula for non-Indians (2,742 non-Indian children were placed in adoptive homes during Fiscal Year 1975),[6] there are 41,716 non-Indian children in adoption at any one time in the State of Oregon. This represents one out of every 19.2 non-Indian children in the State.

Conclusion

There are therefore by proportion 1.1 times (110 percent) as many Indian children as non-Indian children in adoption in Oregon.

II. FOSTER CARE

According to statistics from the Oregon Children's Services Division, there were 247 Indian children in foster care as of June 1976.[7] This represents one out of every 27.7 Indian children in the State. By comparison there were 3,502 non-Indian children in foster care as of April 1976,[8] representing one out of every 228.5 non-Indian children in the State.

Conclusion

By rate therefore Indian children are placed in foster homes 8.2 times (820 percent) more often than non-Indian children in the State of Oregon.

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[1] U.S. Bureau of the Census, Census of Population: 1970, Volume I, Characteristics of the Population, Part 39, "Oregon" (U.S. Government Printing Office: Washington, D.C.: 1973), p. 39–47.

[2] U.S. Bureau of the Census, Census of Population: 1970; Subject Reports, Final Report PC(2)–1F, "American Indians" (Washington, D.C.: U.S. Government Printing Office: 1973), Table 2, "Age of the Indian Population by Sex and Urban and Rural Residence: 1970," p. 13.

[3] AAIA child-welfare survey questionnaire completed by Mr. George Boyles, Manager, Research and Statistics, Oregon Children's Services Division, July 16, 1976.

[4] National Center for Social Statistics, U.S. Department of Health, Education and Welfare, "Adoptions in 1974," DHEW Publication No. (SRS) 76–03259, NCSS Report E–10 (1974), April 1976, Table 10, "Children adopted by unrelated petitioners by age at time of placement, by State, 1974," p. 16. (Absolute numbers converted into percentages for purposes of this report.)

[5] 2% of the children were twelve years of age or older. The median age at time of placement of children adopted by unrelated petitioners in 1974 in Oregon was 3.9 months. *Ibid.*

[6] Questionnaire completed by Mr. George Boyles, *op. cit.*

[7] *Ibid.*

[8] *Ibid.*

III. COMBINED FOSTER CARE AND ADOPTIVE CARE

Using the above figures, a total of 649 Indian children are either in foster homes or in adoptive homes in the State of Oregon. This represents one in every 10.5 Indian children. Similarly, for non-Indians in the State, 45,218 under twenty-one year olds are either in foster care or adoptive care, representing one in every 17.7 non-Indian children.

Conclusion

By rate therefore Indian children are removed from their homes and placed in adoptive care or foster care 1.7 times (170 percent) as often as non-Indian children in Oregon. The similarity in adoption rates in Oregon dominates the combined rates given above, and leads to a combined rate of Indian children removed from their families that is—in comparison to other States with significant Indian populations—relatively low. This may be deceptive. It is likely that the vast majority of Indian adoptions reported by the Children's Services Division involve children adopted by unrelated petitioners. This report compares that figure with the total number of related and unrelated adoptions in Oregon. Of that total, 72 percent involve children adopted by related petitioners.[1] Were the adoption comparison to be made only on the basis of unrelated adoptions, the comparative rate for Indian adoptions and the combined rate for adoptive and foster care, would be several times higher than indicated here.

OREGON: APPENDIX

County-by-County Analysis of Oregon Foster Care Statistics

I. BAKER COUNTY

In Baker County, according to statistics from the Oregon Children's Services Division, there was one Indian child in foster care in January 1975.[1a] There are 16 Indian children under twenty-one years old in Baker County.[2] Thus one out of 16 Indian children is in foster care.

Conclusion.

In Baker county Indian children are in foster care at a per capita rate 14.3 times (1,430 percent) greater than the State-wide rate for non-Indians in Oregon.

II. BENTON COUNTY

In Benton County, according to statistics from the Oregon Children's Services Division, there were two Indian children in foster care in January 1975.* There are 75 Indian children under twenty-one years old in Benton County.† Thus one out of every 38 Indian children is in foster care.

Conclusion

In Benton County Indian children are in foster care at a per capita rate 6.0 times (600 percent) greater than the State-wide rate for non-Indians in Oregon.

III. CLACKAMAS COUNTY

In Clackamas County, according to statistics from the Oregon Children's Services Division, there were seven Indian children in foster care in January 1975.* There are 304 Indian children under twenty-one years old in Clackamas County.†

Thus one out of every 43.4 Indian children is in foster care.

[1] "Adoptions in 1974," op. cit. Table 1, "Children for whom adoption petitions were granted," p. 7.

[1a] AAIA child-welfare survey questionnaire completed by Mr. George Boyles, Manager of Research and Statistics, Oregon Children's Services Division, July 16, 1976.

[2] 51.8% of the Oregon Indian population is under twenty-one years old. [U.S. Bureau of the Census, Census of Population: 1970; Subject Report PC(2)–1F. "American Indians" (Washington, D.C.: U.S. Government Printing Office: 1973), Table 2, "Age of the Indian Population by Sex and Urban and Rural Residence: 1970," p. 13.] The total Indian population of Baker County is 31. [U.S. Bureau of the Census, Census of the Population: 1970 Supplementary Report PC(S1)–104. "Race of the Population by County:" 1970 (Washington, D.C.: U.S. Government Printing Office: 1975), p. 38.] 31 x .518=16. The same formula is used to determine the Indian under twenty-one year old population in the other Oregon counties.

*AAIA Questionnaire, *op. cit.*

†Race of the Population by County: *op. cit.* 1970: 6, 7.

Conclusion

In Clackamas County Indian children are in foster care at a per capita rate 5.3 times (530 percent) greater than the State-wide rate for non-Indians in Oregon.

IV. CLATSOP COUNTY

In Clatsop County, according to statistics from the Oregon Children's Services Division, there were four Indian children in foster care in January 1975.* There are 64 Indian children under twenty-one years old in Clatsop County.† Thus one out of every 16 Indian children is in foster care.

Conclusion

In Clatsop County Indian children are in foster care at a per capita rate 14.3 times (1,430 percent) greater than the State-wide rate for non-Indians in Oregon.

V. COLUMBIA COUNTY

In Columbia County, according to statistics from the Oregon Children's Services Division, there was one Indian child in foster care in January 1975.* There are 46 Indian children under twenty-one years old in Columbia County.† Thus one out of 46 Indian children is in foster care.

Conclusion

In Columbia County Indian children are in foster care at a per capita rate 5.0 times (500 percent) greater than the State-wide rate for non-Indians in Oregon.

VI. COOS COUNTY

In Coos County, according to statistics from the Oregon Children's Services Division, there was one Indian child in foster care in January 1973.* There are 188 Indian children under twenty-one years old in Coos County.†

VII. CROOK COUNTY

In Crook County, according to statistics from the Oregon Children's Services Division, there were no Indian children in foster care in January 1975.* There are 47 Indian children under twenty-one years old in Crook County.†

VIII. CURRY COUNTY

In Curry County, according to statistics from the Oregon Children's Services Division, there were no Indian children in foster care in January 1975.* There are 93 Indian children under twenty-one years old in Curry County.†

IX. DESCHUTES COUNTY

In Deschutes County, according to statistics from the Oregon Children's Services Division, there were four Indian children in foster care in January 1975.* There are 48 Indian children under twenty-one years old in Deschutes County.† Thus one out of every 12 Indian children is in foster care.

Conclusion

In Deschutes County Indian children are in foster care at a per capita rate 19.0 times (1,900 percent) greater than the State-wide rate for non-Indians in Oregon.

X. DOUGLAS COUNTY

In Douglas County, according to statistics from the Oregon Children's Services Division, there were no Indian children in foster care in January 1975.* There are 214 Indian children under twenty-one years in Douglas County.†

XI. GILLIAM COUNTY

In Gilliam County, according to statistics from the Oregon Children's Services Division, there were no Indian children in foster care in January 1975.* There are five Indian children under twenty-one years old in Gilliam County.†

*AAIA Questionnaire, *op. cit.*

†Race of the Population by County: *op. cit.* 1970: 6, 7.

XII. GRANT COUNTY

In Grant County, according to statistics from the Oregon Children's Services Division, there were no Indian children in foster care in January 1975.* There are 15 Indian children under twenty-one years old in Grant County.†

XIII. HARNEY COUNTY

In Harney County, according to statistics from the Oregon Children's Services Division, there were five Indian children in foster care in January 1975.* There are 66 Indian children under twenty-one years old in Harney County.† Thus one out of every 13 Indian children is in foster care.

Conclusion

In Harney County Indian children are in foster care at a per capita rate 17.6 times (1,760 percent) greater than the State-wide rate for non-Indians in Oregon.

XIV. HOOD RIVER COUNTY

In Hood River County, according to statistics from the Oregon Children's Services Division, there were no Indian children in foster care in January 1975.* There are 58 Indian children under twenty-one years old in Hood River County.†

XV. JACKSON COUNTY

In Jackson County, according to statistics from the Oregon Children's Services Division, there was one Indian child in foster care in January 1975.* There are 224 Indian children under twenty-one years old in Jackson County.† Thus one out of 224 Indian children is in foster care.

Conclusion

In Jackson County Indian children are in foster care at a per capita rate identical to the State-wide rate for non-Indians in Oregon.

XVI. JEFFERSON COUNTY

In Jefferson County, according to statistics from the Oregon Children's Services Division, there were 21 Indian children in foster care in January 1975.* There are 686 Indian children under twenty-one years old in Jefferson County.† Thus one out of every 33 Indian children is in foster care.

Conclusion

In Jefferson County Indian children are in foster care at a per capita rate 6.9 times (690 percent) greater than the State-wide rate for non-Indians in Oregon.

XVII. JOSEPHINE COUNTY

In Josephine County, according to statistics from the Oregon Children's Services Division, there were no Indian children in foster care in January 1975.* There are 122 Indian children under twenty-one years old in Josephine County.†

XVIII. KLAMATH COUNTY

In Klamath County, according to statistics from the Oregon Children's Services Division, there are 32 Indian children in foster care in January 1975.* There are 736 Indian children under twenty-one years old in Klamath County.† Thus one out of every 23 Indian children is in foster care.

Conclusion

In Klamath County Indian children are in foster care at a per capita rate 9.9 times (990%) greater than the State-wide rate for non-Indians in Oregon.

XIX. LAKE COUNTY

In Lake County, according to statistics from the Oregon Children's Services Division, there were no Indian children in foster care in January 1975.* There are 35 Indian children under twenty-one years old in Lake County.†

†Race of the Population by County : 1970, *op. cit.*
*AAIA Questionnaire, *op. cit.*

XX. LANE COUNTY

In Lane County, according to statistics from the Oregon Children's Services Division, there were three Indian children in foster care in January 1975.* There are 396 Indian children under twenty-one years old in Lane County.† Thus one out of every 132 Indian children is in foster care.

Conclusion

In Lane County Indian children are in foster care at a per capita rate 1.7 times (170%) the State-wide rate for non-Indians in Oregon.

XXI. LINCOLN COUNTY

In Lincoln County, according to statistics from the Oregon Children's Services Division, there was one Indian child in foster care in January 1975.* There are 165 Indian children under twenty-one years old in Lincoln County.† Thus one out of 165 Indian children is in foster care.

Conclusion

In Lincoln County, Indian children are in foster care at a per capita rate 1.4 times (140 percent) the State-wide rate for non-Indians in Oregon.

XXII. LINN COUNTY

In Linn County, according to statistics from the Oregon Children's Services Division, there was one Indian child in foster care in January 1975.* There are 148 Indian children under twenty-one years old in Linn County.† Thus one out of 148 Indian children is in foster care.

Conclusion

In Linn County Indian children are in foster care at a per capita rate 1.5 times (150%) the State-wide rate for non-Indians in Oregon.

XXIII. MALHEUR COUNTY

In Malheur County, according to statistics from the Oregon Children's Services Division, there were no Indian children in foster care in January 1975.* There are 43 Indian children under twenty-one years old in Malheur County.†

XXIV. MARION COUNTY

In Marion County, according to statistics from the Oregon Children's Services Division, there were 20 Indian children in foster care in January 1975.* There are 429 Indian children under twenty-one years old in Marion County.† Thus one out of every 21 Indian children is in foster care.

Conclusion

In Marion County Indian children are in foster care at a per capita rate 10.9 times (1,090%) greater than the State-wide rate for non-Indians in Oregon.

XXV. MORROW COUNTY

In Morrow County, according to statistics from the Oregon Children's Services Division, there were no Indian children in foster care in January 1975.* There are 15 Indian children under twenty-one years old in Morrow County.†

XXVI. POLK COUNTY

In Polk County, according to statistics from the Oregon Children's Services Division, there were no Indian children in foster care in January 1975.* There are 143 Indian children under twenty-one-years old in Polk County.†

XXVII. SHERMAN COUNTY

In Sherman County, according to statistics from the Oregon Children's Services Division, there were no Indian children in foster care in January 1975.* There are 12 Indian children under twenty-one years old in Sherman County.†

*AAIA Questionnaire, *op. cit.*
†Race of the Population by County : 1970, *op. cit.*

XXVIII. TILLAMOOK COUNTY

In Tillamook County, according to statistics from the Oregon Children's Services Division, there was one Indian child in foster care in January 1975.* There are 61 Indian children under twenty-one years old in Tillamook County.† Thus one out of 61 Indian children is in foster care.

Conclusion

In Tillamook County Indian children are in foster care at a per capita rate 3.7 times (370 percent) greater than the State-wide rate for non-Indians in Oregon.

XXIX. UMATILLA COUNTY

In Umatilla County, according to statistics from the Oregon Children's Services Division, there were 23 Indian children in foster care in January 1975.* There are 506 Indian children under twenty-one years old in Umatilla County.† Thus one out of every 22 Indian children is in foster care.

Conclusion

In Umatilla County Indian children are in foster care at a per capita rate 10.4 times (1,040 percent) greater than the State-wide rate for non-Indians in Oregon.

XXX. UNION COUNTY

In Union County, according to statistics from the Oregon Children's Services Division, there were no Indian children in foster care in January 1975.* There are 44 Indian children under twenty-one years old in Union County.†

XXXI. WALLOWA COUNTY

In Wallowa County, according to statistics from the Oregon Children's Services Division, there were no Indian children in foster care in January 1975.* There are six Indian children under twenty-one years old in Wallowa County.†

XXXII. WASCO COUNTY

In Wasco County, according to statistics from the Oregon Children's Services Division, there were six Indian children in foster care in January 1975.* There are 248 Indian children under twenty-one years old in Wasco County.† Thus one out of every 41 Indian children is in foster care.

Conclusion

In Wasco County Indian children are in foster care at a per capita rate 5.6 times (560 percent) greater than the State-wide rate for non-Indians in Oregon.

XXXIII. WASHINGTON COUNTY

In Washington County, according to statistics from the Oregon Children's Services Division, there were no Indian children in foster care in January 1975.* There are 183 Indian children under twenty-one years old in Washington County.†

XXXIV. WHEELER COUNTY

In Wheeler County, according to statistics from the Oregon Children's Services Division, there were no Indian children in foster care in January 1975.* There are two Indian children under twenty-one years old in Wheeler County.†

XXXV. YAMHILL COUNTY

In Yamhill County, according to statistics from the Oregon Children's Services Division, there was one Indian child in foster care in January 1975.* There are 173 Indian children under twenty-one years old in Yamhill County.† Thus one out of 173 Indian children is in foster care.

Conclusion

In Yamhill County Indian children are in foster care at a per capita rate 1.3 times (130 percent) the State-wide rate for non-Indians in Oregon.

*AAIA Questionnaire, *op. cit.*
†Race of the Population by County: 1970, *op. cit.*

XXXVI. MULTNOMAH COUNTY

In Multnomah County, according to statistics from the Oregon Children's Services Division, there were 38 Indian children in foster care in January 1975.* There are 1,385 Indian children in Multnomah County.† Thus one out of every 36.4 Indian children is in foster care.

Conclusion

In Multnomah County Indian children are in foster care at a per capita rate 6.3 times (630 percent) the State-wide rate for non-Indians in Oregon.

*AAIA Questionnaire, *op. cit.*
†Race of the Population by County: 1970, *op. cit.*

South Dakota Adoption and Foster Care Statistics

Basic Facts

1. There are 279,136 under twenty-one year olds in South Dakota.[1]
2. There are 18,322 under twenty-one year old American Indians in South Dakota.[2]
3. There are 260,814 non-Indians under twenty-one in South Dakota.

I. ADOPTION

In the State of South Dakota, according to the South Dakota Department of Social Services, there were an average of 63 adoptions per year of American Indian children from 1970–1975.[3] Using South Dakota's own age-at-adoption figures reported to the National Center for Social Statistics of the U.S. Department of Health, Education, and Welfare,[4] 81 percent (or 51) are under one year of age when placed. Another 6 percent (or four) are one year to less than two years old when placed; 7 percent (or four) are two years to less than six years old when placed; 4 percent (or three) are between six and twelve years old; and 2 percent (or one) are twelve years and over.[5] Using the formula then that: 51 Indian children per year are placed in adoption for at least 17 years, four Indian children are placed in adoption for 16.5 years, four Indian children are placed in adoption for an average of 14 years, three Indian children are placed in adoption for an average of nine years, and one Indian child is placed in adoption for an average of three years; there are 1,019 Indians under twenty-one year olds in adoption at any one time in the State of South Daokta. This represents one out of every 18 Indian children in the State.

Using the same formula for non-Indians (there were an average of 561 adoptions per year of non-Indian children from 1970–1975) [6] there are 9,073 non-Indian children in adoptive homes in South Dakota, or one out of every 28.7 non-Indian children.

Conclusion

There are therefore by proportion 1:6 times (160 percent) as many Indian children as non-Indian children in adoption in South Dakota.

II. FOSTER CARE

According to statistics from the South Dakota Department of Social Services, there were 521 Indian children in State-administered foster care in October 1974.[7] In addition, there were 311 South Dakota Indian children receiving foster care from the U.S. Bureau of Indian Affairs in October 1974.[8] The combined total of 832 Indian children in foster care represents one out of every 22 Indian children in the State. By comparison there were 530 non-Indian children in State-administered foster care in October 1974,[9] representing one out of every 492.1 non-Indian children.

Conclusion

There are therefore by proportion 22.4 times (2,240 percent) as many Indian children as non-Indian children in foster care in South Dakota.

III. COMBINED ADOPTIVE CARE AND FOSTER CARE

Using the above figures, a total of 1,851 under twenty-one year old Indian children are either in foster homes or adoptive homes in the State of South Dakota. This represents one out of every 0.9 Indian children. Similarly for non-Indians in the State 9,603 under twenty-one year olds are either in foster care or adoptive care, representing one out of every 27.2 non-Indian children.

Conclusion

By per capita rate Indian children are removed from their homes and placed in adoptive care or foster care 2.7 times (270 percent) more often than non-Indian children in the State of South Dakota.

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[1] U.S. Bureau of the Census, Census of Population: 1970, Volume I, Characteristics of the Population, Part 43, "South Dakota" (Washington, D.C.: U.S. Government Printing Office: 1973), p. 43–47.

[2] U.S. Bureau of the Census, Census of Population: 1970; Subject Reports, Final Report PC(2)–1F, "American Indians" (Washington, D.C.: U.S. Government Printing Office: 1973). Table 2, "Age of the Indian Population by Sex and Urban and Rural Residence: 1970," p. 14.

[3] Telephone interviews with Dr. James Marquart, Office on Children and Youth, South Dakota Department of Social Services, July 19–20, 1976.

[4] National Center for Social Statistics, U.S. Department of Health, Education, and Welfare, "Adoptions in 1974," DHEW Publication No. (SRS) 76–03259, NCSS Report E–10 (1974), April 1976. Table 10, "Children adopted by unrelated petitioners by age at time of placement, by State, 1974," p. 16. (Absolute numbers converted into percentages for purposes of this report.)

[5] The median age at time of placement of children adopted by unrelated petitioners in 1974 in South Dakota was 2.5 months. Ibid., p. 15.

[6] Telephone interview with Dr. James Marquart, *op. cit.*

[7] *Ibid.*

[8] Telephone interviews with Mr. Roger Lonnevik and Ms. Beverly Haug, Division of Social Services, U.S. Bureau of Indian Affairs Aberdeen Area Office, July 20–21, 1976. The BIA had 358 South Dakota Indian children in foster care in October 1974. 47 Indian children were in foster care administered by the State, but paid for by the BIA. 358–47=311.

[9] Telephone interviews with Dr. James Marquart, *op. cit.*

South Dakota Adoption and Foster Care Statistics

Basic Facts

1. There are 279,136 under twenty-one year olds in South Dakota.[1]
2. There are 18,322 under twenty-one year old American Indians in South Dakota.[2]
3. There are 260,814 non-Indians under twenty-one in South Dakota.

I. ADOPTION

In the State of South Dakota, according to the South Dakota Department of Social Services, there were an average of 63 adoptions per year of American Indian children from 1970–1975.[3] Using South Dakota's own age-at-adoption figures reported to the National Center for Social Statistics of the U.S. Department of Health, Education, and Welfare,[4] 81 percent (or 51) are under one year of age when placed. Another 6 percent (or four) are one year to less than two years old when placed; 7 percent (or four) are two years to less than six years old when placed; 4 percent (or three) are between six and twelve years old; and 2 percent (or one) are twelve years and over.[5] Using the formula then that: 51 Indian children per year are placed in adoption for at least 17 years, four Indian children are placed in adoption for 16.5 years, four Indian children are placed in adoption for an average of 14 years, three Indian children are placed in adoption for an average of nine years, and one Indian child is placed in adoption for an average of three years; there are 1,019 Indians under twenty-one year olds in adoption at any one time in the State of South Daokta. This represents one out of every 18 Indian children in the State.

Using the same formula for non-Indians (there were an average of 561 adoptions per year of non-Indian children from 1970–1975) [6] there are 9,073 non-Indian children in adoptive homes in South Dakota, or one out of every 28.7 non-Indian children.

Conclusion

There are therefore by proportion 1:6 times (160 percent) as many Indian children as non-Indian children in adoption in South Dakota.

II. FOSTER CARE

According to statistics from the South Dakota Department of Social Services, there were 521 Indian children in State-administered foster care in October 1974.[7] In addition, there were 311 South Dakota Indian children receiving foster care from the U.S. Bureau of Indian Affairs in October 1974.[8] The combined total of 832 Indian children in foster care represents one out of every 22 Indian children in the State. By comparison there were 530 non-Indian children in State-administered foster care in October 1974,[9] representing one out of every 492.1 non-Indian children.

Conclusion

There are therefore by proportion 22.4 times (2,240 percent) as many Indian children as non-Indian children in foster care in South Dakota.

III. COMBINED ADOPTIVE CARE AND FOSTER CARE

Using the above figures, a total of 1,851 under twenty-one year old Indian children are either in foster homes or adoptive homes in the State of South Dakota. This represents one out of every 9.9 Indian children. Similarly for non-Indians in the State 9,603 under twenty-one year olds are either in foster care or adoptive care, representing one out of every 27.2 non-Indian children.

Conclusion

By per capita rate Indian children are removed from their homes and placed in adoptive care or foster care 2.7 times (270 percent) more often than non-Indian children in the State of South Dakota.

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[1] U.S. Bureau of the Census, Census of Population: 1970, Volume I, Characteristics of the Population, Part 43, "South Dakota" (Washington, D.C.: U.S. Government Printing Office: 1973), p. 43–47.

[2] U.S. Bureau of the Census, Census of Population: 1970; Subject Reports, Final Report PC(2)–1F, "American Indians" (Washington, D.C.: U.S. Government Printing Office: 1973). Table 2, "Age of the Indian Population by Sex and Urban and Rural Residence: 1970," p. 14.

[3] Telephone interviews with Dr. James Marquart, Office on Children and Youth, South Dakota Department of Social Services, July 19–20, 1976.

[4] National Center for Social Statistics, U.S. Department of Health, Education, and Welfare, "Adoptions in 1974," DHEW Publication No. (SRS) 76–03259, NCSS Report E-10 (1074), April 1976. Table 10, "Children adopted by unrelated petitioners by age at time of placement, by State, 1974," p. 16. (Absolute numbers converted into percentages for purposes of this report.)

[5] The median age at time of placement of children adopted by unrelated petitioners in 1974 in South Dakota was 2.5 months. Ibid., p. 15.

[6] Telephone interview with Dr. James Marquart, *op. cit.*

[7] *Ibid.*

[8] Telephone interviews with Mr. Roger Lonnevik and Ms. Beverly Haug, Division of Social Services, U.S. Bureau of Indian Affairs Aberdeen Area Office, July 20–21, 1976. The BIA had 358 South Dakota Indian children in foster care in October 1974. 47 Indian children were in foster care administered by the State, but paid for by the BIA. 358–47=311.

[9] Telephone interviews with Dr. James Marquart, *op. cit.*

UTAH INDIAN ADOPTION AND FOSTER CARE STATISTICS

Basic Facts

1. There are 488,924 under twenty-one year olds in Utah.[1]
2. There are 6,690 under twenty-one year old American Indians in Utah.[2]
3. There are 482,234 non-Indians under twenty-one years old in Utah.

I. ADOPTION

In the State of Utah, according to the Utah Department of Social Services, there were 20 Indian children placed for adoption in 1975.[3] Using the State's own age-at-adoption figures reported to the National Center for Social Statistics of the U.S. Department of Health, Education, and Welfare,[4] we can estimate that 86 percent (or 17) are under one year of age when placed. One child is between one and two years old; one child is between two and six years old; and one child is between six and twelve years old.[5] Using the formula then that: 17 Indian children are placed in adoption for at least 17 years, and three Indian children are placed in adoption for a minimum average of 13 years, there are 328 Indians under twenty-one years old in adoption in Utah. This represents one out of every 20.4 Indian children in the State.

Using the same formula for non-Indians (there were 428 non-Indian children placed for adoption in Utah in 1975),[6] there are 7,040 under twenty-one year old non-Indians in adoption in Utah. This represents one out of every 68.5 non-Indian children in the State.

Conclusion

There are therefore by proportion 3.4 times (340 percent) as many Indian children as non-Indian children in adoptive homes in Utah.

II. FOSTER CARE

In the State of Utah, according to the Utah Department of Social Services, there were 249 Indian children in foster care in May 1976.[7] This represents one out of every 26.9 Indian children in the State. By comparison, there were 1,197 non-Indian children in foster care in May 1976,[8] representing one out of every 402.9 non-Indian children in the State.

[1] U.S. Bureau of the Census, Census of Population: 1970, Volume I, Characteristics of the Population, Part 46, "Utah" (Washington, D.C.: U.S. Government Printing Office: 1973), p. 46–39.

[2] U.S. Bureau of the Census, Census of Population: 1970; Subject Reports, Final Report PC(2)–1F, "American Indians" (Washington, D.C.: U.S. Government Printing Office: 1973). Table 2, "Age of the Indian Population by Sex and Urban and Rural Residence: 1970," p. 15.

[3] Telephone interview with Mr. Dick Wheelock, Research Analyst, Utah Department of Social Services, July 14, 1976.

[4] National Center for Social Statistics, U.S. Department of Health, Education and Welfare. "Adoptions in 1974." DHEW Publication No. (SRS) 76–03259, NCSS Report E–10 (1974), April 1976. Table 10, "Children adopted by unrelated petitioners by age at time of placement, by State, 1974," p. 16. (Absolute numbers converted into percentages for purposes of this report.) The ages and percentages are: under one year, 86 percent; between one and two, 3 percent; between two and six, 5 percent; between six and twelve, 5 percent; twelve and older, 1 percent. Multiplying the total number of adoptions in 1975 by these percentages and rounding off to the nearest whole number yields the figures that follow in the body of this report.

[5] The median age for children placed in adoption in Utah is less than one month. *Ibid.*, p. 15.

[6] Telephone interview with Mr. Dick Wheelock, Research Analyst, Utah Department of Social Services, July 14, 1976.

[7] Letter from Ms. Mary Lines, MSW, Program Specialist, Utah Department of Social Services, July 2, 1976.

[8] *Ibid.* Confirmed by telephone interview with Mr. Dick Wheelock, Utah Department of Social Services, July 14, 1976.

Conclusion

There are therefore by proportion 15 times (1,500 percent) as many Indian children as non-Indian children in foster care in Utah. 88% of the Indian children in foster care are in non-Indian homes.[1]

III. COMBINED FOSTER CARE AND ADOPTIVE CARE

Using the above figures, a total of 577 under twenty-one year old Indian children are either in foster homes or adoptive homes in the State of Utah. This represents one in every 11.6 Indian children. Similarly for non-Indians in the State 8,237 under twenty-one year olds are either in foster care or adoptive care, representing one in every 58.5 non-Indian children.

Conclusion

By rate Indian children are removed from their homes and placed in adoptive care or foster care 5 times (500 percent) more often than non-Indian children in the State of Utah.

APPENDIX

County-by-County Analysis of Utah Foster Care Statistics

I. BOX ELDER, CACHE, AND RICH COUNTIES

In Box Elder, Cache, and Rich counties, according to statistics from the Utah Department of Social Services, there were 14 Indian children in State-administered foster care in May 1976.[1a] There are 437 Indian children under twenty-one-years-old in these three counties.[2] Thus one in every 31.2 Indian children is in foster care.

Conclusion

In Box Elder, Cache and Rich counties Indian children are in State-administered foster care at a per capita rate 12.9 times (1,290 percent) greater than the State-wide rate for non-Indians in Utah.

II. DAVIS, MORGAN AND WEBER COUNTIES

In Davis, Morgan and Weber counties, according to statistics from the Utah Department of Social Services, there were nine Indian children in State-administered foster care in May 1976.[3] There are 573 Indian children under twenty-one years old in these three counties.[4] Thus one in every 63.7 Indian children is in foster care.

Conclusion

In Davis, Morgan and Weber counties Indian children are in State-administered foster care at a per capita rate 6.3 times (630 percent) greater than the State-wide rate for non-Indians in Utah.

III. SALT LAKE AND TOOELE COUNTIES

In Salt Lake and Tooele counties, according to statistics from the Utah Department of Social Services, there were 13 Indian children in State-administered foster care in May 1976.[5] There are 1,205 Indian children under twenty-one

[1] Letter from Ms. Mary Lines, MSW, *op. cit.*

[1a] Letter from Ms. Mary Lines, MSW, Program Specialist, Utah Department of Social Services, July 2, 1976. These counties comprise District I of the Utah Department of Social Services.

[2] 63.4 percent of the Utah Indian population is under twenty-one years old. [U.S. Bureau of the Census, Census of Population: 1970; Subject Report PC(2)–1F, "American Indians" (Washington, D.C.: U.S. Government Printing Office: 1973). Table 2, "Age of the Indian Population by Sex and Urban and Rural Residence: 1970," p. 15.] The total Indian population of Box Elder, Cache and Rich counties is 690. [U.S. Bureau of the Census, Census of Population: 1970 Supplementary Report PC(S1)–104, "Race of the Population by County: 1970" (Washington, D.C.: U.S. Government Printing Office: 1975), p. 47.] 690 times .634 equals 437. The same formula is used to determine the Indian under twenty-one year old population in the other Utah counties.

[3] Letter from Ms. Mary Lines, MSW, *op. cit.* These counties comprise District II–A of the Utah Department of Social Services.

[4] "Race of the Population by County: 1970," *op. cit.*, p. 47.

[5] Letter from Ms. Mary Lines, MSW, *op. cit.* These counties comprise District II–B of the Utah Department of Social Services.

years old in these two counties.[6] Thus one in every 92.7 Indian children is in foster care.

Conclusion

In Salt Lake and Tooele counties Indian children are in State-administered foster care at a per capita rate 4.3 times (430 percent) greater than the State-wide rate for non-Indians in Utah.

IV. SUMMIT, UTAH AND WASATCH COUNTIES

In Summit, Utah and Wasatch counties, according to statistics from the Utah Department of Social Services, there were 15 Indian children in State-administered foster care in May 1976.[7] There are 397 Indian children under twenty-one years old in these three counties.[8] Thus one in every 26.5 Indian children is in foster care.

Conclusion

In Summit, Utah and Wasatch counties Indian children are in State-administered foster care at a per capita rate 15.2 times (1,520 percent) greater than the State-wide rate for non-Indians in Utah.

V. JUAB, MILLARD, PIUTE, SANPETE, SEVIER, AND WAYNE COUNTIES

In Juab, Millard, Piute, Sanpete, Sevier and Wayne counties, according to statistics from the Utah Department of Social Services, there were 21 Indian children in State-administered foster care in May 1976.[9] There are 158 Indian children under twenty-one years old in these six counties.[10] Thus one in every 7.5 Indian children is in foster care.

Conclusion

In Juab, Millard, Piute, Sanpete, Sevier and Wayne counties Indian children are in State-administered foster care at a per capita rate 53.7 times (5,370 percent) greater than the State-wide rate for non-Indians in Utah.

VI. BEAVER, GARFIELD, IRON, KANE AND WASHINGTON COUNTIES

In Beaver, Garfield, Iron, Kane, and Washington counties, according to statistics from the Utah Department of Social Services, there were 19 Indian children in State-administered foster care in May 1976.[11] There are 276 Indian children under twenty-one years old in these five counties.[12] Thus one in every 14.5 Indian children is in foster care.

Conclusion

In Beaver, Garfield, Iron, Kane, and Washington counties Indian children are in State-administered foster care at a per capita rate 27.8 times (2,780 percent) greater than the State-wide rate for non-Indian in Utah.

VII. DAGGETT, DUCHESNE AND UINTAH COUNTIES

In Daggett, Duchesne and Uintah counties, according to statistics from the Utah Department of Social Services, there were 73 Indian children in State-administered foster care in May 1976.[13] There are 1,059 Indian children under twenty-one years old in these three counties.[14] Thus one in every 14.5 Indian children is in foster care.

[6] "Race of the Population by County: 1970," *op. cit.*, p. 47.
[7] Letter from Ms. Mary Lines, MSW, *op. cit.* These counties comprise District III of the Utah Department of Social Services.
[8] "Race of the Population by County: 1970," *op. cit.*, p. 47.
[9] Letter from Ms. Mary Lines, MSW, *op. cit.* These counties comprise District IV of the Utah Department of Social Services.
[10] "Race of the Population by County: 1970," *op. cit.*, p. 47.
[11] Letter from Ms. Mary Lines, MSW, *op. cit.* These counties comprise District V of the Utah Department of Social Services.
[12] "Race of the Population by County: 1970," *op. cit.*, p. 47.
[13] Letter from Ms. Mary Lines, MSW, *op. cit.* These counties comprise District VI of the Utah Department of Social Services.
[14] "Race of the Population by County: 1970," *op. cit.*, p. 47.

Conclusion

In Daggett, Duchesne and Uintah counties Indian children are in State-administered foster care at a per capita rate 27.8 times (2,780 percent) greater than the State-wide rate for non-Indian children.

VIII. CARBON, EMERY AND GRAND COUNTIES

In Carbon, Emery and Grand counties, according to statistics from the Utah Department of Social Services, there were four Indian children in State-administered foster care in May 1976.[15] There are 37 Indian children under twenty-one years old in these three counties.[16] Thus one in every 9.3 Indian children is in foster care.

Conclusion

In Carbon, Emery and Grand counties Indian children are in State-administered foster care at a per capita rate 43.3 times (4,330 percent) greater than the State-wide rate for non-Indians in Utah.

IX. SAN JUAN COUNTY

In San Juan County, according to statistics from the Utah Department of Social Services, there were 81 Indian children in State-administered foster care in May 1976.[17] There are 3,005 Indian children under twenty-one years old in the County.[18] Thus one in every 37.1 Indian children is in foster care.

Conclusion

In San Juan County, Indian children are in State-administered foster care at a per capita rate 10.9 times (1,090 percent) greater than the Statewide rate for non-Indians in Utah.

[15] Letter from Ms. Mary Lines, MSW, *op. cit.* These three counties comprise District VII-A of the Utah Department of Social Services.
[16] "Race of the Population by County: 1970," *op. cit.*, p. 47.
[17] Letter from Ms. Mary Lines, MSW, *op. cit.* San Juan County comprises District VII-B of the Utah Department of Social Services.
[18] "Race of the Population by County: 1970," *op. cit.*, p. 47.

Washington Indian Adoption and Foster Care Statistics

Basic Facts

1. There are 1,351,455 under twenty-one year olds in the State of Washington.[1]
2. There are 15,980 under twenty-one year old American Indians in the State of Washington.[2]
3. There are 1,335,475 non-Indians under twenty-one in the State of Washington.

I. Adoption

In the State of Washington, according to the Washington Department of Social and Health Services, 48 Indian children were placed for adoption by public agencies in 1972.[3] Using State figures reported to the National Center for Social Statistics of the U.S. Department of Health, Education and Welfare,[4] we can estimate that 69 percent (or 33) are under one year of age when placed. Another 21 percent (or ten) are one year to less than six years old when placed; 8 percent (or four) are six years, but less than twelve when placed; and 2 percent (or one) are twelve years and over.[5] Using the formula then that: 33 Indian children are placed in adoption for at least 17 years, ten Indian children are placed in adoption for a minimum average of 14 years, four Indian children are placed in adoption for an average of nine years, and one Indian child is placed for adoption for an average of three years; there are an estimated 740 Indian children in adoption in Washington. This represents one out of every 21.6 Indian children in the State.

Using the same formula for non-Indians (213 non-Indian children were placed for adoption by public agencies in Washington in 1972),[6] there are an estimated 3,294 under twenty-one year old non-Indians in adoption in Washington. This represents one out of every 405.4 non-Indian children.

Conclusion

There are therefore by proportion 18.8 times (1,880 percent) as many Indian children as non-Indian children in adoptive homes in Washington; 69 percent of the Indian children placed for adoption in 1972 were placed in non-Indian homes.[7]

II. Foster Care

According to statistics from the Washington Department of Social and Health Services there were 558 Indian children in foster homes in February 1973.[8] This represents one out of every 28.6 Indian children in the State. By comparison there were 4,873 non-Indian children in foster homes in February 1973,[9] representing one out of every 274.1 non-Indian children.

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[1] U.S. Bureau of the Census, Census of Population: 1970, Volume I, Characteristics of the Population, Part 49, "Washington" (U.S. Government Printing Office: Washington, D.C.: 1973), p. 49–43.

[2] U.S. Bureau of the Census, Census of Population: 1970; Subject Reports, Final Report PC(2)–1F, "American Indians" (Washington, D.C.: U.S. Government Printing Office: 1973), Table 2, "Age of the Indian Population by Sex and Urban and Rural Residence: 1970," p. 16.

[3] Letter and AAIA child-welfare survey questionnaire submitted by Dr. Robert J. Shearer, Assistant Secretary, Social Services Division, Washington Department of Social and Health Services, April 4, 1973.

[4] National Center for Social Statistics, U.S. Department of Health, Education and Welfare, "Adoptions in 1974," DHEW Publication No. (SRS) 76–03259, NCSS Report E–10 (1974), April 1976. Table 10, "Children adopted by unrelated petitioners by age at time of placement, by State, 1974," p. 16. (Absolute numbers converted into percentages for purposes of this report.)

[5] The median age at time of placement of children adopted by unrelated petitioners in 1974 in Washington was 3.6 months. *Ibid.*, p. 15.

[6] Dr. Robert J. Shearer, *op. cit.*

[7] *Ibid.*

[8] *Ibid.*

[9] *Ibid.*

Conclusion

By per capita rate therefore Indian children are placed in foster homes 9.6 times (960 percent) as often as non-Indian children in the State of Washington.

III. Combined Foster Care and Adoptive Care

Using the above figures, a total of 1,298 under twenty-one year old Indian children are either in foster homes or adoptive homes in the State of Washington. This represents one out of every 12.3 Indian children. Similarly for non-Indians in the State, 8,167 under twenty-one year olds are either in foster homes or adoptive homes, representing one out of every 163.5 non-Indian children.

Conclusion

By per capita rate Indian children are removed from their homes and placed in adoptive homes or foster homes 13.3 times (1,330 percent) more often than non-Indian children in the State of Washington.

Wisconsin Indian Adoption and Foster Care Statistics

Basic Facts

1. There are 1,824,713 under twenty-one year olds in the State of Wisconsin.[1]
2. There are 10,176 under twenty-one-year-old American Indians in the State of Wisconsin.[2]
3. There are 1,814,537 non-Indians under twenty-one in Wisconsin.

I. ADOPTION

In the State of Wisconsin, according to the Wisconsin Department of Health and Social Services, there were an average of 48 Indian children per year placed in non-related adoptive homes by public agencies from 1966–1970.[3] Using the State's own figures,[4] 69 percent (or 33) are under one year of age when placed. Another 11 percent (or five) are one or two years old; 9 percent (or four) are three, four, or five years old; and 11 percent (or six) are over the age of five. Using the formula then that : 33 Indian children per year are placed in adoption for at least 17 years; five Indian children are placed in adoption for a minimum average of 16 years; four Indian children are placed in adoption for an average of 14 years; and six Indian children are placed in adoption for six years; there are an estimated 733 Indian children under twenty-one years old in nonrelated adoptive homes at any one time in the State of Wisconsin. This represents one out of every 13.9 Indian children in the State.

Using the same formula for non-Indians (an average of 473 non-Indian children per year were placed in non-related adoptive homes by "public agencies from 1966–1970),[5] there are an estimated 7,288 non-Indians under twenty-one years old in non-related adoptive homes in Wisconsin. This represents one out of every 249 non-Indian children in the State.

Conclusion

There are therefore by proportion 17.9 times (1,790 percent) as many Indian children as non-Indian children in non-related adoptive homes in Wisconsin.

II. FOSTER CARE

In the State of Wisconsin, according to the Wisconsin Department of Health and Social Services, there were 545 Indian children in foster care in March 1973.[6] This represents one out of every 18.7 Indian children. By comparison, there were 7,266 non-Indian children in foster care in March 1973,[7] representing one out of every 250 non-Indian children.

Conclusion

There are therefore by proportion 13.4 times (1,340 percent) as many Indian children as non-Indian children in foster care in the State of Wisconsin.

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[1] U.S. Bureau of the Census, Census of Population: 1970, Volume I, Characteristics of the Population, Part 51, "Wisconsin" (U.S. Government Printing Office: Washington, D.C.: 1973), p. 51–60.

[2] U.S. Bureau of the Census, Census of Population: 1970; Subject Reports, Final Report PC(2)–1F, "American Indians" (Washington, D.C.: U.S. Government Printing Office: 1973), Table 2, "Age of the Indian Population by Sex and Urban and Rural Residence: 1970," p. 16.

[3] Letter and statistics from Mr. Frank Newgent, Administrator, Division of Family Services, Wisconsin Department of Health and Social Services, April 25, 1973.

[4] *Ibid.*

[5] *Ibid.*

[6] *Ibid.*

[7] National Center for Social Statistics, U.S. Department of Health, Education and Welfare, "Children Served by Public Welfare Agencies and Voluntary Child Welfare Agencies and Institutions, March 1973," DHEW Publication No. (SRS) 76–03258, NCSS Report E–9 (3/73), November 1975. Table 4, p. 10.

III. COMBINED FOSTER CARE AND ADOPTIVE CARE

Using the above figures, a total of 1,278 under twenty-one year old American Indian children are either in foster care or adoptive homes in the State of Wisconsin. This represents one out of every 8 Indian children. A total of 14,554 non-Indian children are in foster care or adoptive homes, representing one out of every 124.7 non-Indian children.

Conclusion

By per capita rate Indian children are removed from their homes and placed in adoptive homes or foster care 15.6 times (1,560 percent) more often than non-Indian children in the State of Wisconsin.

The Wisconsin statistics do not include adoption placements made by private agencies, and therefore are minimum figures.

Wyoming Adoption and Foster Care Statistics

Basic Facts

1. There are 137,339 under twenty-one year olds in Wyoming.[1]
2. There are 2,832 under twenty-one year old American Indians in Wyoming.[2]
3. There are 134,507 non-Indians under twenty-one in Wyoming.

I. ADOPTION

In the State of Wyoming, according to the Wyoming State Division of Social Services, there were an average of six adoptions per year of Indian children from 1972–1975.[3] This data base is too small to allow realistic projection of the total number of Indian children in adoptive care. We can say though that during 1972–1975, 0.8 percent of Wyoming Indian children were placed for adoption.

During 1972–1975, according to the Wyoming State Division of Social Services, an average of 73 non-Indian children were placed for adoption in Wyoming.[4] Thus, during 1972–1975, 0.2 percent of Wyoming non-Indian children were placed for adoption.

Conclusion

Based on the four year period 1972–1975, Indian children were placed for adoption at a per capita rate four times (400%) greater than that for non-Indians.

II. FOSTER CARE

According to statistics from the Wyoming State Division of Social Services, there were 24 Indian children in foster care in June 1976.[5] An additional 74 Indian children were in foster care administered by the U.S. Bureau of Indian Affairs.[6]

The combined total of 98 represents one out of every 28.9 Indian children in the State. By comparison, there were 446 non-Indian children in foster care in May 1976,[7] representing one out of every 301.6 non-Indian children.

Conclusion

There are therefore by proportion 10.4 times (1,040 percent) as many Indian children as non-Indian children in foster care in Wyoming; 57 percent of the children in State-administered foster family care are in non-Indian homes.[8] 51 percent of the children in BIA-administered foster family care are in non-Indian homes.[9]

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[1] U.S. Bureau of the Census, Census of Population: 1970. Volume I, Characteristics of the Population, Part 52, "Wyoming" (U.S. Government Printing Office: Washington, D.C.: 1973), p. 52–30.

[2] *Ibid.*, p. 52–30 (Table 19), p. 52–189 (Table 139). Indian people comprise 59.2 percent of the total non-white population according to Table 139. According to Table 19 there are 4,783 non-whites under twenty-one. 4,783 times .592 equals 2,832.

[3] Telephone interview with Mr. John Steinberg, Director of Adoptions, Wyoming State Division of Social Services, July 15, 1976. A total of 22 Indian children were placed for adoption during these four years.

[4] *Ibid.* A total of 293 non-Indian children were placed for adoption during these four years.

[5] Telephone interview with Ms. Janet Shriner, Foster Care Consultant, Wyoming State Division of Social Services, July 20, 1976. Twenty-three of these children were in foster family homes, and one in a residential treatment center.

[6] Telephone interview with Mr. Clyde W. Hobbs, Superintendent, Wind River Indian Agency, July 22, 1976. Of these children, 47 were in foster family homes, and 27 in group homes. The tribal breakdown was: Shoshone, 12; Arapahoe, 39; Non-enrolled, 23. The BIA figures are as of July 1976.

[7] Telephone interview with Ms. Janet Shriner, *op. cit.*

[8] *Ibid.*

[9] Telephone interview with Mr. Clyde W. Hobbs, *op. cit.*

III. U.S. BUREAU OF INDIAN AFFAIRS BOARDING SCHOOLS

In addition to the above figures, 134 Wyoming Indian children between the ages of fifteen and eighteen were away from their homes attending BIA boarding schools in other states. These children, all from the Wind River Reservation, spent at least part of the 1975–1976 school year in boarding schools in California, New Mexico, Oklahoma, South Dakota, and Utah.[10]

IV. COMBINED ADOPTIVE CARE AND FOSTER CARE

Since we are unable to estimate the total number of Indian children currently in adoptive care in Wyoming, it is not possible either to estimate the total number of Indian children receiving adoptive and foster care. The foster care statistics alone make it unmistakably clear that Indian children are removed from their homes at rates far exceeding those for non-Indian children.

Note on Federal Boarding Schools

In addition to those Indian children removed from their families to be placed in adoptive care, foster care, or special institutions, thousands of Indian children (many as young as five-ten years old) are placed in U.S. Bureau of Indian Affairs boarding schools. Enrollment in BIA boarding schools and dormitories is not based primarily 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 Indian foster care placements.

The table below presents a state-by-state breakdown of the number of Indian children living in dormitories while they attend BIA boarding schools.

State:	*BIA boarding school students*
Alaska	664
Arizona	10,977
California	714
Mississippi	197
Nevada	517
New Mexico	7,428
North Dakota	481
Oklahoma	1,973
Oregon	549
South Dakota	1,207
Utah	1,093
Total	25,800
Indian children living in dormitories operated by the BIA for children attending public schools	3,384
Total	29,184

These children should be included in any compilation of Indian children away from their families.

Source: Office of Indian Education Programs, U.S. Bureau of Indian Affairs, "Fiscal Year 1974: Statistics Concerning Indian Education" (Lawrence, Kans.: Haskell Indian Junior College: 1975), pp. 12–15, 22–23.

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[10] *Ibid.*