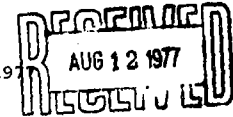


APPENDIX C—PREPARED STATEMENTS FROM PRIVATE ORGANIZATIONS

AMERICAN CIVIL LIBERTIES UNION

22 East 40th Street New York, New York 10016 (212) 725-1222

August 8, 1977



Senator James G. Abourezk
 Chairman
 Select Committee on Indian Affairs
 3321 Dirksen Senate Office Bldg.
 Room 5325
 Washington, D.C. 20510
 Attn: Tony Strong

Re: S.1214

Dear Senator Abourezk:

Thank you for the opportunity to testify before your Committee on August 4th regarding S.1214. At the conclusion of my testimony Senator Hatfield, who was then presiding, requested that I provide the Committee with proposed statutory language that reflects my testimony and the written statement I previously provided, a copy of which is attached hereto.

My first recommendation was that the Bill should provide for notice to the tribe and/or natural parents whenever an Indian child, previously adopted or in foster care by order of a non-tribal authority, is either institutionalized or transferred to a new foster home. (See page 4 of my written statement, ¶¶ 1 and 2.) Accordingly, I propose the following new section:

Whenever an Indian child previously placed in foster care or for adoption by any non-tribal authority is committed or placed, either voluntarily or involuntarily, in any public or private institu-

Norman Dorsen, Chairperson, Board of Directors • Ramsey Clark, Chairperson, National Advisory Council
 Aryeh Neier, Executive Director • Alan Reitman, Associate Director • Joel Gora, Acting Legal Director
 Sharon Krager, Membership Director • John H. F. Shattuck, Director, Washington D.C. Office

Senator James G. Abourezk
August 8, 1977

Page two

tion, including but not limited to a correctional facility, institution for juvenile delinquents, mental hospital, or halfway house, or is transferred from one foster home to another, notification shall forthwith be made to the child's tribe of origin and to his or her natural parents. Such notice shall include the exact location of child's present placement and the reasons for that placement. Notice shall be made before the transfer of the child is effected, if possible, and in any event within 72 hours thereafter.

My second concern was that the Bill does not limit the exercise by non-tribal authorities of temporary placement power in circumstances of imminent danger (see p. 3 of my written statement).

Accordingly, a new section should provide:

In the event that a duly constituted state agency or any representative thereof has good cause to believe that the life or health of an Indian child is in imminent danger, the child may be temporarily removed from the circumstances giving rise to the danger provided that notice shall be given to the tribal authorities and the natural parents, if the latter can be located, within 24 hours of the child's removal. Notice shall include the child's exact whereabouts and the precise reasons for his or her removal. Within 48 hours of removal a hearing shall be held to determine whether good cause for the removal does in fact ex-

Senator James G. Abourezk
August 8, 1977

Page three

ist and whether the tribal authorities or the natural parents can provide for the child's care until a further custody determination can be made.

Finally, I expressed concern that the Bill's language does not adequately reflect its intention to regulate only placements made by non-tribal authorities. The Bill does not intend to interfere with tribal or parental placement decisions. (See my written statement, p. 3.) Accordingly, in the definition of "child placement" on line 3 of the Bill at page 5, after the word "private," the following should be inserted: "other than custody arrangements made by a natural parent or a tribal authority."

I also noted in my testimony (p. 3, last paragraph) that section 101(d) appears to give private individuals, groups or institutions the authority to seize Indian children for 30 days without even notifying the parents or the tribe. I understand, however, that your Committee is in the process of either eliminating, modifying or clarifying this section.

I hope these suggestions are useful, I am pleased to be of service to the Committee.

Yours sincerely,

Rena K. Uviller
Rena K. Uviller
Director
Juvenile Rights Project

RKU:mab

AMERICAN CIVIL LIBERTIES UNION
22 East 40th Street
New York, N.Y. 10016
212/725-1222

August 2, 1977

Statement of the American Civil Liberties
Union in Support of S.1214 to the U.S.
Senate Select Committee on Indian Affairs
August 4, 1977

My name is Rena Uviller. I am a lawyer and the director of the Juvenile Rights Project of the American Civil Liberties Union. One of the primary objectives of the Juvenile Rights Project is to guard the rights of both children and parents by resisting state encroachment upon the liberty and privacy protections which the Bill of Rights and Supreme Court decisions bestow upon family relationships.

S. 1214 is a commendable effort to counteract a recent and disturbing governmental tendency to intrude upon the family liberty and privacy of poor citizens. Using federal money, provided especially through title IV of the Social Security Act, state and local child care agencies have arbitrarily and unnecessarily separated thousands of children from their parents and placed them in institutions or foster homes. There they stay for years, frequently moved from one foster home or institution to another. This means heartbreak for both parents and children. And the instability thereby injected into the lives of the children has long been recognized as a primary cause of future maladjustment and juvenile crime.

It has been estimated that 400,000 American children live in the impermanent limbo of foster care. This high rate of family dissolution is in large part caused by the failure of federal laws to regulate out-of-home placements financed by federal funds. Federal law should make state grants for foster or institutional care dependent upon the provision of services to families that might avoid the need for such placements. Federal law should require fiscal accountability for state expenditure of federal foster care money, and should insist that involuntary separations of parents and children be restricted to cases of extreme neglect.

Indian families have been especially victimized by the rush to use out-of-home placement by child welfare officials. In 1969 and in 1974, surveys conducted by the Association on American Indian Affairs in states with large American Indian populations revealed that approximately 25 to 35 percent of all American Indian children are separated from their families and reside in foster homes, adoptive homes, or institutions. In 1972, nearly one of every four American Indian children under one year of age was adopted. The studies showed that in Minnesota, for example, one of every eight American Indian children under 18 years of age was living in an adoptive home, a per capita rate five times greater than for non-Indian children. In Wisconsin, the per capita rate for foster care and adoptive placements is 16 times greater for Indian than for non-Indian children. The ratio of American Indian foster care placement in Montana is at least 13 times greater than for non-Indians, and in South Dakota it's nearly 16 times greater. In Washington, the American Indian adoption rate is 19 times greater, and the foster care rate almost 10 times greater than the rate among non-Indian children.

Equally as disturbing, in the 16 states surveyed in 1969, approximately 85 percent of all American Indian children in foster homes were living in non-Indian homes, and more than 90 percent of all non-related adoptions of American Indian children were by non-Indian couples.

This extraordinarily high placement rate of Indian children is not a reflection of a greater propensity by Indian parents to neglect or abandon their children. Rather, it is a reflection of ignorance on the part of non-Indian child welfare officials of the familial and cultural traditions of Indian life, and of insensitivity to the important psychological and cultural attachment Indian children have to their tribal community. The untoward number of extra-tribal placements results also from a failure to provide poor Indian families with the means to raise their children, and from too great a willingness by state officials to meet the growing adoption demands of childless white couples who find the number of white children available for adoption dramatically reduced.

The effect has been the destruction of Indian family life and has been aptly characterized as a form of genocide.

S. 1214 would reduce the number of inappropriate Indian-child placements by giving broad authority to Indian tribes to prevent such placements and to regulate, when they are necessary, their terms and conditions. It would also provide funds for services to poor Indian families that would avoid the need for foster care. For these reasons ACLU enthusiastically endorses the Bill.

Suggested Revisions

I have several modifications to suggest, however. Most of them are designed to enhance the Bill's purpose-- i.e., to strengthen Indian tribal and family autonomy.

First, the definition of "child placement" in section 4(g) of the bill should be clarified. As written, it seems to include placements that have been authorized by the tribe. Because the purpose of the statute is to protect tribal judgments about child placement and to regulate only extra-tribal placements made by non-tribal officials, the definition of "child placement" should be limited to placements not authorized by the tribe. This confusion is also present in section 101(a). As written, it seems to regulate the authority of the Indian parent to make a voluntary placement within the reservation. Because the Bill is designed to regulate only placements made outside the tribe by non-tribal authorities, the language should be clarified to reflect that intention.

Second, the Bill does not adequately define the "temporary" placement state officials are authorized to make in situations of imminent danger. Although temporary placement to prevent imminent danger to life or health should be possible, its duration and exercise should be carefully circumscribed. Temporary placement should last no more than 48 hours, with immediate notice to both parents and tribal authorities, and with provision for an immediate hearing as soon after the placement as possible. In its present form, the Bill does not seem to contain these safeguards.

Third, section 101(d) seems to authorize private persons, groups or institutions to seize an Indian child for up to 30 days without even giving notice to the parent or to tribal authorities. I can think of no justification for giving such authority to state officials, much less to private persons or groups.

Fourth, the Bill does not require notice to the tribe or to the parents of the fact that an Indian child who was previously placed with or adopted by a non-Indian family has been relinquished by that family to an institution. Apparently, there is a high failure rate of adoptions of Indian children by non-Indian families. Especially during the difficult years of adolescence, there is a reportedly high incidence of Indian children previously adopted by white families who wind up in mental institutions, juvenile delinquency reformatories, or renewed foster care. When this occurs, the youth's original tribe and his or her biological parents are unaware of the situation.

Rather than allowing the children to languish in such institutions, the tribe should be notified automatically so that the possibility of reintegration into the tribe can be explored. Accordingly, I recommend the insertion into the Bill of a notice requirement to the tribe of origin and/or the biological parents whenever an Indian youth, previously adopted outside the tribe, is placed in foster care or an institution, including mental institutions and correctional facilities.

These suggestions would strengthen the autonomy of the Indian family and tribe. In one respect, however, I believe the Bill confers too much power upon the tribe over an Indian child who has never resided or been domiciled within the reservation. Section 103(a) requires that in offering an Indian child for adoption every non-tribal government agency must grant a preference to the members of the child's extended Indian family. Such tribal authority over the Indian child who has resided or at least been domiciled on the reservation is entirely appropriate. However, when section 103(a) is read together with section 101(c), it appears that the tribe has comparable authority over the Indian child who has never been a resident or domiciliary of the reservation. This might have unfortunate results.

For example, the child might be the offspring of an Indian parent who has long left the reservation and a non-Indian spouse. The child may have familial attachments to the extended family of the non-Indian parent. In the event of the death or disability of both parents, the child's tribe of origin would have greater claim to the child than would the non-Indian family with whom the child may have been raised. Absolute tribal authority in those circumstances,

is not in the best interests of such children. Section 103(a) should, accordingly contain language similar to that in section 103(b); i.e., that a preference shall be given to members of the child's extended family, "in the absence of good cause shown to the contrary."

Conclusion

I hope this presentation of ACLU's views will be useful to the Committee. Thank you for the opportunity to speak with you today.

8-15-77

**ADOPTION
RESOURCE
EXCHANGE OF
NORTH
AMERICA**

August 11, 1977

Senator James Abourezk
3321 Dirksen Building
United States Senate
Washington D.C. 20510

Attention: Ms. Patty Marks

Enclosed please find testimony on S1214, the Indian Child Welfare Act of 1977.

We appreciate the opportunity to respond to the proposed legislation. We would be happy to answer any questions or elaborate on any of our suggestions or concerns.


Thank you for your attention.

Very truly yours,

Mary Jane Fales
Mary Jane Fales
ARENA Project Director

encls.

MJF/js

ARENA is a program of the North American Center on Adoption
67 Irving Place, New York, New York 10003 (212) 254-7410
 CHILD WELFARE LEAGUE OF AMERICA, INC.

Statement Presented to the
Select Committee on Indian Affairs
U.S. Senate

by
Mary Jane Fales
Director ARENA Project
North American Center on Adoption
on behalf of
The Child Welfare League of America, Inc.

August 10, 1977

My name is Mary Jane Fales and I am the Director of the Adoption Resource Exchange of North America, a project of the North American Center on Adoption. The Center is a division of the Child Welfare League of America, Inc., a national voluntary organization with approximately 380 voluntary and public child welfare affiliates in the United States and Canada.

While the purpose of the League is to protect the welfare of children and their families, regardless of race, creed or economic circumstances, the Center specifically addresses the need for children to grow up in a permanent nurturing family of their own. The Center is a non-profit corporation that provides consultation and education to agencies, schools of social work, concerned citizen groups and the general public as well as exchange services to aid in the adoption of special needs youngsters.

The Adoption Resource Exchange of North America (ARENA) has assisted over the past ten years almost two thousand children to find permanent homes. At this point in time, there are about 1,100 legally free children registered with ARENA who include those of minority background, youngsters over the age of 10, severely handicapped children, as well as those who are part of large sibling groups. Also registered are about 1,000 families who are approved by a licensed agency and are interested in adopting the types of children that we have registered. Besides the task of bringing together families

and children throughout North America, ARENA has also served as a consultant to state and regional exchanges, as well as attempting to aggressively recruit families for those children who have waited the longest for their own families.

ARENA began almost twenty years ago as the Indian Adoption Project. We have had a history of assisting Indian children for the past twenty years to find permanent adoptive families. Over the years, almost 800 Indian children have found permanent, loving families. In the past five years, ARENA has changed its focus to emphasize the need for finding families within the Indian culture. In fiscal year 1975-76, 33 Indian children were assisted and out of that number 29 were placed with a family that had at least one Indian parent. Along with referring the registrations of Indian children for registered adoptive parents, ARENA has provided a great deal of consultation to agencies in North America educating them on the importance of placing Indian children for adoption within their own culture.

Through my frequent contacts with agencies across North America, along with my own experience within the Child Welfare field, I can see the need for legislation, not only for Indian children, but on behalf of the total child welfare population. The needless break-up of family systems that leave the children in the limbo state of temporary foster care and institutions, as well as, much of the lack of recruitment of appropriate adoptive homes, is a concern for Indian children as well as for children in the rest of the population in this country. There are at this time over 350,000 children in temporary foster care and institutions. Some estimates have been made that 30% of these children have not had any meaningful contact with their biological families. Other estimates have been made that at

least 100,000 children in this country could be placed for adoption if they were identified, legally freed, and the technology, that is available to find appropriate families for them, was used. Other programs such as the Oregon Permanency Project sponsored by HEW has proven that with intensive casework, many of the children who are in long-term foster care could be returned to their biological families or be placed in permanent homes by adoption.

Our organization stands for the concept that every child has the right to a permanent nurturing family of his own. Our experience and research in the field has shown us that children's needs to feel secure and permanent within a family system is essential to their growth and development. The best means of achieving this permanency is to provide the systems that will help children to stay within their biological families whenever possible. If parents are unwilling to or incapable of raising their children and there is no other biological family member able to assume this role, then permanent placement with an adoptive family of the same cultural background is the most beneficial. If, finally, it is determined that a child cannot stay within their own biological family and a home of the same cultural heritage is not available, permanent placement with an adoptive family is still more desirable than being raised in temporary care with a series of homes and caretakers.

We are pleased to be able to have the opportunity to respond to Senate Bill 1214 known as the Indian Child Welfare Act. We support the concepts behind the bill and, as stated earlier, feel that there is the need for the protection of Indian children and maintenance of their cultural identity in foster care and adoption. We are particularly supportive of the financial incentives and legal supports that would develop the Indian family through specific programs on and off the reservations. We are also very pleased

to see that adoption subsidies are part of this legislation. This component is very necessary in order to encourage more Indian adoptive families to take on the added expense and responsibilities of another child. Another important section of this Bill, includes the education programs for Indian court judges and staff related to the Child Welfare programs. We see this education as essential to providing good care and appropriate planning for the children in their care.

However, our organization cannot support S1214 as it is currently written, because of the following concerns. First, we feel there is a lack of protection offered to the children affected by the legislation. The Bill fails to acknowledge the importance of a secure, parental relationship and the identification with a "psychological" parent. The clause that gives the Secretary of the Interior the power to go as far back as 16 years to overturn final decess of adoption, could in effect cause insecurity to thousands of children who have been living for years in what they determined was a secure and permanent relationship. Also, the time frame of 90 days for biological parents to be able, without just cause, to change their minds about placing their child could severely affect the emotional growth of a baby. This in practice, would either significantly delay placements for the infant, or potentially take him or her away from parents. For a youngster under 2 years—90 days can be a "lifetime" of experience and development. Of even more concern, is the section of the legislation which states that a parent placing a child of two years or older, has the right to change their mind up until the final decree is granted. Since this final decree often takes as long as a year and a half in many states, it is unfair and detrimental to a child who is kept in this type of insecurity for such a long period of time. This is also a deterrent to potential Indian adoptive families who would

be afraid to risk adopting a child where the biological parent could withdraw their consent that easily.

Other questions include that the law does not provide for any foster care review system to prevent children from getting caught up in the temporary care situation. We are also concerned that there is no statement of children's right to a permanent home, if not in their biological family, then through adoption, as opposed to placement in an Indian foster home or institution.

Finally, we are concerned about the situation this legislation creates where the tribe shall review all child placements and have the right to intercede. The privacy and rights of the biological parents' to determine the future of their children would be invaded.

We would be delighted to see the Indian tribes further involved with the destinies of their children and encouragement offered for Indian families to be maintained and developed. We would be pleased to support legislation that would protect these investments if the changes mentioned were made.

SUMMARY

The statement on the Indian Child Welfare Act of 1977 - S1214 is presented by Mary Jane Fales, Director of the ARENA Project of the North American Center on Adoption. This is a division of the Child Welfare League of America, Inc.

We appreciate the opportunity to express our views regarding the needs of Indian children and their families. We commend the Senate Select Committee on Indian Affairs for bringing attention to this issue through the proposed legislation.

Our organization supports the concepts behind S1214 and feel there is a need for the protection of Indian children and the maintenance of their cultural identity in foster care and adoption. We also feel that the proposed Indian family development program is vital to improving the quality of Indian family life. We are particularly enthusiastic about those sections of the legislation that give financial and legal incentives for keeping Indian children within their biological families, educating Indian court judges and responsible Child Welfare staff, as well as offering subsidies to Indian adoptive families who might otherwise be unable to afford another child.

However, we cannot give our full support to S1214 because of some of the following concerns:

. There is no protection for children against a "lifetime" of temporary care. Any child placing agency should have foster care review systems to prevent children from getting "lost" and encourage case planning that includes a permanent family.

. We see the option offered to parents to withdraw their consent for adoptive placement, for any reason up to 90 days, if the youngster is under

two years, and up until final decree (this could be a year or two) for those who are older, as extremely detrimental. Ninety days for an infant is a significant period in their emotional development and for any child to delay placement or live with the insecurity of a potential move is to undermine their sense of emotional commitment and security with any family. This may also act as a barrier to Indian families who may not adopt because of the risk of losing a child they've grown to love.

. The Bill appears to encourage placement within the culture to the point of preference of temporary foster care or institutions rather than permanent placement outside of the Indian culture. While incentives to recruit and study Indian families should be offered, experience and research shows us that transracial adoptive placements can produce stable adults with a sense of ethnic identity.

. The provision allowing investigations and legal proceedings to retract custody of children placed as long as 16 years ago is costly, time consuming and potentially highly disruptive to a child and his/her "psychological" and legal parent.

. The tribe's prerogative to review and intercede on all Indian child placements invades the rights and privacy of parents in determining the future of their children.

Association on American Indian Affairs, Inc.



432 Park Avenue South
New York, N. Y. 10016

MU 9-8720

Oliver La Farge, *President*
(1952-1963)

Alfonso Ortiz, Ph.D., *President*
Benjamin C. O'Sullivan, *Vice President*
Mrs. Henry S. Fobes, *Secretary*

E. Tinsley Ray, *Treasurer*
William Byler, *Executive Director*
Arthur Lazarus, Jr., Richard Schifter, *General Counsel*

February 22, 1977

Mr. Tony Strong
Administrative Assistant to
The Honorable James Abourezk
United States Senate
Washington, D.C. 20510

Dear Tony:

At long last, please find a list of reported cases in which the courts consider Indian child-welfare and/or Indian jurisdictional issues involved in the cases. The list is not exhaustive. I will send you more cases as I come across them.

I am also sending a photocopy of an unreported decision from Utah, In Re Goodman. Additionally, I will be sending you unreported decisions from South Dakota.


The reported cases are as follows:

1. U.S. Supreme Court
 - a. Fisher v. District Court of Montana, 424 U.S. 382, 96 Sct. 943, 47 L. Ed. 2d 106 (1976), reversing State ex. rel. Firecrow v. District Court, - Mont. - , 536 P. 2d 190 (1975).
 - b. Decoteau v. District Court, (Dissenting opinion of Justice Douglas) 420 U.S. 425, 95 Sct. 1082, 43 L. Ed. 2d 300 (1975).
2. Federal Court of Appeals
 - a. In Re Cobell v. Cobell, 503 F. 2d 790 (9th Cir., 1974).
 - b. Arizona State Department of Public Welfare v. HEW, 449 F. 2d 456 (9th Cir. 1971) - Discussion of Extended Family, at P. 477 therein).
 - c. In Re Le-Lah-Puc-Ka-Chee, 98 F. 429 (N.D. Iowa 1889).

3. Federal District Court
 - a. Wisconsin Potawatomes of the Hannahville Indian Community v. Houston, 397 F. Supp. 719 (W.D. Mich. 1973).
4. Alaska
 - a. Carle v. Carle - 503 P. 2d 1050 (1972).
 - b. Tobeluk v. Lind (formerly Hootch v. Alaska State Operated School System) Consent Decree.
5. Arizona
 - a. Arizona Department of Economic Security, ex. rel. Chico v. MaHoney, 24 Ariz. App. 534, 540 P. 2d 153 (1975).
6. Maryland
 - a. Wakefield v. Little Light, 276 Md. 333, 347 A. 2d 228 (1975).
7. Montana
 - a. In Re Cantrell, 159 Mont 66, 495 P. 2d 179 (1972).
 - b. Black Wolf v. District Court of the Sixteenth Judicial District, 159 Mont. 523, 493 P. 2d 1293 (1972).
 - c. Fisher v. District Court of Montana, 424 U.S. 382, 96 S.Ct. 943, 47 L. Ed. 2d 106 (1976) reversing State ex. rel. Firecrow v. District Court - Mont. -, 536 P. 2d 190 (1975)
8. New Mexico
 - a. In Re Adoption of Doe, Doe v. Heim, - N. Mex. App. - , 555 P. 2d 906 (1976).
9. North Dakota
 - a. In Re Whiteshield, 124 N.W. 2d 694 (1963).
10. Oregon
 - a. In Re Greybull, - Ore. App. - , 543 P. 2d 1079 (1975).

11. Washington
 - a. Matter of Adoption of Buehl, (Duckhead v. Anderson), - Wash. 2d - , 555 P. 2d 1334 (1976).
 - b. In Re Colwash, 57 Wash. 2d 196, 356 P. 2d 994 (1960).
 - c. State ex. rel. Adams v. Superior Court, 57 Wash. 2d 181, 356 P. 2d 985 (1960).
 - d. Comenout v. Burdman, 84 Wash. 2d 192, 525 P. 2d 217 (1974).
- If you have any questions regarding these cases, please feel free to contact me.

Sincerely,


Lawrence A. Rappoport
Staff Attorney

Enc.

FRIED, FRANK, HARRIS, SHRIVER & KAMPELMAN

SUITE 1000, THE WATERGATE 600
600 NEW HAMPSHIRE AVENUE, N.W.FRIED, FRANK, HARRIS,
SHRIVER & JACOBSON(202) 965-9400
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TELEX 0201231 THRODMORTON AVENUE
LONDON, ENGLAND E2J 2GL
(01) 838-7834
TELEX 892989

FELIX S. COHEN (1937-1982)

HAR M. KAMPELMAN
RICHARD SCHIFTER
MILTON GREENBERG
RICHARD B. DEERYMAN
WILLIAM JOSEPHSON
JAMES B. BLUMHOFF
HELVEN RUSHEARTHUR LAZARUS, JR.
DANIEL M. RINGER
JOEL H. FETTERMAN
PETER D. ENRICHMATT
DAVID S. RICHMAN
KENNETH S. KRAMEK

HAROLD R. GREEN

S. BOBB DEAN
W. RICHARD WEST, JR.
WILLIAM C. SUDOM
JOSEPH J. PETRUCCO
LAWRENCE R. SIDMAN
ERIC J. JANLEN
TIMOTHY BULLMAN
SCOTT A. SUGARMAN
HARVEY H. BERENSTEIN
THEODORE C. HIRT
CAROL BERENSON-KRADEL
SUIYUAN BRIVANTFRANCIS J. OYABLE
HOWARD M. WEINMAN
EDWARD J. BUCHHEIT
JAY R. BRACHES
WILLIAM B. JOFFMAN
VANESSA RUIE
JULIE L. WILLIAMS
MELDI DELAPFERA EAGLETON
REBECCA A. DONWELLAN
CATHERINE R. WACK
DENNIS M. HOWE
MARTIN A. KAMARCAFREDERICK BASS, JR.
COUNSELL

August 31, 1977

OUR REFERENCE


RECEIVED
2Ms. Patricia Marks
Select Committee on
Indian AffairsHOB 2
Second & D Streets, S.W.
Washington, D.C. 20515

Dear Patty:

In accordance with our recent telephone conversation, I am enclosing a proposed Title III for addition to the Indian Child Welfare bill (S.1214). If you have any questions, or if I can be of further help, please let me know.

With kind regards,

Sincerely yours,


Arthur Lazarus, Jr.
AL:kat
Enclosure

cc: William Byler (w/enclosure)

TITLE III -- BOARDING SCHOOL STUDY

Section 301. (a) It is the sense of Congress that the absence of locally convenient day schools contributes to the breakup of Indian families and denies Indian children the equal protection of the law.

(b) The Secretary is authorized and directed to prepare and to submit to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, respectively, within one year from the date of enactment of this Act, a master plan, including a proposed time schedule, for the phased replacement of federal boarding schools for Indian children with day schools located near the students' homes. In developing this master plan, the Secretary shall give priority to the elimination of boarding schools for children in the elementary grades.

To: Tony Strong
 From: Charlie Donaldson
 Re: Indian Child Welfare Act of 1976(S-3777)

If passed as proposed and implemented the Act should significantly reduce the number of Indian children being severed from their heritage. The Act addresses most of the problems involved in the placement of Indian children with non-Indians but I submit the following observations based on my understanding of the Act and my experience as a legal service attorney on the Navajo Reservation.

- 11 As defined in Section 4(g) "child placement does not cover private custody agreements between Indian parents and non-Indian guardians. This is probably the most common type of Indian child placement. An example is the Mormon placement program under which Indian children live with Mormon families and attend off-reservation schools. Usually the only legal authority the guardian family has is a power of attorney drawn up by the guardians' lawyer. The guardians may limit the child's contact with the parents but more often communication with the Indian parents will be limited because of the parents' limited skill in long range communication, poverty and personal problems such as alcoholism. After a period of little or no communication the child can be declared abandoned by an Anglo court and the child's domicile can be found to be that of the guardian. The Act would then not apply to any placement of that child, unless the child would be receiving federal funds. The placement would not fit into any of the categories enumerated in Section 101.
- The options are to ignore private placements until they result in court action, to require some form of notice to the tribe and to restrict private agreements without tribal approval. The first option creates a significant danger that the child will be lost from sight until the child is so acculturated that the child may be lost to the tribe. The second option provides the tribe with significant information about the location of their children but no restriction on the parents' authority. The third option is a major abridgement of parental control, cumbersome and expensive as well as almost impossible to enforce. The third option has been enacted by the Navajo Tribe but is not enforced. As a practical matter the notice and prior approval options would be equally difficult to enforce but the notice requirement would be more likely to be complied with because it is far less bothersome. The incentive to comply with the notice requirement would be to make private placements void without notice to the tribe or to make such placements voidable by the tribe if notice is not given.
- P. 6 Line 44 2. The loophole in Section 101 can be eliminated by amending 101(c) to include any placement proceedings in which the child is Indian. Notice to the child's tribe of affiliation should be required. Authority for this can be found in federal wardship of all recognized Indian tribes.
3. Section 101 should specify the persons who must give notice and receive it. I suggest that the clerk of the court and the moving party in any placement proceeding both be required to determine if the child is Indian and then notify the appropriate tribe. Notice should be sent to the tribe's chief executive officer or such other person the tribe designates.

4. Section 102(a) should require the court to provide both the parents and the child a lawyer, or tribal lay advocate in tribal court, and an interpreter, if needed. If either the child or the parents do not require counsel or an interpreter the court should be required to make specific findings of the facts upon which the court decides that such are not required.
5. Section 202(c)(2) should separate the custodial from the counseling function. Mixing coercive institutions and counseling will defeat counseling. No parents will trust anyone working for an institution that locks up the parents and takes away their child. Trust is essential if counseling is to work.
6. The provision for hiring private attorneys under Section 204(a) bothers me. Local counsel will probably lack the sympathy, knowledge and resources to investigate Indian placements adequately. Use of local counsel will also be expensive and an administrative nightmare. It would be better if the Secretary of the Interior was authorized to hire additional lawyers in the solicitor's office and post them where needed. Even with adequate staffing searching the records will be a herculean task. I suggest that the Secretary be authorized to require that all court clerks review their records and report to the Secretary by a date certain. This can be supplemented by on site review where warranted.
7. Section 204(b) should be amended to allow the employment of Indian lay advocates in those tribal courts that permit them to appear. Otherwise the family defense program will tend to undermine the development of tribal courts and a body of Indian lay advocates by introducing lawyers, almost certain to be young Anglos, into tribal courts. Anglo lawyers in tribal courts tend to supplant lay advocates and to inhibit the development of tribal law along traditional lines. Lawyers are also more expensive than lay advocates and if Anglo will have little insight into the Indian family.
8. The child and the parents should have separate representation. Otherwise there may be a conflict of interest, especially in non-adoption cases. Section 204(b) is somewhat ambiguous on this point and should be amended to provide separate counsel unless the parents make a voluntary and knowledge waiver of their rights. The child should have counsel in any proceedings.

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P. 8 Line 13 OF → OR

MEMO

TO: James Abouezk, United States Senate
 FROM: Martin Cross, Jr , BSW
 RE: S. 3777 Indian Child Welfare Act of 1976
 DATE: May 10, 1977

INTRODUCTION

The purpose of this memo is to state a position and to make comments and recommendations as an Indian social worker on the proposed Act S. 3777 entitled, The Indian Child Welfare Act of 1976. This bill was introduced in the 94th Congress by Senator Aborezk and is to be reintroduced in the 95th Congress.

The Bill in its first paragraph states its purpose, "To establish standards for the placement of Indian children in foster homes, to prevent the breakup of Indian families."

The need for such legislation is well recognized, supported by Indians and non-Indians alike. Betty John, counselor in the foster care program, and Mary Van Gemert, attorney at the Seattle, Washington, Indian center, in an article in the Seattle Post Intelligeneer, 6/27/76 entitled, "Indians Attack DSHS," support the need for S. 3777. The Native American Rights Fund adds its support to S. 3777.¹ Marilyn Young Bird Martin, Executive Director, Colorado Commission of Indian Affairs, State Capitol, Denver, Colorado, indicated her interest and support of such a bill. CSRD in its research states, "There was widespread agreement that tribal governments should run child welfare programs on reser-

¹Native American Rights Fund, NARF, 1605 Broadway, Boulder, Colorado, 80302. Phone (303) 447-8760.

vations. A majority of the three dozen state, county, tribal, and BIA officials interviewed stated that the best system would involve direct funding of programs operated by tribes."²

I am completing my first year of graduate studies at the Barry College School of Social Work in Miami, Florida. I will receive a Masters Degree in Social Work (MSW) in 1978.

My interest in the social work profession has its roots in the Fort Berthold Indian Reservation, home of the Hidatsa, Mandan, and Arikama tribes, sometimes referred to as The Three Affiliated Tribes. I was born in 1933 on the Reservation, a member of the Hidatsa Tribe, and lived there until 1967, with a four-year stint in the U. S. Air Force in 1951-55. I have personally experienced the social problems an Indian faces while living on a reservation--problems ranging from poverty conditions to severe racial prejudice from the white community adjacent to the reservation. I also want to stress my experience with the joys of living on a reservation. There are superior qualities, and many benefits to reservation life. Community is encouraged in contrast to individualism in the larger society. Old people are kept active in the family structure; children are accepted as part of the extended family. Cooperation instead of competition is an ethic, and people live more in harmony with nature. This provides more open space to live in and produces minimal pollution.

In 1967 I went to San Jose, California, where I worked five years as a carpenter. I started college full time in 1972 at the San Jose City

²"Legal and Jurisdictional Problems in the Delivery of SRS Child Welfare Services on Indian Reservations," Center for Social Research and Development, Denver Research Institute, University of Denver, 2142 South High Street, Denver, Colorado, 80210, p. 83.

College. During this period I experienced much of the trauma of adapting to a different way of life that many Indians from a reservation experience when becoming urbanized.

During Junior College, I served as president of the Native American Club on campus, and also as a Board Member and volunteer worker at the San Jose Indian Center. Here I worked in many areas of Health, Education and Welfare with the urban Indian population. An Indian with a social work education could be even more helpful in this setting. I realize now the lack of training was a severe handicap to the effective operation of the center.

At the end of Junior College, I could see the need for Indians to have training in working in social welfare problem areas, both on the reservation and in urban Indian settings. I decided to go on for a Bachelor of Arts Degree, majoring in Social Work. I chose to attend Tabor College in Kansas, to get my BSW.

During my field work in Kansas, I worked with Rod P., a 17-year old Sioux originally from the Rosebud Reservation in South Dakota. He had been adopted as a child by white parents. Upon the death of his adopted mother, he began a sojourn of about fourteen foster, group, and detention homes. At the time I was acquainted with him, he was at a Detention Center in Emporia, Kansas, waiting to be sent to another group home. He had a twin brother, Matt, somewhere in the area in a foster home, although I did not know him. During this same period, I was involved with a brother and sister, ages 6 and 11, who were in a foster home due to the disintegration of their adoptive home. They were Indians from the Yukon Territory. Youthville, Inc., of Newton, Kansas, was

their social agency. I was working with Bill Toews, MSW, who was the Foster Care Director at Youthville. Here I will raise the question that despite the overall low rate of adoptive placement failure, why was I aware of a large number of Indian adoptive failures in a relatively small geographical area? This could indicate that adoptions by white parents of Indian children off reservations do have a higher failure rate, possibly because the traditional child welfare agencies are inadequate in placement of Indian children. S. 3777 could compensate for some of the inadequacies of the state child welfare agencies, as it would provide the legal and physical facilities to retain children in the Indian community. From my personal experience, there is no hard-to-place Indian child on a reservation.

RECOMMENDATIONS

Title II of S. 3777 is entitled, Indian Family Development. I will focus on Sec. 202 of Title II. It states, "Every tribe is hereby authorized to establish and operate an Indian Family Development program which may include some or all of the following features,

- 1) a system for licensing or otherwise regulating Indian foster and adoptive homes;
- 2) the construction, operation, and maintenance of family development centers, as defined in subsection (c) (2) hereof;
- 3) family assistance, including homemakers and home counselors, day care, afterschool care, and respite services;
- 4) provision for counseling, and treatment both of Indian families which face disintegration and, where appropriate, of Indian foster and adoptive children;

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

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

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

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

NARF, in its analysis, recommended changes to be made to make the meanings of some of the legal issues more clear or specific. NARF suggested that parental rights be made more clear. In Sec. 101, "the Tribe occupying the reservation wherein the child is a resident or a domiciliary is accorded virtually the same rights as the parents. Therefore, even if a parent consented to his child's placement, the Tribe may still have a right to object--which may be unconstitutional." NARF also suggested that terms such as "temporary placements" be replaced by "detention" to legally make S. 3777 more clearly understood by state and reservation officials, as to who had wardship of a child at specific times. Another quote from NARF's analysis states, "While this act is unique in certain respects, my conclusion is that this act would be a constitutional exercise of Congress' power over Indians and Indian affairs."

Section 202 of Title II also needs clarification. The above-stated features are generalized. Sec. 202 (a) states, "Every Indian tribe is hereby authorized to establish and operate an Indian Family development

program, which program may include some or all of the following features." I recommend the word "will" be inserted in place of "may." To leave out some of the features would severely hamper the implementation of the program. Furthermore, I recommend an additional feature be included in Sec. 202, specifying that social workers at the graduate level having a Masters Degree in Social Work be required in the implementation of the Indian Family Development Program. These MSW's should be of Indian heritage and from the reservation being served, if at all possible.

A definition of a Graduate Social Worker taken from the Encyclopedia of Social Work, Volume II, is: "Capable of performing with professional competence and autonomy. . . . Has mastered the knowledge base of professional practice . . . developed a cohesive body of skills necessary to carry through complex social work processes to serve individuals, groups or communities. . . ." The description ends with this, "The presence or regular availability of a certified graduate social worker for consultation in decision-making and for direct service at critical points is essential." The value of an MSW with Indian background may be best made evident by the present lack of Indian MSW's working on reservations. There have been dozens of Federal programs implemented on Indian reservations in the past years. Many of these programs include features that are in Sec. 202, Title II of S. 3777. In my opinion, the lack of professional expertise to implement these programs has resulted in the failure of most of these programs to reach intended goals.

I relate one example. I went to the Fort Berthold Reservation in 1974. I noticed a complex of buildings and was told, "It's our new Health

Center." I expressed my delight at the significance of this, but was soon distressed when told, "We don't go there because the people that work there don't help us." This was literally true, because the Indian workers were untrained and unable to conceptualize their responsibilities. I feel that an Indian social worker at the graduate level of training could have made the health center a reality.

When I served as a board member of the San Jose Indian Center in San Jose, we concluded that the main purpose of the Center was to provide employment for Indians that were termed unemployable. I have to admit that, as a social agency, we were a failure. Many urban Indians refused to come to us, as we could only cause them more problems. Untrained, non-professional staff were incapable of evaluating properly the problems of the clients, and often made inappropriate referrals and raised hopes unrealistically. Here again, I would like to see an Indian social worker at the graduate level in charge of the social welfare part of an Indian Center. I personally cannot see how programs that are operated under Federal guide lines, that are designed to utilize professional workers, can be expected to achieve any success if improperly educated, and unprofessional people implement them! The people who are employed in Federal programs on the reservation or in the Urban Indian Centers are not trained, or are trained in a field other than the one in which they are employed. Jay Hunter, Director of The All American-Indian Center in Wichita, Kansas, said he could find Indians with college degrees, but none that could serve as effective administrators of health and welfare programs. I find that Indian people can become excellent directors of programs on the reservations. There it ends. To direct but be unable to deliver the services is self-defeating.

A social worker with a MSW is trained in administration and delivery of social welfare services. Furthermore, an Indian MSW from the reservation being served could interpret the Federal guidelines to fit the tribal way of life. The term "self determination" could become a reality.

At this time there is a relatively small population of Indian MSW's. Charles Farris (Cherokee), Director of the NIMH Indian Graduate Social Work Program at Barry College, Florida, estimates that there are 200 or more Indian MSW's in 1977 with more graduating as MSW's in the same year.

There are nine social work graduate schools that have formed recruitment and educational programs for Indians: The University of Washington, University of Minnesota-Duluth, University of Oklahoma, University of Utah, Barry College, Florida, Arizona State University, Portland State University, University of Denver, and California State University-Sacramento.

A pool of potential social workers to implement my recommended additional feature in Sec. 202 of Title II, S. 3777, although relatively small, should be more than adequate. Formal school programs for Indian MSW's could coordinate with Indian Family Development programs on reservations or in urban Indian areas. Once Indian MSW's are established on reservation, they would almost certainly further social work education on the reservation and recruit Indians into BA social work programs, providing a further pool of social workers through the tribe itself.

We should not forget the non-Indian social worker who is capable

of working with an Indian population. At Barry College, Florida, many non-Indian graduate social work students choose the Indian project as their field placement, spending a year on the Seminole reservations. Many learn to work effectively in a different culture. They learn to slow down or "shift gears," that industrial, artificial time is not "obeyed" on the reservation, that appointments can be construed as an insult, that consultation is done under different circumstances. For example, you may find two extra people in what you thought was a private one-to-one interview, or your one-to-one may take place in a family's yard. The students learn that the bureaucratic structure on a reservation (it's there) includes clan, family, and personal hierarchy. Above all, the non-Indian student hopefully loses his stereotyped view of the Indian. Non-Indians with this training could be implemented in Sec. 202 of The Indian Family Development Program of S. 3777, providing a further source of social work personnel.

Proponents of S. 3777 could work with programs such as Barry College's NIMH Indian Social Work Program to assure that qualified social workers would fill strategic positions in the implementation of S. 3777.

My position is that a social worker at the graduate level MSW, preferably of Indian heritage, must be included in The Title II, Indian Family Development Sec. 202 of the proposed act S. 3777, to make it a workable program when it is implemented.

SUMMARY

The proposed Act S. 3777 entitled The Indian Child Welfare Act of 1976 represents a substantial step toward self determination of Indian tribes.

What is needed is a well conceived, more specific way to assure that it will be a workable program when implemented. If amendments such as those I have suggested are made to the proposed act, the goals which the act has set will become a reality. Then we will see Indian tribes and professional Indian social workers providing adequate care to Indian children and their families while preserving the integrity of the tribal way of life.

Martin Cross Jr.

INDIAN ADOPTION PROGRAM: AN ETHNIC APPROACH
TO CHILD WELFARE

By

Charlotte Tsoi Goodluck, MSW
Flo Eckstein, MSW

Presented at the 54th Annual Meeting
of the American Orthopsychiatric
Association
April 14, 1977
New York, New York

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Native American Indian children whose birth parents cannot care for them traditionally have been cared for by extended family members or by others within the tribal community. In recent years, those children for whom traditional tribal resources have not been available have been placed in foster and boarding homes on and off the reservation. Many have remained in foster care until adulthood. Some have been placed in permanent legal adoption, but the adoptive homes have almost been exclusively non-Indian. Nearly all Arizona Indian children placed in adoption in past years were sent out of state.

The first major effort to place Indian children in adoption was a joint Bureau of Indian Affairs-Child Welfare League of America Indian Adoption Project; this project, together with its successor, CWLA's Adoption Resource Exchange of North America (ARENA), placed 650 Indian children in mostly non-Indian homes in 39 states between 1958 and 1972.

The Indian Adoption Program, sponsored by Jewish Family and Children's Service of Phoenix and funded by the Bureau of Indian Affairs, opened its doors in 1973 as the nation's first program to actively recruit Indian families for Indian children. Between November, 1973 and April, 1977--just over three years-- the Indian Adoption Program has placed 57 children in adoptive homes, among them healthy infants, older children and several children of mixed racial background. Nearly eighty per cent of the adoptive homes are Indian. Well over half the children have remained in Arizona.

The Indian Adoption Program's primary goal was to find a permanent and secure home for Indian children designated as dependent and neglected. IAP has aimed to include the following: Counseling for birth parents, with boarding care and supportive services as needed, legal services to children without adequate family custodians, appropriate foster care when needed, preparation of prospective Indian adoptive families for placement, preplacement services, post placement adoptive services and subsidized adoption.

Jewish Family and Children's Service undertook the Indian Adoption Program as a demonstration project, growing out of the agency's own sectarian awareness of the importance of ethnic identity and of the fact that a child's growth and development may be enhanced by the degree to which he identifies with his family and cultural heritage. The agency knew, too, of the desire of Jewish people to see their dependent children remain in Jewish families; it was possible to understand that Indian people felt this way as well. As a private child welfare agency in an area with a high percentage of dependent Indian children, Jewish Family and Children's Service of Phoenix elected to demonstrate that Indian adoptive families could be found for Indian children, with the aim of developing the skills of Indian groups and newly graduating Indian professional social workers ultimately to provide a full range of child welfare services within the Indian community.

This paper will begin with a discussion of two prior studies on the adoption of Indian children and a summary of a recent study of the IAP. We will then look directly at the IAP, focusing on

its unique efforts to recruit Indian adoptive families, services provided to birth families and dependent children, and post placement services to the adoptive children and families. We will conclude with brief remarks about the future course of services to Indian dependent children.

STUDIES OF THE ADOPTION OF INDIAN CHILDREN

There are only two known published studies of the adoption of Indian children, both of which focus on interracial placement. "Adoptive Placement of Indian Children" by Arnold Lyslo (1967)¹ describes the results of a 1966 analysis by the Child Welfare League of America of statistics on placements of Indian children. Only 7 per cent of the adopting families had at least one Indian parent. There were reports that Indian communities, including the Hopi and Navajo in Arizona, were opposed to non-Indian homes for their children. Agencies studied reported some problems of placement of Indian children involving the physical and emotional health and age of the children as well as prejudice in the communities of the adopting families.

In 1972 David Fanshel wrote Far from the Reservation: Interracial Adoption of Indian Children,² a study of some of the 395 American Indian children adopted by white families between 1958 and 1967 through the BIA--CWLA Indian Adoption Project. Families included in the study lived primarily in the East and Midwest. The children came from western and midwestern states, including

1 Catholic Charities Review, Vol. 51, No. 2, February, 1967, pp. 23-25.

2 The Scarecrow Press, Metucken, New Jersey, 1972.

24 per cent from Arizona. Fanshel focused on characteristics of the adopting families and experiences of the families and children subsequent to interracial placement. He concluded that by and large the adoptive placements were successful and that the children were being raised by families with physical and emotional resources far greater than those of the birth families. However, Fanshel found a moment at the end of his book to reflect on the implications of interracial placement in the eyes of the minority group from whom children came. He wrote that minorities have come to see the interracial placement of their children as

the ultimate indignity that has been inflicted upon them. . . . It seems clear that the fate of most Indian children is tied to the struggle of the Indian people in the United States for survival and social justice. . . . Whether adoption by white parents of the children who are in the most extreme jeopardy in the current period--such as the subjects of our study--can be tolerated by Indian organizations is a moot question. It is my belief that only the Indian people have the right to determine whether their children can be placed in white homes.³

Reading a report such as this one, Indian leaders may decide that some children may have to be saved through adoption even though the symbolic significance of such placements is painful for a proud people to bear. On the other hand, even with the benign outcomes reported [in Far from the Reservation], it may be that Indian leaders would rather see their children share the fate of their fellow Indians than lose them in the white world. It is for the Indian people to decide.⁴

The Indian Adoption Program sponsored by Jewish Family and Children's Service of Phoenix could be described as an effort to alter the fate of some Indian dependent children in a manner compatible with the wishes of Indian people. The program was

3 p. 341.

4 p. 342.

analysed in an unpublished 1976 graduate master's thesis by Flo Eckstein and Patty Fisher.⁵ The authors reviewed in depth the 30 adoptive placements during the program's first two full years and came to the following findings: (1) Indian children were placed for adoption with Indian families. (2) Although most adopted children were infants, permanent homes were found for several hard-to-place children--those who were older and came into the program with extensive foster care histories and with physical and intellectual handicaps. Children were placed following shortterm foster care whenever possible. (3) Birth parents received supportive counseling and other services, with casework directed toward helping them make a decision in their child's best interest, and with adoption by an Indian family being offered as one alternative--a choice not previously open to many birth parents. (4) Reservation Indian families for the first time had an opportunity to adopt through a state licensed child welfare agency, and many families took advantage of this opportunity. (5) The rate of out-of-state placement of Arizona Indian children was drastically reduced. (6) A comparison on birth and adoptive families revealed that the former were largely multiproblem, undereducated, poor and unstable, while adoptive families were stable, well educated and regularly employed, distinguishable from other groups of adoptive parents chiefly by their Indian heritage and identification.

The study confirmed that the Indian Adoption Program is providing a unique and comprehensive service to three

5 "The Indian Adoption Program: New Frontier in Child Placement," Graduate School of Social Service Administration, Arizona State University, May 1976 (Mimeographed).

groups of Indian clients--dependent children, birth parents and adoptive parents--a service in keeping with the recent trend of child welfare to utilize the resources available for children within their own native communities, to give children the opportunity to grow up with families with which they are most at home.⁶

THE CURRENT PROGRAM-RECRUITMENT AND STUDY OF INDIAN FAMILIES

Prior to the Jewish Family and Children's Service IAP, Indian families were not actively recognized as a source for children needing homes. Efforts were made early in the program to recruit from within the Indian community stable families with good parenting skills who could provide permanent homes for children in need of such homes.

Arizona's Indian residents live on reservations and urban areas, necessitating a wide network of contacts with tribal groups, the BIA, and the social workers of the Public Health Service and the Arizona Department of Economic Security, as well as urban Indian centers, churches and recreational groups. To reach into these diverse and far flung resources, Indian and general community newspapers ran articles about the need for Indian families, and radio spots were broadcast on those stations known to attract large Indian audiences. But by far the most successful recruiting device was the personal contacts made by the project's Indian social worker, a native Arizonan who spread the news of waiting children.

At the same time, IAP contacted national child welfare organizations to recruit families and to stimulate interest in Indian adoptions throughout the country. The North American

Center on Adoption, Interstate Adoption Exchange has been very helpful, as has the National Association of Indian Social Workers. Adoption applications have come from many states, and the IAP has served childless couples, families with children and single parent applicants from outside as well as within Arizona.

IAP has spared applicants much of the red tape frequently encountered in agency adoption practices. The application form has been simplified. Family studies are often conducted in the family's home on the reservation. IAP, in fact, is uniquely able to reach out to Native American families in outlying areas; the director of the sponsoring agency flies a private plane, and often she and the caseworker travel to reservations in the Southwest to interview applicants and to accept referrals of Indian children in need of foster care and adoptive placement.

To be eligible for the program, one parent in the prospective adoptive family must be at least one-quarter Indian. In fact, seventy-seven per cent of adopting families are part or full Indian, and one-third are reservation residents. Positive identification with and active involvement in the Indian community must be demonstrated. No fee is charged to Indian adoptive families. Consideration is given to non-Indian families who want to adopt children with special needs, when no appropriate Indian family can be found.

BIRTH FAMILIES

IAP has provided casework service to over one hundred birth parents, nearly all of whom are Arizona natives referred by BIA

social services on Indian reservations. These young women have been characteristically poor and from unstable families. A disproportionate number of mothers have been from Pima, Papago and Apache tribes, in which family disorganization is frequently seen. Few Hopi or Navajo women have requested service, which may attest to greater family stability and better tribal services within these groups. In fact, many of adoptive families are Navajo. The young women served have been generally non-delinquent, with no significant history of alcohol or drug abuse; their sexual relationships, like their family relationships have tended to be casual.

The birth mothers generally have been casual about their education as well, either leaving school before high school graduation or living at boarding school until pregnancy has required them to leave. The Indian female traditionally is raised to carry children, not school books. At the same time, out-of-wedlock pregnancy for some of these young Indian women has had the earmarks of adolescent rebellion.

Traditionally, illegitimacy has been accepted among Indian families and additional children have been readily absorbed into the extended family group, but with few exceptions the families of the IAP clients have been unable to absorb their newborns into the family group. Extended family breakdown rather than social disapproval appears to be the primary reason for adoptive placement of American Indian children, in marked contrast to the American white community.

IAP services to pregnant women have included counseling regarding living plans and exploration of the implications of relinquishment and placement. Temporary foster care of children has been provided to allow several young women time to decide about their future plans, including adoption or keeping their child. A small group home was operated for six months to provide a temporary home for birth mothers in a culturally comfortable setting. It was a useful alternative to existing maternity homes and other urban institutions.

In several instances of young mothers from intact Indian families, the IAP supportive services have been directed toward informal placement of a child within the extended family, most often with maternal grandparents or siblings.

Fathers of the children have tended to be casual rather than close friends of the birth mothers, with similar multi-problem lifestyles. Limited direct services have been given to the fathers, including supportive counseling and inclusion in planning for the child. Many fathers believe the child is the sole responsibility of the mother but are cooperative in providing useful information about themselves in behalf of the child. The Stanley vs. Illinois decision requiring that fathers be notified of the mother's wish to place the child for adoption and given an opportunity to help plan for the child has been followed in each case, even though on some reservations the unmarried father is not routinely contacted by the tribal court.

In one instance a 16 year old Navajo girl, pregnant and unmarried, came to Phoenix for her confinement and delivery.

Following the child's birth she signed relinquishment papers and returned to the reservation to live. The baby remained in foster care for a few months while we worked to contact the father, who was away in military service. When we did reach him, he expressed great interest in the child and resumed contact with the mother. Extended family members then became interested and involved, and ultimately the mother revoked her relinquishment and the child was returned to her. Since that time the young couple has married, and the maternal grandmother is caring for their child. In this particular case the Navajo clan system, which is actively involved in the lives of its members, stepped into offer a plan that was acceptable to the natural parents and which ensures the child's growing up within his own extended family.

THE CHILDREN

Most of the children served by IAP have been healthy, full blooded Indian infants under one year of age. All such children placed for adoption have gone into Indian homes, often on Southwestern reservations. Several older children, who came into the program with extensive foster care histories and frequent physical, emotional, intellectual and social handicaps, have been placed with a variety of permanent families including single parents and non-Indian homes. Five children came into the program with a history of seven or more years of foster care, averaging 4.2 separate placements. One child had had ten placements. All but one of these children have been successfully placed in permanent homes.

Services to children have included foster care and coordination of medical, legal and evaluative services.

POST-PLACEMENT SERVICES

Once prospective adoptive families are recruited, the home study written and court certification obtained the home is considered as a possible resource for placement of a dependent child. Guidelines for choosing homes for specific children are those of the Indian people: Placement within the extended family is first explored. A family of the same tribe is given next consideration. Should neither of these fit with the wishes of the birth parents, the needs of the child or the resources available, placement with a family of another tribe is planned. When none of these avenues is productive, a non-Indian family may be sought. All the children, it is hoped, will have an opportunity to learn about their birth heritage. For most, their adoptive family experience will help them to grow into adults who are part of one tribe by blood and another by culture, but most of all independent adults whose upbringing has enriched their identity as unique human beings.

The agency maintains an active role in post-placement supervision and legal services, often in cooperation with other agencies. Most families have elected to complete the adoption through the state courts, although the IAP is open to tribal court adoption. Some families have chosen both state and tribal adoption.

Tribal enrollment has been a desired program goal, to ensure tribal inheritance rights within the child's birth or

adopted tribe. To date this has been a difficult goal to reach, because of a wide variance of tribal laws and eligibility requirements for membership, complicated by confidentiality issues. The only certainty is that a child cannot be enrolled in more than one tribe. One adopting family, a Navajo man and a Pueblo woman, were unable to have their child enrolled in either tribe. The Navajo code requires that an enrollee be of Navajo blood, which their child is not, and the Pueblo tribe has an age requirement the child could not meet. The natural parents elected not to request enrollment of the child in their own tribe because doing so would have violated their wish for confidentiality. So the full-blooded American Indian child, adopted into an American Indian home, is currently without the legal protection of tribal enrollment.

CONCLUSIONS

As we heard above, David Fanshel, in Far from the Reservation, wrote that "it may be that Indian leaders would rather see their children share the fate of their fellow Indian than lose them in the white world." The IAP's experience would appear to demonstrate not only that dependent children can be kept within the Indian community but that they can enjoy the opportunity for enhanced racial and cultural integrity while protected by the legal and social work safeguards of the general community. IAP has cut through red tape on reservations and in federal, state, and local agencies to insure permanent homes for children. In the last three and a half years IAP has placed 57 dependent children in 53 adoptive homes, has served over 100 birth parents

and has provided a unique and comprehensive service to all three client groups, a service in keeping with the recent national trend in child welfare and adoption to use resources available for children within their own communities and to give children an opportunity to grow up with families with whom they will feel at home.

In the past few months the Program has been enhanced by an additional child welfare worker to handle some of the large caseload and improve the Program's ability to function. Plans are in the talking stages for a group home for troubled adolescent girls, including those who are not pregnant, in an effort to improve personal functioning. The staff members are also planning to bring their specialized training in foster care and adoption to reservation child care workers by developing a brief course of study.

Finally, proposed legislation may affect the future course of the IAP. In Arizona, a group of Indian social workers and others are proposing policy and practice guidelines for public agency social workers regarding all dependent Indian children who are either enrolled or eligible for enrollment in a tribal group.

In the United States Congress in August, 1976, Senator Abourezk introduced S.B. 3777, an effort to create guidelines for Indian child placement and to develop national policy to protect the rights of Indian children. This legislation, which would give original and exclusive jurisdiction over a dependent Indian child's destiny to tribal rather than state courts, raises questions about the self-determination and privacy

rights of the natural parents, questions which should be asked by interested persons in the child welfare field. This legislation may alter the work of the IAP, but it is hoped that whatever Congress and tribal governments do will enhance the future of Indian children yet to be born.

The IAP certainly offers no final answers on the best choices for all dependent Indian children. However, it does offer some tentative suggestions, and for many specific children has provided an opportunity for a secure future.

campaign close-up

The Indian Adoption Project (IAP), sponsored by Jewish Family and Children's Service of Phoenix and funded by the Bureau of Indian Affairs, opened its doors in 1973 as the nation's first program to actively recruit Indian adoptive families for Indian children.

Traditionally, native American Indian children whose birth parents were unable to care for them were raised by members of their extended family and by others within the tribal community. More recently, however, children for whom traditional tribal resources have not been available were placed in foster and boarding homes both on and off the reservation. (Many remained in foster care until adulthood.) Some youngsters were placed for adoption, almost all with non-Indian families in areas far from the reservation. The great majority of Indian children from Arizona, for example, were sent to adoptive homes out of state.

The Indian Adoption Project set out to demonstrate that there was no need for Indian children to grow up so far from their roots. Prior to the establishment of IAP, Indian families seldom were recognized as a resource for children needing homes. But there was growing recognition that these children need Indian families in which they can learn Indian languages, values and traditions. The Project hoped to show that Indian families, apprised of the need, would come forward for the waiting children.

In less than 3 years, the Project has been responsible for the successful adoptive placements of 53 youngsters, among them healthy infants, older and handicapped children, and youngsters of mixed racial background, of whom 85% have gone into Indian adoptive homes. More than half were placed within the state of Arizona.

Arizona's Indian residents live on reservations and in urban areas, necessitating a broad network of contacts among tribal groups, the Bureau of Indian Affairs, and the social workers of the Public Health Service and the Department of Economic Security, as well as urban Indian centers, church and recreation groups. To reach these diverse and far-flung groups, Indian and general community newspapers ran articles about the need for Indian families, and radio spots were broadcast by those stations known

to attract large listening audiences within the Indian communities. But the most successful recruitment device of all proved to be the personal contacts made by the Project's Indian social worker, a native of Arizona, who spread the news of the waiting Indian children. Childless couples, those with children, and single persons responded to the appeal.



IAP Adoptive Family

At the same time, IAP contacted national child welfare and Indian organizations, to recruit families and also to stimulate interest in Indian adoption throughout the country. ARENA, the North American Center on Adoption's interstate adoption exchange, has been very helpful, as has the National Association of Indian Social Workers. This effort has produced adoption applications from many states, and IAP has served families and children from outside Arizona.

Families adopting through IAP have been spared much of the red tape so often encountered elsewhere. The adoption application form has been shortened and simplified. Family studies usually are conducted in the family's home. IAP is, in fact, uniquely able to reach out to Native American families in outlying areas. The director of the sponsoring agency flies a private plane. At least twice a month, she and the caseworker travel to reservations in the southwest to interview applicants and to accept new adoptive applications as well as referrals for Indian children in need of foster care and adoptive placement.

In keeping with traditional Indian practice, IAP first explores the possibility of

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placing a dependent child with relatives. In some cases, the agency has encouraged grandparents to adopt a child, and assisted in integrating youngsters into the lives of their extended family. To qualify for the project, one parent in a family must be at least one-quarter Indian. Positive identification with, and active involvement in, the Indian community must be demonstrated. No fee is charged to adopting families, and subsidized adoption plans are offered to lower income families.

For more information about the Indian Adoption Project, write to Charlotte Goodluck, MSW, Jewish Family and Children's Service of Phoenix, 2033 North 7th Street, Phoenix, Arizona 85006.

Coordinated by Ina Jorge
Assistant to the Director

The Plight of the Waiting Child is an update of material excerpted from *Children in Need of Parents*, the 1959 study by Dr. Henry Maas and Richard E. Engler of children who are lost in the foster care system. Unfortunately, the picture the authors drew has not brightened in the intervening years.

To draw attention to the plight of the waiting children, the Center had the figures brought up to date, and has reprinted the study in conjunction with the launching of its Family Builders fundraising effort. The booklets may be purchased from the Center for \$1.50, which includes postage and handling. For bulk orders, contact Patricia Becker, Assistant to the Director.

adoption report

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