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.

SEATTLE INDIAN CENTER

121 [illegible]
SEATTLE, WA 98101
(206) 624-8700

EXECUTIVE DIRECTOR
RONALD W. BONOS

August 1, 1977

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:

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"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;

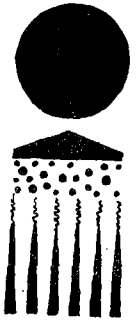
3) Section 202(c)(2) which gives every Indian tribe the authority to construct, operate, and maintain

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.



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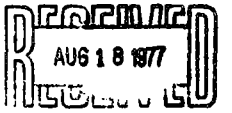


August 15, 1977

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

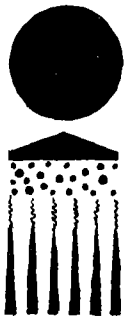
Henry Hook

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.

u.s.p.h.s. hospital box 106
1131-14th avenue south
seattle, washington 98144

area code 206
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.