

STATEMENT OF BERTRAM HIRSCH, ASSOCIATION ON AMERICAN
INDIAN AFFAIRS

Mr. HIRSCH. Thank you, Mr. Chairman.

Primarily, we feel that title I of S. 1214 is perhaps the most vital section of the bill. The title is based on case law that has developed over the last several years and I might say over the last century and a half, respecting the rights of Indian tribes to control their membership and their tribal relations within the tribe.

Title I also addresses placement standards for Indian children which we believe will, to a major extent, eliminate most of the horror stories that were chronicled to this committee during the oversight hearings in 1974. Particularly I would like to emphasize the fact that so many Indian children are taken away from their families because of applications of standards related to poverty factors, related to alleged alcohol conditions, and also abuses of process, in my opinion, involved in the voluntary relinquishment of children without court order.

This bill, as you know, provides that voluntary relinquishment of children can only occur in a court by court order.

S. 1928, which an administration witness testified about earlier, continues the practice of not mandating that voluntary relinquishments occur by court order, but that they can occur by out-of-court agreements. This is one of the major abuses that Indian people are interested in seeing eliminated. Many States require court orders; some States do not. We feel that it would be better law to require court orders in voluntary relinquishments of children.

Whatever situations involving Indian families that cannot be ameliorated or eliminated by effective application of title I, we believe will be taken care of in the implementation of title II programs and self-determination provisions that run throughout this bill.

It is clear to me, contrary to what the administration witnesses testified to, that this bill is based solely on a self-determination philosophy. It in no way imposes any standards or any way of doing things on the tribes, but, rather, gives the tribes free reign to implement their own customs, laws, and traditions, and to develop their programs in the way that they see fit to meet the needs of their families and children.

The standards that are imposed in this bill are standards imposed on State and county and nontribal agencies that function on Indian reservations and in Indian communities in relationship to Indian families and Indian children.

Primarily, Senator Hatfield, I would like to emphasize something that is not in the bill that I think, and the Association on American Indian Affairs believes very strongly, is one of the most critical child welfare problems for Indian people in the United States today. That is the boarding of Indian children in BIA boarding schools far from, oftentimes, the reservation where they come from.

There are several thousand Indian children in boarding arrangements. They are boarded at the most vulnerable ages, in terms of family separation, grades 1 through 8, 6 years old through 12 years old. We feel very strongly that there should be an amendment to S. 1214 that incorporates a title III on the boarding school question.

We are prepared in a few days to submit specific language for the title III amendment to this bill.

Essentially what we would propose in title III is that the Congress recognize that the absence of locally convenient day schools for Indian children and families in the communities where they live is a violation of the equal protection of the laws that Indian families are entitled to.

Second, the Secretary of the Interior should be authorized and directed to prepare a master plan for the construction of locally convenient day schools and also to develop a plan for the construction of roads that would serve those schools. That has been a traditional BIA response on why there are not locally convenient day schools, the fact that roads are not available for access to such schools.

We would also request that title III incorporate a schedule of appropriations to phase in locally convenient day schools for Indian children over a period of 5 to 7 years and that the master plan be submitted to the Congress within 8 months after the enactment of this legislation.

I just want to add one last thing in closing, with respect to S. 1928, which was testified about in your absence earlier this morning.

Although I have not had an opportunity to give S. 1928 the careful review that it deserves, I believe that it does provide, as the administration witnesses testified, some valuable programming that will benefit Indian families and children just as it will other families and children throughout the United States.

However, I must say that the bill, as introduced, is absolutely laded and riddled with all kinds of provisions that, if improperly applied—and we know from experience that they are improperly applied throughout the country—will result in a tremendously increased removal rate of Indian children from their families—unjustified and unnecessary.

The standards that are imposed in the bill as now written are non-Indian standards, drafted by non-Indians, and with no thought or concern for Indian people.

I might add, Senator, that S. 961, which preceded S. 1928 and was a successor to a bill introduced by Senators Cranston and Mondale last year, included specific provisions for a direct relationship between the U.S. Government and Indian tribes in the delivery of child welfare services to Indian communities. For some strange reason which I, for one, do not understand, when S. 1928 was introduced, all of those Indian provisions were eliminated from the bill. I can only say that I think the bill as now drafted is in direct contradiction of President Carter's pledge, when he was running for election, when he specifically said the following:

Indian families and children, like all American families, deserve to be protected and supported by government rather than ignored and destroyed. The rights of Indian families to raise their children as they wish have not always been respected by government. Today, up to 25 percent of all Indian children are raised in foster homes or adoptive institutions.

Some of these placements are unwarranted, and many could be prevented if proper social services as well as sufficient educational, economic, and housing resources were available to Indians.

If I am elected President, I intend to insure that Indian families are assisted and bolstered by Government policies.

I truly believe that S. 1214 fulfills entirely the President's thoughts and wishes, and S. 1928 does not address the thoughts and wishes at all with respect to Indian people and Indian tribes in particular.

Thank you very much.

Senator HATFIELD. Thank you, Mr. Hirsch.

We will look forward to your written statement which you are invited to submit.

Mr. HIRSCH. Thank you.

Senator HATFIELD. Thank you very much.

I would like to call the next panel: Calvin Isaac, Rena Uvilla, Mona Shepard, Ramona Bennett, Fay LaPointe, Bobby George, and Gloria York.

Mr. Isaac, since you are already a chairman, would you act as chairman of the panel this morning and please proceed to summarize your prepared statement and then call on the other members of your panel as you desire?

STATEMENT OF CALVIN ISAAC, TRIBAL CHIEF, MISSISSIPPI BAND OF CHOCTAW INDIANS, REPRESENTING THE NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION (NTCA)

Mr. ISAAC. Thank you, Mr. Chairman.

I am Calvin Isaac, tribal chief of the Mississippi Band of Choctaw Indians in Mississippi. Thank you for asking NTCA to make an appearance before you today.

I testified before this committee last week on the matter of education programs. I do not wish to amend anything that I said last week.

The topic of today is an issue that is of more concern to us than education.

If Indian communities continue to lose their children to the general society for adoptive and foster care placement at the alarming rates of the recent past, if Indian families continue to be disrespected and their parental capacities challenged by non-Indian social agencies as vigorously as they have in the past, then education, the tribe, Indian culture have little meaning or value for the future. This is why NTCA supports S. 1214, the Indian Child Welfare Act of 1977.

I have three points I want to summarize from my written testimony.

The first point: One of the most serious failings of the present system is that Indian children are removed from the custody of their natural parents by nontribal government authorities who have no basis for intelligently evaluating the cultural and social premises underlying Indian home life and childrearing.

Another point is that, culturally, the chances of Indian survival are significantly reduced if our children, the only real means for the transmission of tribal heritage, are to be raised in non-Indian homes and denied exposure to the ways of their people. Furthermore, these practices seriously undercut the tribe's ability to continue as self-governing communities.

No. 3: The ultimate responsibility for child welfare rests with the parents. We would not support legislation which interfered with that basic relationship.

S. 1214 will put government responsibility for the welfare of the children where it belongs and where it can most effectively be exercised, and that is with the Indian tribes.

NTCA believes that the emphasis of any Federal child welfare program should be on the development of tribal alternatives to present practices of severing family and cultural relationships.

NTCA supports the bill.

We do have written testimony which I am sure you will have time to review.

This concludes my oral testimony. We support S. 1214 as being responsive to a critical problem. We look forward to progress in protecting and strengthening Indian families.

We would be most happy to work with the committee in the language of the proposed bill.

Thank you.

Senator HATFIELD. Thank you very much, Mr. Isaac.

Our next witness will be Ramona Bennett, chairwoman of the Puyallup Tribe.

Without objection, Mr. Isaac's entire written statement will be inserted.

[The prepared statement of Mr. Isaac follows:]

STATEMENT OF
THE NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION
BEFORE THE
SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE
ON
S. 1214, THE INDIAN CHILD WELFARE ACT

August 4, 1977

Mr. Chairman, I am Calvin Isaac, Tribal Chief of the Mississippi Band of Choctaw Indians and a member of the National Tribal Chairmen's Association. Thank you for asking NTCA to appear before you today.

I testified before this Committee only last week on the importance to the Indian tribal future of federal support for tribally-controlled educational programs and institutions. I do not wish to amend anything I said then, but I do want to say that the issue we address today is even more basic than education in many ways. If Indian communities continue to lose their children to the general society through adoptive and foster care placements at the alarming rates of the recent past, if Indian families continue to be disrespected and their parental capacities challenged by non-Indian social agencies as vigorously as they have in the past, then education, the tribe, Indian culture have little meaning ^{or value for the} future. This is why NTCA supports S. 1214, the Indian Child Welfare Act of 1977.

Our concern is the threat to traditional Indian culture which lies in the incredibly insensitive and oftentimes hostile removal of Indian children from their homes and their placement in non-Indian settings under color of state and federal authority.

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Individual child and parental rights are ignored, and tribal governments, which are legitimately interested in the welfare of their people, have little or no part in this shocking outflow of children.

The problem exists both among reservation Indians and Indians living off the reservation in urban communities: an inordinately high percentage of our Indian children are separated from their natural parents and placed in foster homes, adoptive homes, or various kinds of institutions, including boarding schools. The rate of separation is much higher among Indians than in non-Indian communities.

Last year Task Force Four of the Policy Review Commission reported Indian adoption and foster care placement statistics for 19 states. Of some 333,650 Indians in those states under the age of 21, 11,157, or at least one in every 30, were in adoptive homes. Another 6,700 were in foster care situations. Comparison of Indian adoption and foster placement rates with those of the non-Indian population for the same state invariably showed the Indian rate was higher, usually at least two to four times as high and sometimes 20 times higher. Where the statistics were available they showed that most of the adoptions and placements, sometimes 95 percent of them, were with non-Indian families.

One of the most serious failings of the present system is that Indian children are removed from the custody of their natural parents by nontribal government authorities who have no

basis for intelligently evaluating the cultural and social premises underlying Indian home life and childrearing. Many of the individuals who decide the fate of our children are at best ignorant of our cultural values, and at worst contemptful of the Indian way and convinced that removal, usually to a non-Indian household or institution, can only benefit an Indian child. Removal is generally accomplished without notice to or consultation with responsible tribal authorities.

Often the situation which ultimately leads to the separation of the child from his family is either not harmful to the child, except from the ethnocentric viewpoint of one unfamiliar with the Indian community, or is one which could be remedied without breaking up the family. Unfortunately, removal from parental custody is seen as a simple solution. Typically the parents do not understand the nature of the proceeding, and neither parents nor child are represented by counsel.

Not only is removal of an Indian child from parental custody not a simple solution, under present policies it is no solution at all. The effect of these practices can be devastating -- both for the child and his family, and in a broader sense, for the tribe. The child, taken from his native surroundings and placed in a foreign environment is in a very poor position to develop a healthy sense of identity either as an individual or as a member of a cultural group. The resultant loss of self-esteem only leads to a greater incidence of some of the most visible problems afflicting

Indian communities: drug abuse, alcoholism, crime, suicide. The experience often results, too, in a destruction of any feeling of self-worth of the parents, who are deemed unfit even to raise their own children. There is a feeling among professionals who have dealt with the problem that this sort of psychological damage may contribute to the incidence of alcohol abuse.

Culturally, the chances of Indian survival are significantly reduced if our children, the only real means for the transmission of the tribal heritage, are to be raised in non-Indian homes and denied exposure to the ways of their people. Furthermore, these practices seriously undercut the tribes' ability to continue as self-governing communities. Probably in no area is it more important that tribal sovereignty be respected than in an area as socially and culturally determinative as family relationships.

The ultimate responsibility for child welfare rests with the parents and we would not support legislation which interfered with that basic relationship. What we are talking about here is the situation where government, primarily the state government has moved to intervene in family relationships. S. 1214 will put governmental responsibility for the welfare of our children where it belongs and where it can most effectively be exercised, that is, with the Indian tribes. NTCA believes that the emphasis of any federal child welfare program should be on the development of tribal alternatives to present practices of severing family and cultural relationships. The jurisdictional problems addressed by this bill are

difficult and we think it wise to encourage the development of good working relationships in this area between the tribes and nontribal governments whether through legislation, regulation, or tribal action. We would not want to create a situation in which the anguish of children and parents are prolonged by jurisdictional fights. This is an area in which the child's welfare must be primary.

The proposed legislation provides for the determination of child placements by tribal courts where they exist and have jurisdiction. We would suggest, however, that section 101 of the bill be amended to provide specifically for retrocession at tribal option of any pre-existing tribal jurisdiction over child welfare and domestic relations which may have been granted the states under the authority of Public Law 280.

The bill would accord tribes certain rights to receive notice and to intervene in placement proceedings where the tribal court does not have jurisdiction or where there is no tribal court. We believe the tribe should receive notice in all such cases but where the child is neither a resident nor domiciliary of the reservation intervention should require the consent of the natural parents or the blood relative in whose custody the child has been left by the natural parents. It seems there is a great potential in the provisions of section 101(c) for infringing parental wishes and rights.

There will also be difficulty in determining the jurisdiction where the only ground is the child's eligibility for tribal membership. If this criterion is to be employed there should be a further required showing of close family ties to the reservation. We do not want to introduce needless uncertainty into legal proceedings in matters of domestic relations.

There are several points with regard to placement proceedings on which we would like to comment. Tribal law, custom, and values should be allowed to preempt state or federal standards where possible. Thus we underscore our support for the provision in section 104(d) that the section is not to apply where the tribe has enacted its own law governing private placements. Similarly, the provision in section 102(b) stating that the standards to be applied in any proceeding under the Act shall be the standards of the Indian community is important and should be clarified and strengthened. The determination of prevailing community standards can be made by a tribal court where the court has jurisdiction. Where the tribal court is not directly involved the bill should make clear that the tribe has the right as an intervenor to present evidence of community standards. For cases in which the tribe does not intervene reasonable provisions could be devised requiring a nontribal court to certify questions of community standards to tribal courts or other institutions for their determination.

The presumption that parental consent to adoption is involuntary if given within 90 days of the birth of the child should be modified to provide an exception in the case of rape, incest, or illegitimacy. There appears to be no good reason to prolong the mother's trauma in such situations.

Section 103 establishes child placement preferences for nontribal agencies. Most importantly, the bill permits the tribe to modify the order of preference or add or delete categories. We

believe the tribes should also be able to amend the language of the existing preferences as written. The bill should state more clearly that nontribal agencies are obliged to apply the tribally-determined preferences.

The references in section 103 to "extended Indian family" should be amended to delete the word "Indian." The scope of the extended family should be determined in accord with tribal custom but placement should not be limited only to Indian relatives.

S. 1214 provides that upon reaching the age of eighteen an Indian adoptive child shall have the right to know the names and last known address of his parents and siblings who have reached the age of eighteen and their tribal affiliation. The bill also gives the child the right to learn the grounds for severance of his or her family relations. This provision should be deleted. There is no good cause to be served by revealing to an adoptive child the grounds for the severance of the family relationship and it is bad social practice. This revelation could lead to possible violence, legal action, and traumatic experiences for both the adoptive child and his adoptive and natural family. Further we do not believe it is good practice to give the adoptive child the right to learn the identity of siblings. This could result in unwarranted intrusion upon their rights and disruption of established social situations. In general, we recommend that the rights provided in section 104 not be granted absolutely, but rather that individual tribes be permitted to legislate on this question in accord with their custom.

Procedurally, the bill should be amended to make clear that children and parents appearing in tribal court shall have the right to representation by professional counsel as well as lay advocates, if the tribal court permits the appearance of professional as opposed to lay counsel in other proceedings. Finally, we strongly support the full faith and credit provisions of section 105 as a much needed step in the development of orderly tribal judicial process.

Title II of S. 1214 contains a welcome positive approach to child welfare problems. Resolution of jurisdictional questions as provided in Title I is a small part of the problem compared to the challenge of combatting poverty, substandard, overcrowded housing, child abuse, alcoholism, and mental illness on the reservation. These are the forces which destroy our families. With regard to the creation of family development programs and centers, however, we believe the bill is unduly restrictive. Tribes need not be authorized to create these programs. They should be regarded as eligible recipients or contractors for these programs. Section 202, authorizing these family programs should be more flexible, specifying that tribes are not limited by the terms of the statute but that other family development proposals may be funded at the discretion of the Secretary. The bill should expressly provide for planning of these family programs. Off-reservation programs (Sec. 203(d)) should specifically include counseling for adoptive or foster parents as well as the children and families facing disintegration.

We would delete paragraph 8 of section 202(a) providing for subsidization of adoptive children. We feel this would tend to undercut the parental responsibility necessary to the adoptive relationship and would provide an ill-advised incentive to adoption. We

suggest that if the provision is to be retained it should apply to exceptional cases involving difficult placement such as unusual medical care or educational requirements.

We are opposed to the provisions of Section 204 of the bill mandating a Secretarial study of all Indian child placements for the last sixteen years with the potential for initiation, with parental consent, of legal proceedings to restore custody of the child to the natural parent. We are sure that many placements in the past have been technically defective or even morally wrong but the illegality of a placement ten, twelve, or fourteen years ago does not necessarily mean present family relationships must be dismantled. As sad as past practices may have been a Secretarial probe of the kind described is not wise. We should look to the future. At the very least, a study of this kind should be limited to the very recent past. The record-keeping requirements imposed upon the Secretary also give us some cause for concern for the same reasons. The stated purposes for which the information could be released to adoptive children or parents are reasonable, but we see the potential for abuse in wrongful application of the information. We think it best to release to parties only the identification of the court having jurisdiction. It would then be up to the court to make the information available under the provisions of section 104, as modified in accord with our earlier suggestions.

Mr. Chairman, this concludes our testimony. We support S. 1214 as being responsive to a critical problem and we look forward to progress in protecting and strengthening Indian families.

Thank you for inviting us to present our views.

STATEMENT OF RAMONA BENNETT, CHAIRWOMAN, PUYALLUP TRIBE

Ms. BENNETT. Thank you, Mr. Chairman.
I am Ramona Bennett, chairwoman of the Puyallup Tribe of Indians.

In reading over the bill, it is not perfect. There are three or four things that we would have a lot of trouble living with.

As the chairwoman of the Puyallup Tribe in Washington State, which considers itself a Public Law 280 State, we have found intolerable conditions operating without a bill similar to this. Our children are subjected to racism in the State court system. The number of Indian children that find themselves incarcerated in State institutions because there is a lack of Indian community resources is an outrage. No criminal activities have to occur. We have been judged by the social workers.

Throughout Washington State, some 20 percent of the youngsters find themselves under a social worker's control. There are foster placements, incarcerations, adoptions, and a variety of these kinds of situations.

Within the State of Washington, there are only two professional social workers that actually carry a case load that I am aware of. Most of the tribes in our area are making a concentrated effort to provide relief. We find ourselves using limited tribal government dollars, limited education dollars, alcoholism dollars, to provide unfunded services, bootlegging the necessary services from other areas.

Most of the tribes are using Comprehensive Employment Training Act dollars, which allows us to bring on trainees and then continue them in a public service employment position. This allows paraprofessionals and some people with good skills to get busy providing recreation counseling supports to family units. This is very often necessary for us to take into court so that the child will not just be swallowed up by a State institution.

We commit ourselves to provide supervision and supports. But, you see, those positions, under law, can only continue for 18 months. So, when people are well trained, then we are no longer able to keep them on staff.

When we appeal to the Bureau of Indian Affairs for social work dollars, the response is that this is a Public Law 280 State; you really do not have jurisdiction over your own juveniles. We respond by telling them that these are juveniles that are already in our community, and we want to keep them in our family units. We love them; we want to keep them with us. They tell us that most of the social work dollars for the Bureau of Indian Affairs must go to non-280 States.

I know of two other tribes besides our tribe that have been able to receive small grants for planning services and basic evaluation and orientation dollars, but not strictly the social work dollars that we need to bring professionals on staff to be securing any kind of license. There are no Federal standards for licensing.

Our tribe has worked with the Tacoma Indian Center. They have gone on ahead and gotten the State licenses that compromise this urban group's legal position. Tribes simply cannot go under State jurisdiction.

Our tribe has been able to develop and establish a group home. I believe in our State this is the only child care institution that is currently in existence and in operation. We have vacancies or slots for only 14 youngsters between the ages of 12 and 18 who are dependent or delinquent.

Six months before we opened our doors, we had a waiting list of 30 youngsters. Our staff, which is limited, is having to withhold an opportunity of placement for many youngsters who could really benefit from this opportunity. There is not enough space.

We have been able to establish this with a \$150,000 State grant. Our tribe had to choose between having a community center or offices or classroom space or just a group home. We have prioritized child protection and felt that an example of Indian management of these problems was needed, at least in our community. That is a terrible choice for a tribe to have to make.

This was necessary because there were no Federal dollars available to meet these needs. The staffing, the space, the equipment have all had to come from sources that could have been used for other necessary purposes.

It has been our experience that the Indian mental health division has been very, very supportive. They see these alienations of Indian children to be a serious mental health problem. They are cognizant that, if you lose your children, you are dead; you are never going to be rehabilitated, or you are never going to get well. If there were problems, once the children are gone, the whole family unit is not ever going to get well.

As a chairwoman in an area very close to Seattle—in fact, in Tacoma—I have had many opportunities to do public speaking, to do television speaking on this subject. As a result of that, I have had many of these adopted ones come back to me. Some are our tribal members. Many of them are from Indian nations all over the country. They tell horror stories about the things that have happened to them, including their lack of identity, their loss of self-esteem; it is a real tragedy.

These kids are in foster care or out of Indian communities, and they find themselves never being appreciated and never measuring up. They are accepted only if they compromise themselves as Indian human beings, compromise themselves and alter their values. Our contact with them has resulted in increasing our efforts.

Without actual dollars to provide services and competent staff and permanent facilities, none of these tribes or communities have even a chance to stem this very crucial problem.

The schools that are needed are very expensive. I do not know if you have ever sponsored a ball team or have put on an activity to provide these community supports, but it is week after week. Every year you have to have things available for these family units.

So, I would just tell you that the Office of Child Development has not been helpful. Indian Health Services and the Bureau of Indian Affairs have been helpful within the constraints of limited budgets. No dollars are allocated specifically to meeting these needs.

I would urge you to continue your efforts on behalf of our families and our children to secure a final bill to be providing the reliefs that are so necessary. Thank you.

Senator HATFIELD. Thank you, Ms. Bennett. Your testimony is very helpful.

We are ready for the next witness. Let me again say that we have some time constraints; so, if you will all be brief, then we can hear everyone who has come to be heard today.

Mr. ISAAC. The next witness on the list is Mr. Bobby George.

Senator HATFIELD. Welcome, Mr. George. Before we hear from you, I will insert Ms. Bennett's prepared statement into the record.

[The prepared statement of Ms. Bennett follows:]

SENATE BILL 1214

TESTIMONY - PUYALLUP TRIBE - RENOIA BENNETT- CHAIRWOMAN

The bill provides an opportunity for the development and implementation of a "National Standard" for child placement agencies, child care institutions, and foster homes for reservations and Indian people. I understand that many Tribes object this violation of their "self determination". The Puyallup Tribe sees this National Standard as an opportunity to provide relief to our members and individual Indian people who currently are subjected not only to the "State standards", but also to the racist application of those standards by non-Indian, non-sensitive social and caseworkers of "State agencies".

We are not the advocates of substandard sanitary or unsafe homes being licensed, nor do we expect or appreciate an Anglo value system being enforced by the removal or withholding of our children.

A reservation example: A singleton grandmother with a seventy year tradition of carrying water, boiling water, washing clothes, washing dishes, giving sponge baths, washing floors, cooking areas, generally maintaining an immaculate home. -- Will teach disciplines unavailable in a fully plumbed "modern" situation. Under the currently enforced "standards" any children she is raising are subject to removal and placement by State agencies.

Tribal input into "Indian Federal Social Work Standards" will result in recognition of this, and other situations currently existing throughout the Nation on reservations.

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This bill insists that "all records be opened when the adopted one reaches eighteen". My experience would advise against this. Tribal social workers should be the first contact. A briefing with the natural parent(s) will very rarely result in a refusal to meet the adopted one. (one out of approximately 100 returning adoptees has faced this situation that I am personally aware of) Of these, approximately 30 had no surviving parents; and had to have assistance locating even distant relatives. (Once your children have been removed, the suicide by drinking, or suicide rate jumps tremendously.)

The bill requires such strict and unreasonable "causes for removal" that children would be left for years in semi dangerous, semi functioning family situations. There is absolutely no opportunity for Tribes, or Urban programs working with State or Tribal Agencies to intervene on the behalf of children who are receiving inadequate care. Some discretion must be incorporated into the final draft.

The provisions for "private housing assistance" invites confusion and abuse.

THE BILL PROVIDES "NO GUARANTEE OF FUNDING" FOR THESE DESPERATELY NEEDED SOCIAL SERVICE PROGRAMS, AND THE DOLLAR FIGURES BEING CONSIDERED ARE INADEQUATE.

Basic needs for Masters of Social Work and support staffs in each of these two hundred -plus- communities have never been met by any federal assistance program. A core budget of \$40,000. to provide just this basic staff would absorb 1/5 of the proposed dollars. Tribes already planning or providing emergency care

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would still be in difficulty.

Example; The Puyallup Tribe provides

Group home (childcare institution care for 14 delinquent/dependent juveniles between the ages of 12 and 18) Currently funded by C.E.T.A. positions with a very limited L.E.A.A. supplement. This provides good training, but all positions must terminate after 18 months.

Recreational alternatives to juvenile delinquency - Ball teams, heritage programs, camping trips, supervised dances and gatherings. Almost all of these efforts are voluntary, some equipment comes from the Bureau of Indian Affairs, some from Indian Health, some travel is provided by our alcoholism program.

WITHOUT THIS PROGRAM - MANY OF THESE YOUNGSTERS WOULD BE IN WASHINGTON STATE INSTITUTIONS!!!

Crisis intervention and long term counseling supports - NOT FULFILLED

Drop out prevention and special educational opportunities - Last year only funded by H.E.W. Title IV. We operated a full school program for 140 students with all counseling supports on a 150,000 grant.
WITHOUT THIS PROGRAM - MANY OF THE STUDENTS WOULD HAVE BEEN OUT OF SCHOOL AND IN STATE INSTITUTIONS!!!

There is no way all Tribes and Urban Indian Programs can even begin to meet just the current needs with the proposed dollars.

The only two agencies that have a demonstrated interest in Indian Child Development and protection are; Indian Health (H.E.W.), and the Bureau of Indian Affairs (Interior) within the the Federal Government system.

The Office of Child Development has played no role in assisting the Puyallup Tribe----

Without Indian Health providing emergency equipment and core social work staff our group home would not even be in operation.

Without the very limited dollars provided by the Bureau of Indian affairs for startup, we would not have been able to open.

STATEMENT OF BOBBY GEORGE, NAVAJO TRIBE

Mr. GEORGE. Thank you, Mr. Chairman, for the opportunity given us to present our testimony and our views in regard to Senate bill 1214.

Senator HATFIELD. Thank you for coming.

Mr. GEORGE. I would like to briefly state our tribe's position.

We are totally supportive of this bill. However, there are various questions that we do have. We have various recommendations that we would like to present before you for your committee's consideration.

Because of past abuses within our reservation and in regard to our children, it has been the policy of the Navajo Nation for over 20 years to require that any placement of our children be done with the consent of the courts of the Navajo Nation. By using Navajo courts to determine the appropriate place for raising Navajo children, we permit a Navajo institution sensitive to Navajo needs to make the critical determination.

Our tribal council has taken the position, almost 17 years ago, that we look with disfavor on the adoption of Navajo children by non-Navajos if the parents are living, are in good health, or if they have not abandoned or neglected the children. All this is in accordance with tribal definitions of any type of offense related to abandonment or neglect of children.

The ultimate preservation and continuation of Navajo cultures depends on our children and their proper growth and development. We support the efforts of Senator Abourezk and this committee to see to it that an institutional safeguard, such as a tribal court and its law, shall play a dominant role in protecting both the tribal interest as well as the interest of the child whose future residence is being determined.

We would like to submit for the record various materials which we are now assembling in Window Rock, the capital of our nation, together with certain technical suggestions for an amendment.

For instance, section 102 provides for only lay advocates. We license both attorneys and advocates to apply in tribal courts and thus we suggest the addition of the phrase, "or attorneys licensed to appear before tribal courts."

We would point out that we would prefer having the option to come within the coverage of this bill. We believe that title XX funding should not be the procedure to obtain funding for these purposes because of the difficulties already encountered and experienced with the several States' administration of these funds.

Also, we desire additional statutory language making it clear that this bill is not intended to diminish tribal sovereignty.

Additionally, we would like for your committee to consider this recommendation as far as an appropriation of funds are concerned under title II, section 201(d) and 204(d). After each one of these particular subsections, we would like to insert wording similar to what appears in Public Law 94-437, the Indian Health Improvement Services Act: "Prior to the expenditure of, or the making of any firm commitment to expend any funds authorized"—in the subsections I just mentioned, 201 and 204 under title II.

The Secretary shall consult with any Indian tribe to be significantly affected by any such expenditure for the purpose of determining and honoring tribal preferences concerning the size of activity, location of activity, type of activity,

and any other characteristics of any proposed projects on which expenditure is to be made; and, (2) be assured that such projects, not later than 2 years after its implementation and initiation, shall meet the standards of applicable tribal law.

Additionally, under title I standards, we would like to see, if possible, more emphasis on dealing with the governing bodies of tribes and their laws where this particular title may affect the Indian tribes and their citizenry.

Under title II, "Family Development," again, we would like more involvement of tribes in rulemaking and planning, particularly under sections 201 and 204.

Lastly, we would like to prefer the use of grants rather than contracts.

Again, I would like to invite your committee to render any questions that you may have of us.

We would also like at this time to make known to you that our staff from the Navajo Nation will be more than willing to participate in any type of written legislation, revisions to this act, or any other data information that may be relative in finalizing this very important act for our people.

Thank you very much.

Senator HATFIELD. Thank you, Mr. George.

Mr. Isaac?

Mr. ISAAC. Next we will have Gloria York from the Choctaw Tribe of Mississippi.

Senator HATFIELD. Thank you, Mr. Isaac.

Before we hear from Ms. York, I will insert into the record the full prepared statement of Mr. George.

[The prepared statement of Mr. George follows:]

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STATEMENT OF BOBBY GEORGE,
ACTING DIRECTOR OF THE NAVAJO OFFICE OF RESOURCE SECURITY
BEFORE THE
SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

AUGUST 4, 1977

Indian Self-Determination Begins at Home

For many years, one of the controversial issues within the Navajo Nation, as well as other Indian nations, has been the removal of Indian children by non-Indians from their homes and families by both religious and non-sectarian groups.

There can be no question but that many religious groups have contributed much to the Navajo Nation, as well as other Indian nations. Religious groups have brought education, social services, health care and community development often when the Federal Government and state and local governments failed to provide these necessities to our people and other Indian people.

Other activities of religious organizations, however, have not been as beneficial to Navajo and other Indian people. Some religious organizations have not respected the traditional religious practices of our people. Some religious organizations in their zeal and commitment to their own beliefs have disrupted family relationships and separated children from their families under circumstances that were not in the best interests of either the children or their parents.

We recognize that there are circumstances under which temporary placement of Navajo children with off-reservation non-

Navajo families may be necessary. Because of past abuses, however, it has been the policy of the Navajo Nation for over 20 years to require that such placement be done with the consent of the Courts of the Navajo Nation.

By using Navajo courts to determine the appropriate place for raising Navajo children, we permit a Navajo institution sensitive to Navajo needs make this critical determination.

Our Tribal Council has also taken the position almost 17 years ago that we look with disfavor on the adoption of Navajo children by non-Navajos if the parents of the Navajo children are living, are in good health or if they have not abandoned or neglected the children.

The ultimate preservation and continuation of Navajo cultures depends on our children. We support the efforts of Senator Abourezk and this Committee to see to it that an institutional safeguard, such as a Tribal Court, shall assist in protecting both the Tribal interest, as well as the interest of the child whose future residence is being determined.

In saying this, we mean no criticism of the vast majority of institutions which have worked within the Navajo Nation and other Indian nations to improve the lives of Navajo children and other Indian children. We would suggest, however, that in the vast majority of cases it is far more appropriate for these religious and non-sectarian institutions to expend their time, effort and money in improving the lives of the Indian

families within Indian nations rather than removing the children to strange lands and strange people.

We think it would be appropriate that instead of providing that "The Secretary is hereby authorized and directed, under such rules and regulations as he may prescribe" to deny him the authorities to prescribe such regulations unfettered by the actual needs of the Indian communities. Thus, we would propose that language such as that found in Public Law 93-638, the Indian Self-Determination and Education Assistance Act, be inserted as follows:

"The Secretary of the Interior is authorized to promulgate such rules and regulations as may appear to be necessary or appropriate to carry out the intent of this section: Provided, That prior to any revision or amendment to such rules or regulations, the respective Secretary shall present the proposed revision or amendment to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives and shall, to the extent practicable, consult with appropriate Tribal governments, national or regional Indian organizations and shall publish any proposed revisions in the Federal Register not less than sixty days prior to the effective date of such rules and regulations in order to provide adequate notice to, and receive comments from, other interested parties."

We would like to submit for the record various materials which are now being assembled in Window Rock, together with certain technical suggestions for amendment. For instance, Section 102 provides for only "lay advocates". We license both attorneys and advocates to appear in tribal courts and thus would suggest the addition of the phrase "or attorneys licensed to appear before tribal courts."

Lastly, we would point out that (1) we would prefer having the option to come within the coverage of this bill; (2) believe that Title XX funding should not be the procedure to obtain funding for these purposes because of the difficulties already encountered with the several states' administration of these funds; and (3) desire additional statutory language making it clear that this bill is not intended to diminish tribal sovereignty.

STATEMENT OF GLORIA YORK, MISSISSIPPI BAND OF CHOCTAW INDIANS, CHAIRMAN, CHOCTAW ADOPTION COMMITTEE

Ms. YORK. Thank you, Senator Hatfield.

I am Gloria York from the Mississippi Band of Choctaw Indians. In regard to Senate bill 1214, we are in basic agreement with the premises set forth in this bill. But, we would like to see two changes.

The first of these is addressed to page 10, lines 23, 24, and 25. It implies that the natural parent or parents of an Indian child could not relinquish their rights to a child within 90 days of birth. It is felt that the 90-day period before the child could be relinquished would result in the child having to be placed in foster care if the parent or parents were not willing to care for the child during this period.

We feel it would be much better if a parent could relinquish the child 5 days after birth. This would provide that the child could be placed directly in a potential Indian adoptive home.

The second problem encountered is page 18, line 9, section 204(a). We feel this could be very disruptive of a child's life if he has already formed a relationship with his adoptive parents. We do feel that the child has a right to know who his natural parents are at any age that he requests; but that the proceedings initiated to return a child to his natural parents should carefully weigh the child's own wishes concerning this matter. We feel that the child's mental well-being could be seriously damaged if this aspect of the act is not entered into carefully.

The Mississippi Band of Choctaw Indians is actively working in the area of establishing a tribal policy on adoption and foster placement of Choctaw children. There are several barriers to this at this time. The first of these barriers is a lack of a tribal code to deal with juvenile matters or adoption or foster care matters. It is necessary that the tribal juvenile code be enacted with a procedure for termination of parental rights and procedures for adoption of Choctaw children by Choctaw people.

Another barrier to Indian handling of adoption and foster care is the fact that the State of Mississippi does not recognize the tribe and would not honor any tribal court order. Any action taken by the tribal court would be subject to review by the State court, and they do not recognize a tribal court order as valid.

The State Department of Public Welfare in Mississippi, through its adoption policy, will not allow Choctaw families to adopt Choctaw children. They say there is no confidentiality and there would be problems arising from this. This lack of recognition by the State of Mississippi raises the question as to how effective S. 1214 would be to the Choctaw Tribe since the State of Mississippi does not recognize the tribe.

The Mississippi Band of Choctaw Indians has a program, the child advocacy program, funded by the National Center on Child Abuse and Neglect, and is in the process of attempting to accomplish many of the goals set forth in S. 1214. The program has identified approximately 120 Choctaw children who are now in foster care placement either through the State Welfare Department or the Bureau of Indian Affairs.

There is also a small number of children who are in custody of the tribe since the child advocacy program began and obtained a tribal council resolution stating that the tribe would accept custody and planning for Choctaw children who required placement.

The main goal of the program is to return as many of these 120 children to their natural parent or parents or to the extended family as possible. In cases where it is not possible for children to be returned to their natural parents or extended families, the program is attempting to assist Choctaw families in adopting these children. It is in this area that it is necessary that a tribal code be enacted to allow the program to proceed along the lines of allowing Choctaw couples to adopt Choctaw children. It has not proved feasible to work through the State system on this area.

The third alternative—and the last desirable alternative—is to continue some of these children in a long-term foster plan. In this area, the child advocacy program is hopeful that standards for Choctaw foster care can be established and carried out as the Child Advocacy Program. It is a 3-year program. We are in our second year now. The program has only 1 year to run, but we are hopeful that it will continue through some other funding.

We feel that Senate bill 1214 is a step in the direction that Child Advocacy has been taking and would be of much assistance to the child advocacy program if it can be put into effect in time for the program to act on it or if the program can receive funding to continue its work.

We want to thank you for letting us participate. Thank you.

Senator HATFIELD. Thank you, Ms. York. We appreciate your testimony very much.

Your entire prepared statement will be inserted into the record.

[The prepared statement of Ms. York follows:]

TESTIMONY ON S1214
INDIAN CHILD WELFARE ACT OF 1977

Presented to:

SENATOR ABOUREZK
MEMBERS, SENATE SELECT COMMITTEE

Presented by:

THE MISSISSIPPI BAND OF CHOCTAW INDIANS
CHOCTAW ADOPTION COMMITTEE
ROUTE 7, BOX 21
PHILADELPHIA, MISSISSIPPI 39350

GLORIA YORK
CHOCTAW ADOPTION COMMITTEE CHAIRMAN

CALVIN J. ISAAC
CHIEF, MISSISSIPPI BAND OF CHOCTAW INDIANS

AUGUST 4, 1977

Senator Abourezk
 Members of the Select Committee on Indian Affairs
 Senators Humphrey and McGovern
 Ladies and Gentlemen

I am Gloria York of the Mississippi Band of Choctaw Indians, Philadelphia, Mississippi. I am the Assistant Director of the Child Advocacy Program on the reservation and also Chairman of the Choctaw Adoption Committee.

In regard to Senate Bill 1214, 95th Congress, Senate of the United States of America, the Mississippi Band of Choctaw Indians is in basic agreement with the premises set forth in this bill; and the Mississippi Band of Choctaw Indians has been working for approximately two years to accomplish many of the objectives set forth in this bill. There are two areas in which the Mississippi Band of Choctaw Indians is in some disagreement with the act.

The first of these areas is addressed on page ten, lines 23, 24, and 25, which implies that natural parent or parents of an Indian child could not relinquish the rights to a child within 90 days of birth. It is felt that the 90 day period before the child could be relinquished would result in the child having to be placed in foster care if the parent or parents weren't willing to care for the child during this period. We feel it would be much better if a parent could relinquish the child five days after birth. This would provide that the child could be placed directly in a potential Indian adoptive home and that the parents would still be protected as, according to this act, the final decree for adoption could not be signed within 90 days of the consent. The parents would have the right within this 90 days to start proceedings to recover their child.

The second problem area encountered is page 18, line 9, section 204A. We

feel that this could be very disruptive of a child's life if he's already formed a relationship with his adoptive parents. We do feel that the child has a right to know who his natural parents are at any age that he requests but that proceedings initiated to return a child to his natural parents should carefully weigh the child's own wishes concerning this matter. We feel that the child's mental well being could be seriously damaged if this aspect of the act is not entered into carefully.

The Mississippi Band of Choctaw Indians is actively working in the area of establishing a tribal policy on adoption and foster placement of Choctaw children. The Choctaw Committee on Adoption and Foster Care has been established, and the tribe is attempting to set up its own adoption agency for Choctaw children. There are several barriers to this at this time. The first of these barriers is a lack of a tribal code to deal with juvenile matters or adoption or foster care matters. It is necessary that the Tribal Juvenile Code be enacted with a procedure for termination of parental rights and procedures for adoption of Choctaw children by Choctaw people.

Another barrier to Indian handling of adoption and foster care is the fact that the State of Mississippi does not recognize the tribe and would not honor any tribal court order. Any action taken by the tribal court would be subject to review by the state court, and they do not recognize a tribal court order as valid. The State Department of Public Welfare in Mississippi, through its adoption policy, will not allow Choctaw families to adopt Choctaw children as they say there is no confidentiality and there would be problems arising from this. This lack of recognition by the State of Mississippi raises the question as to how effective Bill S. 1214 would be to the Choctaw Tribe since State of Mississippi does not recognize the tribe. The Choctaw Tribe is involved in several

court cases seeking recognition of the tribe.

The Mississippi Band of Choctaw Indians has a program, the Child Advocacy Program, funded by the National Center on Child Abuse and Neglect and is in the process of attempting to accomplish many of the goals set forth in Bill S. 1214. The program has identified approximately 120 Choctaw children who are now in foster care placement either through the State Welfare Department or the Bureau of Indian Affairs (see BIA Adoption Policies attached). There is also a small number of children who are in custody of the tribe since the Child Advocacy Program began and obtained a Tribal Council Resolution stating that the tribe would accept custody and planning for Choctaw children who required placement. The main goal of the program is to return as many of these 120 children to their natural parent or parents or to the extended family as possible. In cases where it's not possible for children to be returned to their natural parents or extended families, the program is attempting to assist Choctaw families in adopting these children. It is in this area that it is necessary that a tribal code be enacted to allow the program to proceed along the lines of allowing Choctaw couples to adopt Choctaw children. It has not proved feasible to work through the state system on this area.

The third alternative, and the least desirable alternative, is to continue some of these children in a long term foster care ^{plan} ~~placement~~. In this area, the Child Advocacy Program is hopeful that standards for Choctaw foster care can be established and carried out as the Child Advocacy Program is a three-year grant from the National Center on Child Abuse and Neglect and has been in effect for approximately two years. The program only has one year to run. We are hopeful that the program can continue through other funding, as it will take more than a year to accomplish these objectives. We feel that Senate Bill 1214 is a step in the direction that Child Advocacy has been taking and would be of much assistance

to the program if it can be put into effect in time for the program to act on it or if the program can receive funding to continue its work.

Ladies and Gentlemen, the Mississippi Band of Choctaw Indians thanks you for giving us the opportunity to testify on this bill. I again feel that the intent of the bill is of great benefit to Indian tribes and sincerely hope that it will be implemented in a conscientious and concerned manner.

DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

THE ADOPTION OF INDIAN CHILDREN

Indian children, as other children, are adopted in accordance with the laws and procedures of the State where the adoption is to take place. Information about these laws and procedures, the names of authorized adoption agencies, and the availability of Indian children for adoption may be obtained usually from State welfare departments.

The Bureau of Indian Affairs is not an adoption agency, but collaborates with the Child Welfare League of America in an Indian Adoption Project. The Child Welfare League is located at 44 East 23rd Street, New York, New York 10010. The Indian Adoption Project is administered by the Adoption Resource Exchange of North America (ARENA), which is a unit of the Child Welfare League of America. The ARENA provides a central registry for the adoption agencies who do not have local resources for children needing adoption and the agencies who have families approved for adoption for whom children are not available locally.

Through the Project, homeless Indian children on reservations are referred by social workers to an adoption agency, usually the State or County Welfare Department. When an adoptive home for the child is not available in the State, the child is registered with the ARENA. Adoption agencies in other States register with the ARENA families approved for the adoption of an Indian child, but for whom there are no Indian children available in the State.

The ARENA officials attempt to bring together the agency which registers a child and the agency which registers a prospective adoptive family. The ARENA is not an adoption agency, and does not participate in placement arrangements.

A number of adoption agencies, as well as State departments of public welfare, have participated in the Indian Adoption Project. They are sources of further information about the Indian Adoption Project. Specific preferences or questions such as those regarding adoption procedures or fees, a child's age, sex, etc., may be discussed with the adoption agency at the time of application.

Senator HATFIELD. Mr. Isaac?

Mr. ISAAC. Mr. Chairman, we have other members of the panel who are not listed on the agenda. We have Ms. Mona Shepard of Rosebud Sioux Tribe, who wants to comment.

Senator HATFIELD. Welcome, Ms. Shepard.

STATEMENT OF MONA SHEPARD, ROSEBUD SIOUX TRIBE,
ACCOMPANIED BY JANICE EDWARDS

Ms. SHEPARD. Thank you, Mr. Chairman.

I would like to introduce Ms. Janice Edwards.

Senator HATFIELD. Good morning.

Ms. EDWARDS. Thank you for this opportunity, Mr. Chairman. I will keep my comments brief.

My name is Janice Edwards. I am health services director at Fort Thompson, S. Dak.

I am one of a delegation of six representing tribes from North and South Dakota. It is our feeling that some of the language in the bill is unclear and misleading. Specifically, I am referring to section 3—declaration of policy. It states:

The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligations to the American Indian people, to establish standards for the placement of Indian children in foster or adoptive homes which will reflect the unique values of Indian culture, et cetera.

We were concerned by that statement. In our opinion that statement indicates that Congress is establishing standards for the tribes. However, we have learned from Senator Abourezk's staff that the intent of the act was to set standards for the way in which States deal with Indian tribes. I hope that I have stated that correctly.

We wanted to clarify that for the record.

We do have some other comments, such as the impact on the tribal court system of processing every child welfare case through the court system. That is a concern to us, as to whether or not it would overtax the tribal court system.

These concerns will be included in a written statement for the record.

Senator HATFIELD. Thank you very much. We will welcome your written statement as well.

Senator HATFIELD. Mr. Isaac?

Mr. ISAAC. Senator, next we have Rena Uviller of the American Civil Liberties Union.

Senator HATFIELD. Welcome, Ms. Uviller.

STATEMENT OF RENA UVILLER, DIRECTOR, JUVENILE RIGHTS
PROJECT, AMERICAN CIVIL LIBERTIES UNION

Ms. UVILLER. Thank you, Mr. Chairman.

My name is Rena Uviller. I am a lawyer, and I am the director of the juvenile rights project of the American Civil Liberties Union.

I am here today because one of the major concerns of the work that I do is to resist governmental tyranny into the lives of families and to resist State intrusion into the privacy and liberty interests that the Constitution bestows upon the family unit, as is pointed out by recent Supreme Court decisions.

Indian tribes, of course, are a special victim of this push toward foster home placement by State child welfare agencies. I think a previous witness has very eloquently described this tyranny of social work in which poor families are often subjected to the imposition of standards upon them in the rearing of their children which are wholly inappropriate, to say nothing of their questionable constitutionality.

I am going to be very brief today. I would like just to direct some observations to the actual text of the statute. Needless to say, the Civil Liberties Union does applaud this bill and supports it insofar as it does appear to strengthen the family autonomy and the tribal autonomy with regard to children.

One of my concerns is that I think there has been some literature about the extensive failure rate of the adoption of Indian children by non-Indian families. I think that some of the literature reveals that there is a disproportionately high number of Indian children who find their way into juvenile delinquency institutions and mental hospitals. These are children who have been separated from their culture. The crisis of identity, which was previously noted, becomes manifest.

I would think that there should be inserted into this bill a provision that would make it automatic that the tribe and/or the biological parents be notified at any point in which an Indian child previously adopted by others is relinquished from the care of that facility into any kind of hospital or institution or any other kind of foster care. They should be notified.

The second thing that concerns me is that there seems to be in this bill a failure to define what is meant by "temporary placement" in emergency situations. I think, indeed, temporary placement to a boy in imminent danger to life or health should be possible. However, it seems that temporary placement—which is the ruse I have found in my experience in litigating matters like this—is very often the means by which State officials or, in this case, nontribal authorities get initial hold of a child. Then, by increasing delays and a plethora of unnecessary studies and more studies, the separation of the child from the family occurs.

This bill does not make adequate provision for controlling the temporary, so-called emergency placement. Many of them, I think, upon inspection, turn out to be not emergencies at all. It is my view and my experience that temporary placement, even in exigent circumstances, should never last more than 48 hours without immediate notice both to the parents and to the tribal authorities, in this case, and with provision for an immediate hearing as soon after the placement as possible.

As I say, the bill does not presently contain this.

Then I have concern with another section, but I think some of my concern has been allayed by speaking to people who have been involved in drafting this bill. That is section 101(d). In its present form, on its face, it seems to authorize private persons, groups, or institutions to seize an Indian child for up to 30 days without even giving notice to the parent or to the tribal authorities.

I would have difficulty imagining how even a State agency would have justification for that. But to allow private groups and institutions to take a child for 30 days without any notice at all seems to me to be quite an egregious circumstance.

I gather that this section will be redrafted to provide that the private party or institution must give notice 30 days before taking the child. That would certainly be more consistent with the purpose of this bill than the way it is presently drafted.

Senator HATFIELD. Ms. Uviller, I must interrupt you at this point.

Any of these matters which you would like to submit, a redraft or an amendment to the bill, we would welcome any of your comments reduced to an amendment form or redraft form. So feel free—or anyone else here today, for that matter. This bill is a working draft, in a sense. We are welcoming any changes or suggestions.

It would be very helpful if you would draft the language that you think should be modified or clarified.

Ms. UVILLER. Thank you, Senator. I certainly will.

I think others have noted that, again, as the bill is written, there seems to be some confusion about whether intratribal placements are going to be regulated. I am sure that that is not the purpose of this bill. Therefore, actually just in the definitional section in 4G, child placement should be defined as placement of a child by nontribal authorities so that this bill is not viewed in any way as interfering with the tribe's desire to effect its own placement.

I would also finally say I have not heard anyone yet comment on the question of the opening of adoption records. Perhaps I came in a bit late and did not hear it discussed, and my written statement does not contain any reference to it.

Although I think that child welfare agencies have resisted the notion of the opening of adoption records out of concern for the privacy of the biologic parent, while that may have some relevance in the greater society, I think in this situation, where we are dealing with children taken from a tribal situation, that privacy concern is not nearly as great. I see nothing the matter with an Indian child at the age of 18 having access at least to the information about his or her tribe.

It seems to me that, then, the tribal authorities could make some sort of informal inquiry as to whether the specific, biologic parents should or should not be contacted. I am sure there are situations in which the decision might be made not to make that contact. But the resistance, I think, of some of the social work community to access to adoption records is very ill-founded in the context of this bill.

Thank you.

Senator HATFIELD. Thank you.

Let me add one other point. As you know, we have what we call a report record that goes with the bill when we finalize the bill in markup session. Sometimes things that may not necessarily belong in the act itself should be a part of the record for intent, clarification, and further extension of view.

So, bear in mind that there are things of this kind that you may feel the committee should have clearly established in the record that may not in itself be a part of the bill. We can certainly include that kind of material to show the intent of the committee in dealing with certain statements, phrases, or words in the bill itself.

I now place in the record your prepared statement, Ms. Uvilla, in its entirety.

Ms. UVILLER. Thank you.

[The prepared statement referred to follows:]

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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.