

APPENDIX B—PREPARED STATEMENTS FROM STATES



MICHAEL S. DUKAKIS
Governor

WILLIAM G. FLYNN
Secretary

The Commonwealth of Massachusetts

Commission on Indian Affairs

State House — Rm. 176-176A

Boston, Mass. 02133

Telephone 617-727-6394

COMMISSIONERS:

Beatrice Gentry, Chairman
Edith Andrews, Secretary
Amelia Bingham
Zara Ciscoebrough
Philip Francis
Frank James
Clarence Moran

July 7, 1977

The Honorable James Abourezk
Chairman
Senate Sub-Committee on Indian Affairs
Room 1105
Dirksen 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 assessing 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 substantial 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 descendant 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 crucial 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



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The Commonwealth of Massachusetts

Commission on Indian Affairs

State House - Rm. 176-176A

Boston, Mass. 02133

Telephone 617-727-6994

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 assessing 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.
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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.

With the exception of these proposed amendments, we feel that this is a very crucial 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



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The Commonwealth of Massachusetts

Commission on Indian Affairs

*State House - Rm. 176-176A
Boston, Mass. 02133
Telephone 617-727-6394*

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 assessing 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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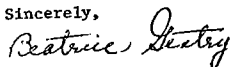
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Beatrice Gentry
Chairman

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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



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Russell Senate Office Building
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July 15, 1977

President James Carter
1600 Pennsylvania Avenue
The White House
Washington, D.C.

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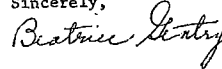
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Beatrice Gentry
Chairman

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cc: Senator Edward W. Brooke
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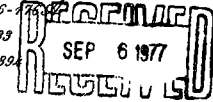


MICHAEL S. DUKAKIS
Governor
WILLIAM G. FLYNN
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The Commonwealth of Massachusetts

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*State House - Rm. 176-176A
Boston, Mass. 02133
Telephone 617-727-6324*



September 1, 1977

Senator James Abourezk
Room 1105
Dirkson Senate Office Building
Washington, 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.

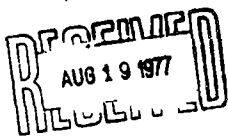
Sincerely,



Jacob Thompson
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

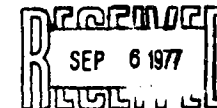
Don Milligan
State Office Indian Desk
Department of Social and Health Services
Washington State



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.

Sen. Abourezk

- 2 -

August 30, 1977

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.

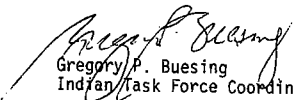
Sen. Abourezk

- 3 -

August 30, 1977

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) 223-3421

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 its 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 initial agency resistance was overcome, a survey of all foster

MEMBER AGENCIES

■ Department of Agriculture	■ Department of Housing & Urban Development	■ Law Enforcement Assistance Administration
■ Environmental Protection Agency	■ Department of Interior	■ Office of Economic Opportunity
■ Department of Health, Education & Welfare	■ Department of Labor	■ Department of Transportation

Senator James Abourezk
March 17, 1976
Page 2

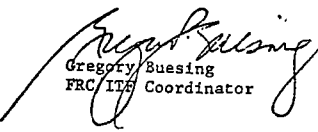
children in state custody was conducted. Confirming Indian expectations, the official state count of Indian foster children increased from 25 to 138. The state found that Indian children were being placed in foster care at a rate of 16 times that of the general population (including Indians). Only four 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 ITC 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.

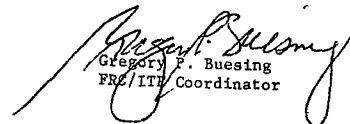
MEMBER AGENCIES

■ Department of Agriculture	■ Department of Housing & Urban Development	■ Law Enforcement Assistance Administration
■ Environmental Protection Agency	■ Department of Interior	■ Office of Economic Opportunity
■ Department of Health, Education & Welfare	■ Department of Labor	■ Department of Transportation

Senator James Abourezk
May 25, 1976
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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
PRE/ITW Coordinator

P. Taylor #9

REC'D MAR 8 1976

STATE OF
WASHINGTON
DEPARTMENT
OF SOCIAL & HEALTH
SERVICESTo: Al Elgin, Chairman
Task Force #8
American Indian Policy
Review Commission

Date: February 17, 1976

From: Don Milligan - Indian Desk *DM*
Dept. of Social & Health Services
Washington StateSubject: 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 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 exercises 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
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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,

Memo to
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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 Mousa	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 - Tsimpshane Association - Seattle
James Abourezk	Fred Lane - Oakland Indian Center
Lee Metcalf	
Mark Hatfield	

ATTACHMENTS

State of
Washington
Department
of Social & Health
Services



Hank Adams, Chairman, Task Force #1
Wilbur Atcity, 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

To: _____ Date: March 1, 1976
From: Don Milligan
Indian Desk. *DM*
Subject: WRITTEN TESTIMONY FOR TASK FORCE #4
HEARINGS AT YAKIMA, WASHINGTON ON
FEBRUARY 2 & 3, 1976

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

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

State of
Washington
Department
of Social & Health
Services



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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".

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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

Sherwin Broadhead
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(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

Sherwin Broadhead
March 1, 1976

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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

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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

Sherwin Broadhead
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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.

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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 accommodate 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.

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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

Sherwin Broadhead
March 1, 1976

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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

Sherwin Broadhead
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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

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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 parolees 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

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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 integral 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

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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: GP
 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 SERVICE DIVISION
 Region 1 Office
 2620 Main Avenue, 1st Floor, WA 98101

This is the Washington Administrative Code revision on Indian Child Welfare, which we hope to get adopted by November 1970

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 of other Indian families of same tribe; other Indian foster parents and, finally, 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.

Serial 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 (ARENNA).
(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;
(e) Psychiatric and psychological evaluations as well as any needed medical evaluations are provided;
(f) Adoptive family home studies (preplacement reports);
(g) Evaluation of adoption resources;
(h) 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.

(4) 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 BSIS 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.

(4) 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 25452

Sequoyah Memorial Office Building
OKLAHOMA CITY, OKLAHOMA - 74124

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.

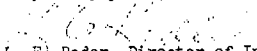
Although Oklahoma has a proportionately large Native American population, there are no Indian reservations in the State. This fact makes a number of the provisions of S.3777 inapplicable here.

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

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 (4).

C

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Y