

finances have stopped. So, if you have an Indian couple who is coping and has a large enough home, usually they have so many other children of their own and children of kinship, that to take another child on is virtually impossible.

So, you're talking about the majority of Indian people who might take on this kind of a child, not having this kind of money to do it. So, there's an economic stricture against it.

Also, there is the matter of housing. A lot of the rules that grew out of the housing, grew out of a previous era in which housing was related to infectious disease, tuberculosis and streptococcosis. There's that emphasis on infectious disease within a home rather with caring parents. All of that gets into a rather complicated area that operates against adoption by Indian parents, and for adoption by white parents.

Senator BARTLETT. What has been your experience with the readjustment problems of children who have been in non-Indian homes and who return to Indian homes in Indian communities?

Dr. WESTERMEYER. That doesn't happen very often, at least returning to the home of origin.

What does happen fairly often, is that people raised in this way do drift back, say, in the area of Minneapolis, where they know there are some relatives around, but they don't go back out to the reservation, and they may make contact with their extended kinship group, but they do that when they're 16 or about 18 years old. They do it when they're running away at age 16, or they do it when they finally get out of school at the age of 18 or out of the service at age 20.

That's when I see these people are having suicide attempts or difficulty with alcoholism, using drugs. That's when they are surfacing the psychiatric recognizance and that's when they end up on my ward.

Senator BARTLETT. To carry that a bit further, in the adults that you see that have had this background, is that a continuing matter, where you have had good success and readjustments? What has been your experience?

Dr. WESTERMEYER. It's extremely difficult once this pattern establishes itself in the late teens or early twenties, and a person in the mid-thirties or forties decides that that isn't any longer the way to live, and you're really talking about rehabilitation. It is extremely expensive and has very limited goals, and a somewhat low success rate.

I can point to a few dozen people that I feel really have done well, but it has been at great cost to themselves, and it has been at great cost to any children or family they have. The family is all busted up. It is such a long rehabilitation that probably 60 or 70 percent of them are not going to be rehabilitated. They are going to end up in the morgue or in prison, or in an institution of some kind.

All efforts in that area are good, they certainly aren't, from my own perspective, a solution. I guess that is why I was willing and anxious to come here today because I see what I'm doing in my own little place, sitting in a psychiatric unit, while it may be of interest to me, certainly it isn't going to solve the problem of the Indian people.

Senator BARTLETT. I think that you mentioned the inadequacy of white and black, in general, to know the social needs of Indians and to really be able to analyze any solutions as best as they might?

Dr. WESTERMEYER. That's true. The economic center, too. I'm at a university setting where the citizens pay my salary and I can see people irrespective of their ability to pay. Most mental health workers, this isn't true of them. Somebody has to pay them or they don't provide care.

Senator BARTLETT. Dr. Westermeyer, thank you very much.

Senator ABOUREZK. Thank you very much for your testimony, Dr. Westermeyer.

The next witness will be Mrs. Alex Fournier from Fort Totten, N. Dak.

Mrs. Fournier, would you like to come up to the witness stand, and I think it might be better if your grandson not come up to the stand itself. I think that was a rough experience on Anna Townsend, and I don't want us to repeat that.

Is this the first time you've been in Washington?

#### STATEMENT OF MRS. ALEX FOURNIER, FORT TOTTEN, N. DAK.

Mrs. FOURNIER. This is the second time.

Senator ABOUREZK. So you have flown on an airplane before and you aren't as nervous about the Capitol here and all these buildings and the television lights and so on?

Mrs. FOURNIER. No.

Senator ABOUREZK. Good.

Would you tell us your name and where you are from?

Mrs. FOURNIER. I'm originally from Holliday, N. Dak.

Senator ABOUREZK. Do you live there now?

Mrs. FOURNIER. I'm living there now. I used to live there, and then I moved to Devils Lake in Fort Totten.

Senator ABOUREZK. What tribe are you enrolled in?

Mrs. FOURNIER. The Mandan Tribe.

Senator ABOUREZK. You have living with you your grandson, and his name is Ivan Brown?

Mrs. FOURNIER. He isn't my grandson. This child is no relative of mine, but I have taken him since his mother died.

Senator ABOUREZK. Are either of his parents living?

Mrs. FOURNIER. He takes me as his mother, and I take him as my own.

Senator ABOUREZK. Is his father living?

Mrs. FOURNIER. They were not legally married. They were just living together, the mother and father.

Senator ABOUREZK. How long have you had Ivan in your home?

Mrs. FOURNIER. He's 9 now. He was only about 3 weeks old when I started babysitting and raised him from there on.

Senator ABOUREZK. Did you have an experience with the county welfare people in North Dakota?

Mrs. FOURNIER. Yes. In Benson County, I did.

Senator ABOUREZK. Do you want to tell us about the experience you had? When was it, first of all?

Mrs. FOURNIER. It was around 1968, I think.

Senator ABOUREZK. 1968?

Mrs. FOURNIER. Yes.

When I first got the child.

Senator ABOUREZK. What happened in 1968 with the welfare?

Mrs. FOURNIER. That was when they were trying to take my little boy away.

When I first took him, he was small and I kept him there and he didn't have anything. He didn't have hardly any clothing or anything and I went to the mission to get clothing for him. I barely got clothes for him.

Then, his mother burnt up the day she was supposed to come and pick him up. So, from there on, I had him.

His grandmother is still living, yet; but she did not want the child.

Senator ABOUREZK. By the way, I wanted to ask how old you are?

Mrs. FOURNIER. I'm 69 now.

Senator ABOUREZK. You are now 69?

Mrs. FOURNIER. Yes.

Senator ABOUREZK. What happened between you and the welfare department?

Mrs. FOURNIER. They wanted to take him as soon as his mother burnt up. They said they were going to take him, so I agreed to it. I was just babysitting at that time. They said they were going to take him. I agreed to it and I said OK. They never came.

They said, in about a week; and when the week was up, they never showed up.

Then they finally came about a month later. They came back and wanted to take the child. I agreed to it.

Senator ABOUREZK. Even the second time, they never came?

Mrs. FOURNIER. The second time they came they wanted to take him again, and they said they were going to put him up for adoption. I thought it was OK.

It went on and on until he was over a year old. Then I was attached to him and he took me just like his own mother.

Then they took us to Devils Lake to a clinic and they had him checked over.

Senator ABOUREZK. That's the welfare that took him?

Mrs. FOURNIER. Yes, the welfare from Benson County. They were trying to find a place where they could adopt him out, and it went on further and they never came around again for so many months.

Finally, one day they came. I had everything marked down but I have been moving so much, I lost everything.

They tried to take him, and when they came after him I said no. He started crying and hanging on to me. He was 2 years old then.

Senator ABOUREZK. That was over a year after the first set up?

Mrs. FOURNIER. Yes.

Then they tried to take him and he hung on to me and he cried. They took us to court because I wasn't going to let him go, the BIA.

Senator ABOUREZK. Did you have a lawyer?

Mrs. FOURNIER. I really didn't. They just had Indian court there. It was just an Indian court.

Senator ABOUREZK. It was tribal court?

Mrs. FOURNIER. Yes, and they took me and the welfare people took me in and they wanted to take the child and I said no, I can't let him go.

This man jumps up, my little boy was out in the hall, and he went out and he grabbed the child and he was going to walk out with him, and the little boy fought.

Senator ABOUREZK. Who was that?

Mrs. FOURNIER. He was from Milwaukee. I don't know if he still works there.

Senator ABOUREZK. He is with the welfare?

Mrs. FOURNIER. Yes. He's a welfare worker.

Senator ABOUREZK. During the court, he tried to take Ivan with him then?

Mrs. FOURNIER. He was playing out by the entrance, and he went out and took the child and he was going to walk out with him. The little boy cried and started fighting back.

So, the judge in the courtroom said, Margaret Ironheart was the judge then, and she said look they're taking him.

I looked back and I ran out and he was screaming and crying and hollering "momma."

He yelled out that he was taking him away and I said, no you're not going to take him. The way he's crying, you're not going to take him.

I took the child and I took him in.

Senator ABOUREZK. What did the court decide on the issue?

Mrs. FOURNIER. They fixed out papers there that I could keep the child.

Senator ABOUREZK. Have you had any trouble with the welfare since then?

Mrs. FOURNIER. Not very often, but they're sort of peeved at me, so they don't come around much any more like they used to.

Senator ABOUREZK. They never tried to take him again?

Mrs. FOURNIER. No, they never tried to.

Senator ABOUREZK. Before the court hearing, did the welfare people ever just come to you and talk to you to find out whether Ivan was happy there, or whether that was the best home for him?

Mrs. FOURNIER. They never hardly come around anymore.

Senator ABOUREZK. I mean before the trial.

Mrs. FOURNIER. Yes.

Senator ABOUREZK. Did they talk to you a lot and try to find out whether Ivan was happy living with you?

Mrs. FOURNIER. No. They didn't say much of anything.

Senator ABOUREZK. They just decided on their own to take him, and that was it?

Mrs. FOURNIER. Yes.

Senator ABOUREZK. Does the county welfare pay for you keeping Ivan in your home?

Mrs. FOURNIER. I got a check from Bismarck.

Senator ABOUREZK. Who is that from?

Mrs. FOURNIER. That is from Indian—

Senator ABOUREZK. The Bureau of Indian Affairs?

Mrs. FOURNIER. Yes.

Senator ABOUREZK. You don't get any money from the county welfare at all, a Federal Government check?

Mrs. FOURNIER. Yes. It's a Government check, yes.

Senator ABOUREZK. It's not a State check?

Mrs. FOURNIER. No.

Senator ABOUREZK. Mr. Byler, did you have something that you wish to add?

Mr. BYLER. We worked on this case and perhaps I can help. It was the Ivan Brown case that really began the tribal resistance there.

Mrs. Fournier's other trip to Washington, D.C., was in 1968 with other members of the tribe, when Benson County Welfare refused to pay these sums because she was resisting. From that point on the Bureau of Indian Affairs agreed to make payments directly, and I assume that that is still the case.

The money comes from the Federal Government directly.

Senator ABOUREZK. The county provides nothing to your knowledge?

Mr. BYLER. That's correct. That is the way the tribe wants it. Senator ABOUREZK. To your knowledge, does Benson County Welfare receive Federal funds for those kind of payments?

Mr. BYLER. Not the direct payments. They used to. I must add, too, that Benson County has a very constructive relationship today; after this explosion there were some staff shakeups and I think the relationships now are cordial with the county welfare.

Senator ABOUREZK. You wouldn't see this kind of thing arising again in that county?

Mr. BYLER. No.

Senator ABOUREZK. Thank you very much.

Senator Bartlett, do you have any questions?

Senator BARTLETT. Mr. Chairman, I have no questions.

Senator ABOUREZK. Do you have anything more that you would like to say, Mrs. Fournier?

Mrs. FOURNIER. No, I don't think so.

Senator ABOUREZK. On behalf of the committee, I'd like to thank you very much for coming out here to testify. As I told Mrs. Townsend, what you have to say here today, I hope will be very helpful in trying to correct what we see is a very bad situation.

We're very grateful to you and to Ivan and we want to wish you the best of luck. We again thank you.

The next witnesses are Dr. Carl Mindell and Dr. Alan Gurwitt.

We'd like to ask you to come forward, please.

I'd like to welcome both of you to the subcommittee. Do you both have statements or is there just one statement?

Dr. GURWITT. There is one statement that we have prepared together and we'd like to read portions of our statement and answer specific questions that you might have.

Senator ABOUREZK. Yes. We'd like you to limit the time of your initial statements to leave more time for questioning afterward, and in order to be fair to other witnesses who are waiting.

#### STATEMENT OF DR. CARL MINDELL AND DR. ALAN GURWITT, CHILD PSYCHIATRISTS

Dr. GURWITT. Let me introduce myself. I'm Dr. Alan Gurwitt, associate clinical professor in child psychiatry; and this is Dr. Carl Mindell who is from Albany.

Dr. MINDELL. I'm also a child psychiatrist. I'm on the faculty of the Department of Psychiatry at Albany Medical College.

Dr. GURWITT. We're unofficial representatives for the American Academy of Child Psychiatry which has a task force in American Indian affairs.

This is not an official position of the academy, but it comes as the result of our work, and particularly the work of Dr. Carl Mindell, who spent 2 years with the Indian Health Service at Pine Ridge.

We have a statement, a formal statement, which will be available to you later, which we are not going to read in full.

Our major concerns have to do with just the issues that have been addressed today in regard to child placement issues.

As child psychiatrists, we are concerned about the source of conditions that have to do with the proper and necessary ingredients that go into child rearing. We've been very concerned as a professional group; the American Academy, the American Psychiatric Association as well, has been very concerned about the problems that we've heard about today among the American Indian families.

We wanted to particularly focus on issues having to deal with issues of dependency and neglect. We're not going to address ourselves to the problems raised by Indian boarding schools and the impact on children and adolescents that are in boarding schools. Others have already addressed that issue; and Dr. Robert Bergman, who will be testifying tomorrow, I think, is quite expert in the area and will focus on that.

You've heard some of the alarming statistics in regard to the instance of placing the American Indian children outside of their homes, outside of their reservation, because of a variety of reasons that you've heard about.

We wanted to give our view of some of the factors that seem to be related to these particular events which in essence seem to sum up two particular trends.

One is that American Indian children are being placed outside the home at rates that are alarming; and secondly, that American Indian children are being placed in non-Indian homes at a rate that is equally alarming.

We think this reflects several things. One, the Bureau of Indian Affairs policy and State welfare policy of getting Indians into the mainstream of America, while this policy has changed at higher levels of the Bureau, its impact at lower levels continues to be present, and we think this has a devastating effect over many generations and continues to have a devastating effect on children.

Second, the options available for placement are either not available or are inaccessible for varied reasons, families are disorganized, or are having difficulty in providing for needs of the children; and usually do know well in advance the placement decision.

Decisions to place the child often assume that other options have failed, whereas, too often little effort has been made to intervene early with support for the child and his family by the State and Federal agencies and, occasionally, by the tribe. Too often, the only clear option appears to be placement.

Third, the decision to remove the child from his parents is often made by poorly trained Federal and State agency personnel and without the parent's understanding their rights. For example, where they have voluntarily waived their parental rights without understanding the implications. In effect, it operates as a lack of informed consent.

Fourth, the child has had no advocate in court to represent his interests, nor in most cases, his parents.

And in our testimony we'd like to emphasize, too, not only these rights of the parents, but the rights of the child to legal counsel.

Fifth, when the decision to place the child is made in court, it is often made by State court which does not utilize the available and often rich information in the child's extended family and neighboring community related to potential support and care.

We witnessed this kind of thing in North Dakota several months ago at a tribal court where a white judge was presiding while there was a great wealth of information available to that judge if he would just ask people who were in the courtroom. It was not asked, and the kinds of vital decisions about where the children were going to live were, therefore, really very poorly informed decisions.

Sixth, the standards used in making the placement reflect the majority culture's criteria for suitable placement and do not take into sufficient account what may be appropriate within the child's social welfare.

This is the issue that other people have already raised in regard to housing arrangements, the number of square footage it takes. The kinds of criteria they don't take into consideration, what constitutes a warm, giving, adequate home, a psychological home.

Seventh, the tribes generally have been given little or no responsibility for controlling or monitoring the flow of moneys available for child care.

There seems to be no systematic review of placement judgments to be sure that the child's placement offers her, or him, the least detrimental alternative.

And ninth, there is no person or agency charged with focusing on the needs of Indian children with, for example, compiling information and developing comprehensive planning models adaptable to different regions, different tribes, different settings.

We'd like to comment on something that Dr. Westermeyer already mentioned in regard to what is the psychological impact on children and adolescents of being placed outside of their families and reservation. I'm not sure that we quite fully agree with Dr. Westermeyer that the impact isn't felt earlier while it is more obviously felt and seen in kinds of ways very vividly described in adolescents. In less vivid ways, it can be seen in younger children, too.

To be torn away from a setting where they might feel at home, to be placed in one home after another, to never have any sense of permanence, never know where they're going to be next, to never be able to be sure of anything, doesn't exactly provide trust and security; trust in people and security in their lives. We feel that there is evidence, but maybe it is less overt in children as well as in adolescents. There is a pervasive sense of abandonment, a sense of depression, and a sense of having been neglected and anger in regard to that, but not one that someone can normally see.

We've had the opportunity, particularly Dr. Mindell, to visit the Indian communities where a great deal is being done by tribal councils, tribal welfare committees, and tribal courts. These kinds of activities include the establishment of improved homes, early education facilities, arrest facilities, residential care facilities.

At one reservation we saw family development centers for the whole family including children, who are able to remain for a period of time. Much more is needed to be done, and our final comments have to deal with the kind of things that we think might be facilitory, particularly in regard to aiding the tribal councils to carry out some things that they might want to do. And the impact, I might say, of what we'd like to say is that we think, particularly, that the tribal councils themselves are best equipped to carry out whatever is implemented. It's not up to, as we mentioned before—white child psychiatrists, white doctors, whatever—do do this.

First, the Bureau of Indian Affairs and State welfare agencies, which are the recipients of Federal funds, should make an explicit and overall goal of supporting the integrity of Indian families and communities. This sounds like something very simple and already well known, but it's really like a very important statement in the sense that there isn't, as far as we can tell, and from what you've heard today, a real sense of protecting at all costs the integrity of the family and supporting the family before destruction occurs.

Second, increasing the options available to Indian communities, besides placement, and mandating the integration of these options into a continuum of services under the general direction of the tribal government. The options would be flexible to respond to the needs of the individual family. Such options might include such things as mentioned today, the in-home help, homemaker care, home counselor-child care to both the family and the children, various kinds of out-of-home help such as preschool facilities and after-school care, respite service to homes.

The third one, when placement is considered the child and his parents each should be represented by an advocate. This would help to insure that the interests of each, which are not necessarily the same, and which also may be different than the State's interests, are represented.

Here we're facing the type of question, a complex question throughout the United States, whenever it comes to the issue of child custody or placement decisions by any board for any child, in any setting, that has to do with that fact that sometimes what is best for the child is not necessarily what is desired by the parents. It's a very complex type of issue and hopefully, whatever the setting and whatever ethnic group, it will be possible for both parents and the children to be represented.

Senator ABOUREZK. Isn't it true though, that that particular criteria "what's in the best interest of the child," is also used by welfare people as a cover without basis for doing what they want to do?

Dr. GURWITT. Exactly. According to what they think in their own particular appropriate background, may be appropriate.

Senator ABOUREZK. How do you make a separation then, and I understand it is a very complex, and very abstract kind of subjective thing. How do you make a distinction, if there is a distinction?

Mr. MINDELL. One of the things that we're suggesting in our recommendations is that we consider the possibility of not always utilizing that principle "what would be in the best interest of the child," because it is so vague and so nebulous.

There's just recently being discussed now and I think it is worthy of our consideration here, another principle which would say, in a sense, "what would be least detrimental to the child", taking into consideration the fact that when the child gets to this point, there's nothing really magical that welfare agencies are going to be able to do. So, which alternative is going to be the least detrimental to the child and there, keeping in mind, several things. One is, that the decision is to be made quickly, because for a child, or what for us is a short time, for a child is a long time and that a child has the right to be wanted and that the issue of who is the child's psychological parent, is also important.

In other words, who is meeting the needs of the child becomes very important.

Using that kind of criteria becomes hard, for example, for a judge to say, look this child has been cared for by this mother for the last 3 years. I'm about to make a decision about it. I'm going to place this child into temporary care here, until I can make my decision.

Using the least detrimental alternative principle, the judge probably would have to leave the child with the mother while he is making a decision, not constantly change places.

Senator ABOUREZK. As long as I've interrupted, let me ask another question of either of you.

You saw Anna Townsend attempting to testify earlier today and obviously her experience in a foster home is extremely traumatic to her and she wasn't in very long, as a matter of fact.

Would you comment on whether or not, even a short placement of a foster home, would you say whether that experience would have a long-term effect on a child?

Dr. GURWITT. It certainly can and may have already. It all depends so much on the circumstances under which the child is placed, the nature of the home in which the placement took place and I think it would be very important to consider the degree of understanding of the child about why it takes place and to what degree of permanence or im-permanence or whatever it would be.

One of the common phenomena of foster children of any ethnic group is the constant sense of not knowing where they will be or how long they'll be there. It's too painful and too upsetting to try to establish any roots. If they establish roots they just get hurt again and again. To be torn away from the roots that they've begun to establish, leads them to decide that they're not going to get very close to anyone and certainly it has an impact on their whole life including their ability later on to be parents.

The rest of our recommendations can be summarized really by essentially one point, that is when it comes to standards, when it comes to funding, when it comes to channeling funding, we hope that the primary vehicle is the tribal government and the tribal court or the tribal welfare committee, whichever is appropriate authority within the tribe on the particular reservation involved, rather than through the welfare agency.

As far as the role of professionals is concerned, we certainly hope that the day will come when there are many more Indian professionals of all sorts, in the meantime, we hope that tribal courts do not wait for people like us, child psychiatrists or whatever, to help with decisions.

We feel very confident, from the nature of the experiences that we've had that the Indian tribal courts are in the best position to make these essential and complex decisions.

Dr. MINDELL. Senator, in terms of one other recommendation, also, there are a lot of offices that focus on different kinds of things. For example, the Bureau has offices to focus on roads and on relocation and business development. There is no office that particularly focuses on the needs of children, especially the needs of Indian children, and that will be one of our recommendations also, that an office be established that would have as one of its duties to focus on the needs of Indian children.

Senator ABOUREZK. You mean in the Bureau of Indian Affairs?

Dr. MINDELL. I'm not sure where it should be.

Senator ABOUREZK. What about Indian Health Service?

Dr. MINDELL. I'm not sure of the Department of the Interior's abilities in terms of human services, so it might well be best in HEW and Indian Health Services.

We hope that it might be possible not only to have some central focus in the Indian Health Service, but also regional offices as well, because it would have to be individualized according to the shape the region is in.

That particular recommendation is really, the only one that's quite different, or in addition to what Mr. Hirsch recommended before. We strongly go along with all of his recommendations that Mr. Hirsch made before.

Senator ABOUREZK. I wonder if before you go back to where you are working, if you would be willing to spend some time with the staff of the subcommittee to help us obtain some particulars from you, especially Dr. Mindell with his experience in the Indian Health Service.

I might say we are now considering Senator Jackson's Indian health bill and we had hearings last week and we'll mark up the bill soon. I would like, personally, to consider adding, as an amendment to that bill, something along this line. We would like to get some particulars from you if you can do that.

Dr. MINDELL. Yes.

Senator ABOUREZK. If I may summarize, by way of a question, do you believe, as well, that the tribe ought to have pretty much full control over the welfare of Indian children? And, you believe that there ought to be a central office somewhere, perhaps in the Indian Health Service, that is there to look after the interests of the Indian children so far as adoption, foster home care and other interests?

Have I left anything out of your overall recommendations?

Dr. GURWITT. That's the gist of it.

Senator ABOUREZK. I want to thank you both for appearing here today. That was excellent testimony. I'll ask Senator Bartlett if he has any questions.

Senator BARTLETT. Thank you, Mr. Chairman.

I think you made the additional point that it is important to have communications at the tribal level, through the BIA, which I think would be a vital link to what you suggest.

Do you have any suggestions, or do you feel that there has been adequate study made of this problem?

Dr. MINDELL. I think, from the testimony that we've heard today, and the many experiences we've had, I think there's certainly been adequate study made of it, but I think we know that Indian children, we may be able to refine the percentage slightly here or there, but I think the fact remains that Indian children are, to an appalling rate, being removed from their homes. And, that seems to be the solid important issue.

Senator BARTLETT. And this situation exists throughout the United States, in all States?

Dr. MINDELL. I think the association figures, are mostly of 16 States, where the number of children being removed is very high and also the number of children that are being placed in non-Indian homes is very high.

So, in one study, over 90 percent of children being placed up for adoption are in non-Indian homes, and in the second one, 85 percent of the children are being placed in non-Indian foster homes.

Dr. GURWITT. That issue, of the non-Indian placement is an important one throughout the country.

There was a study by the Child Welfare League a few years ago in the major city, retrospectively as to what decisions were made in terms of child placement over a long period of time, how were they made and were they good decisions, as best as could be determined.

Senator ABOUREZK. In your experience, either of you, in these court proceedings, or even in the lack of court proceedings, is generally the burden of showing need for removal of the child, or movement of the child to one place or another, on the parents or is it on the welfare agency? Who has to show that the child has to move somewhere?

Dr. MINDELL. The experience that we've had seems to show that the courts do take the word of the welfare agent much more readily than they take the word of the parents, who by the way are not usually represented by any kind of advocate, where the decision may be made in the courtroom itself, but in the back room in terms of a conversation between the judge and the welfare worker and the judge then comes out and goes through the motions of having a hearing. The judge's mind is made up beforehand on the basis that the welfare worker gives.

Senator ABOUREZK. Generally, in any kind of a legal action the burden of proof is upon the moving party, and in criminal action, it's upon the prosecutor of the State; in civil action, generally, it's the plaintiff or the person who brings the lawsuit. He is then given the burden of either the preponderance of the evidence or beyond a shadow of a doubt, as the terms are used, to prove his case.

I take it, from what you're saying, what happens then in relation to Indian family situations, is that the welfare department, in a lot of cases, will come in, take the child without benefit of any kind of due process. Then, in order to get the child back, the burden of proof shifts from the moving party, which should be the welfare, over to the family themselves.

Is that an accurate statement?

Dr. GURWITT. Yes; it would seem to be the case. It would seem then that the parents who would like to bring the child back have a very hard time getting heard at the hearing.

Senator ABOUREZK. Would you recommend that the division be made that the burden be made on the welfare department itself through some kind of legal procedure?

Dr. MINDELL. I think our recommendation would also imply that the placement of an Indian child should take place under the auspices of the Indian tribal court and the placement decisions, generally be under the auspices of the tribe.

Senator ABOUREZK. What about the burden itself, the burden of proof, where should that rest?

Dr. MINDELL. Again, with the person bringing the allegation.

Senator ABOUREZK. Do you have something, Doctor?

Dr. GURWITT. Yes; if possible, the proceedings and administrative process could be shifted to the tribal court. I would think then that the burden of proof would be up to the particular tribal court and its tribal welfare committee, or however it operates; but the essential thing is that it be within the tribal auspices rather than the outside social group.

Senator ABOUREZK. Excuse me, Senator. Do you want to finish?

Senator BARTLETT. As a general rule, do you feel that children should not be placed up for adoption with non-Indian parents?

Dr. MINDELL. I think, as a general rule, that the resources of the Indian community are not being used by people that are even thinking or talking about adoption. I think there are several issues here. One is that welfare agencies tend to think of adoption too quickly without having other options available, such as—well, there are a number of things that can be done to help support a family or origin before you have to get to the point of thinking about adoption.

Once you're at the point of thinking about adoption, it seems to us that welfare agencies are not making adequate use of the Indian communities themselves. They tend to look elsewhere for adoption type of homes.

Senator BARTLETT. I understand that. I'm still wondering about my question, as to whether or not as a general rule you think it is advisable not to have Indians placed in non-Indian homes?

Dr. MINDELL. As a general rule, yes.

Dr. GURWITT. Yes.

Senator BARTLETT. Then you suggest that there should be inputs by the Indian community in advance of adoptions and approval—is that correct—by the tribe?

Dr. GURWITT. Yes.

Senator BARTLETT. As well as oversight for adoptions that have been consummated to see how those progress; is that correct?

Dr. GURWITT. Yes.

Senator BARTLETT. And, there should be a tie-in with the BIA, or with some governmental end, not for decisionmaking, but for support?

Dr. MINDELL. Yes.

Senator BARTLETT. Thank you for your fine testimony. I appreciate it very much.

Senator ABOUREZK. Thank you very much for coming up to testify. [The prepared statement of Drs. Mindell and Gurwitt follows:]

#### THE PLACEMENT OF AMERICAN INDIAN CHILDREN—THE NEED FOR CHANGE

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

- (1) the child has been involved in delinquent acts; (2) when the child has no recognized or legally appointed guardian (i.e., is dependent or abandoned); (3) when the child's needs are not being met by the family (i.e., is neglected); (4) or when the child is being hurt in his/her family (i.e., is abused).

The principle which governs this intrusion has generally been "the best interests of the child." This principle has few standards or criteria facilitating its interpretation and therefore allows for wide variations in how individual states' agents or courts put it into practice.<sup>1</sup> This at least allows for, and perhaps encourages the state's agent to use his own value and moral system in evaluating the child-rearing of any particular family who comes before it. Thus, the judge's (social worker's, probation officer's) estimates of the child's needs and family's ability to meet those needs may be based on his own individual and class values which may differ from the child and his family. Moreover, the greater the degree of powerlessness of a family, the greater is the likelihood of the state's 'benevolent' intrusion, especially when coupled with few standards and no systematic review of judgements.

Such intrusion by state and federal government agents has long been prevalent among families of American Indians, particularly those living on reservations. (There are approximately 800,000 American Indians—about 500,000 live on a reservation.) This intrusion occurs in three areas:

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

In the last instance, the policy of the Bureau of Indian Affairs (B.I.A., part of the Department of the Interior) has been, on some reservations, to send children as young as six years old to a distant boarding school. Previously this was a widespread practice with the overt aim of "helping" Indian children enter the mainstream of American life. Now, supposedly, the practice continues in regions where educational opportunities have not been otherwise developed; where there are difficult home situations; or deviant behavior. This past educational practice has had a devastating effect on several generations of Indian children, their family life, their specific culture, their sense of identity and their parenting abilities. It is quite likely that the present practices continue to have the same destructive impact, for the message is the same: It is better for Indian children to be reared by other than their parents and people. The complex issues relating to the B.I.A. boarding schools have recently been addressed by the American Psychiatric Association's Task Force on Indian Affairs, in an editorial in *The American Journal of Psychiatry*.<sup>2</sup>

We would like to focus here on the removal of American Indian children from their families and communities by government and voluntary agencies ostensibly for reasons of dependency or neglect.

According to the Association on American Indian Affairs<sup>3,4</sup>, the practices of governmental and private adoption agencies have resulted in the wholesale and often unwarranted removal of Indian children from their homes, reservations and people. The figures are alarming. In the states of North and South Dakota, approximately 17 times as many Indian children as white children on a per capita basis are living in foster homes. In Montana, the rate is 10 times the national foster home placement rate. In Minnesota, the rate of foster home placement is four and a half times greater than for non-Indian children.

Further, in Minnesota, as an example, in 1971-72, there were about 1,413 Indian children under 18 in adoptive placement while there were 241 Indian children under 18 in foster care. In Minnesota then, during 1971-72, one in every seven Indian children was in placement outside of their own homes. Ninety-one percent of the adoptions were in non-Indian homes. In a survey of 16 states, "approximately 85% of all Indian children in foster care are placed in non-Indian homes." In the United States one in every 200 children lives outside of his home of origin. In North Dakota, South Dakota and Nebraska one in every nine Indian children are in foster homes, adoptive homes, institutions or boarding facilities. Indian children in these states are out of their homes at a rate of twenty times the national average.<sup>3</sup>

<sup>1</sup> Rodham, Hillary. Children Under the Law, *Harvard Educational Review*, 43, No. 4, 1973.

<sup>2</sup> "A Hazard to Mental Health: Indian Boarding Schools." *The American Journal of Psychiatry*, 131, No. 3 (March, 1973).

<sup>3</sup> *Indian Family Defense*. New York: Association on American Indian Affairs, Inc., Winter, 1974.

<sup>4</sup> "Another Chapter in the Destruction of American Indian Families." *Yale Reports*. Oct. 21, 1973, No. 654.

There are, then, two trends: (1) American Indian children are being placed outside of their natural homes at a rate which is alarming. This appears to be a final common pathway reflecting:

1. The Bureau of Indian Affairs' policy and state welfare agencies policy, of getting Indians into the mainstream of America. While this policy has changed at higher levels of the Bureau, its impact at lower levels continues to be present.

2. Options available to placement are either not available, or are inaccessible for varied reasons. Families which are disorganized or are having difficulties in providing for the needs of their children are usually known well in advance of the placement decision. The decision to place the child often assumes that other options have failed whereas, too often, little effort has been made through intervening early with support for the child and his family by the tribe, state and federal agencies. Too often the only clear option appears to be placement.

3. The decision to remove a child from his parents is often made by poorly trained federal and state agency personnel and without the parent's understanding their rights, e.g., where they may voluntarily waive their parental rights without understanding the implications.

4. The child has had no advocate in court to represent his interests, nor, in most cases has his parents.

5. When the decision to place the child is made in court, it is often made by a state court which does not utilize the available and often rich information in the child's extended family and neighboring community related to potential support and care.

6. The standards used in making the placement reflect the majority culture's criteria for suitable placement (e.g., so many square feet of space available for a foster child in the home) and do not take into sufficient account what may be modal within the child's socio-cultural milieu. Thus Indian families are discriminated against as potential foster families.

7. The tribes generally have been given little or no responsibility for controlling or monitoring the flow of monies available for child care.

8. There is no systematic review of placement judgements to insure that the child's placement offers him the least detrimental alternative.<sup>5</sup>

9. There is no person or agency charged with focusing on the needs of Indian children—with, e.g., compiling information and developing comprehensive planning modals adaptable to different regions.

Often the later development of these Native American children placed in off-reservation homes is severely affected. Though cared for by devoted and well-intentioned foster or adoptive parents, they are subject, particularly in adolescence, to ethnic confusion and a pervasive sense of abandonment with its attendant multiple roots and ramifications. Their young adulthood and their own potential parenting abilities are affected.

Recently, Indian communities have become more actively involved with these threats to their survival. In some instances tribal councils have established welfare committees to become involved with decisions pertaining to child neglect and dependency and have adopted more stringent tribal codes governing child welfare matters. Depending on local circumstances, including the varying degree of jurisdictional authority, relationship with the B.I.A., availability of assistance from the Indian Health Service (a section of the Public Health Service) and welfare department, such active participation on the part of tribal groups has led to a reduction of off-reservation placements. Indeed, there are some innovative efforts by Indian tribes to find and support foster homes, establish group homes, residential centers for families and provide for other child-care services. The major point here is the assumption by tribal groups of parental and, in many senses, grand-parental authority vis-a-vis families and children in their community.

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

1. The Bureau of Indian Affairs and state welfare agencies which are the recipients of federal funds should make explicit an overall goal of supporting the integrity of Indian families and communities. In the area of child placement, this policy would be implemented by recommendation No. 2.

2. Increasing the options available to Indian communities, besides placement, and mandating the integration of these options into a continuum of services

<sup>5</sup> Goldstein, Joseph, Anna Freud, and Albert J. Solnit. *Beyond the Best Interests of the Child*. New York: The Free Press, 1973, p. 111.

under the general direction of the tribal government. The options would be flexible, i.e., able to respond to the needs of an individual family which would vary with time. Such options might include:

(a) in-home help, such as Homemaker care, Home Counselor-Child Rearers able to work within a family for extended periods of time,

(b) out-of-home help such as pre-school care, after-school care, day care, respite service.

3. When placement is considered the child and his parents each should be represented by an advocate. This would help to insure that the interests of each, which are not necessarily the same, and which also may be different than the state's interests, are represented.

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

5. Standards related to these decisions, should be developed by and monitored by groups under the auspices of the tribe. Thus decisions about evaluating and providing for the needs of a child and his family would be under the auspices of persons representing the child's and family's socio-cultural milieu.

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

7. The tribe should be responsible for systematically reviewing judgements pertaining to child-care and placement in order to attempt to insure that the service is providing the child with the least detrimental alternative.

8. There is no office, at any level, charged with focusing on the needs of Indian children (while there are offices focusing on roads, business and economic development, relocation etc.). Since it seems likely that "children's rights cannot be secured until some particular institution has recognized them and assumed responsibility for enforcing them,"<sup>6</sup> this issue should be explored.

These recommendations can be formally legislated by Congress. Indeed, the Association on American Indian Affairs has made very specific legislative recommendations that would enable broad implementation of some of these and related recommendations.

That states also can meet the spirit of these steps is evidenced by the recent establishment by Wisconsin of the American Indian Child Welfare Service Agency with an all-Indian policy board having responsibility for supervising all child placement decisions.

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

"... by and large, society must use each child's placement as an occasion for protecting future generations of children by increasing the number of adults-to-be who are likely to be adequate parents. Only in the implementation of this policy does there lie a real opportunity for beginning to break the cycle of sickness and hardship bequeathed from one generation to the next by adults who as children were denied the least detrimental alternative."<sup>7</sup>

Senator ABOUREZK. The next witness will be Mrs. Cheryl Spider DeCoteau from Sisseton, S. Dak.

Cheryl, I'll leave it up to you about your children coming up with you, perhaps it's better that they don't.

Mr. HIRSCH. Senator Abourezk, if you don't mind, Mrs. DeCoteau suggests that I come up with her.

Senator ABOUREZK. Yes; you may.

<sup>6</sup> Mnookin, Robert, Foster Care: In Whose Best Interest? *Harvard Educational Review*, 43, No. 4, 1973.  
<sup>7</sup> Children Who Cannot Live With Their Own Families, in *Mental Health: From Infancy Through Adolescence* by the Joint Commission on Mental Health of Children, 1973.

## STATEMENT OF CHERYL DeCOTEAU, SISSETON, S. DAK,

Cheryl, first of all, I'd like to welcome you to the subcommittee hearings and ask you if this is your first trip into Washington to testify like this?

Mrs. DeCOTEAU. Yes.

Senator ABOUREZK. Your first time?

Mrs. DeCOTEAU. Yes.

Senator ABOUREZK. Do you have any of the children here with you today?

Mrs. DeCOTEAU. Yes; two.

Senator ABOUREZK. Are they here in the room?

Mrs. DeCOTEAU. Yes.

Senator ABOUREZK. Cheryl, we want to ask you to go ahead and testify any way that you would like to so you don't feel nervous about it. I just want to tell you that we appreciate you coming in all the way from Sisseton to provide testimony.

As I told the other witnesses, we are hopeful that what you have to tell us today will help other people and prevent the things that happened to you from happening to other people.

Your testimony will be very important to the committee and we are very grateful for you coming.

You can tell your story any way that you like.

First, it might be good to give your name, your age, and exactly where you live, and so on.

Mrs. DeCOTEAU. Cheryl Spider DeCoteau, I'm 23.

Senator ABOUREZK. From where?

Mrs. DeCOTEAU. I'm not originally from Sisseton, but from Minnesota.

Senator ABOUREZK. You are living in Minnesota now?

Mrs. DeCOTEAU. Yes.

Herbert John Spider is 5, and Robert Lee is 3, and Joseph there, is 10 months.

Senator ABOUREZK. Ten months?

Mrs. DeCOTEAU. Yes.

Senator ABOUREZK. Only the two oldest ones with you today?

Mrs. DeCOTEAU. Yes.

Senator ABOUREZK. Who is keeping the baby?

Mrs. DeCOTEAU. I have a babysitter in Minnesota.

I had a babysitter watching the kids, in 1970, and I went to them and they wouldn't let me take them.

Senator ABOUREZK. I have to stop you for just a minute and tell you that I can hardly hear you, because I suspect that what it is, is you're bashful and a little bit scared because of all the lights, and you're afraid to talk. I know you can talk a lot more clearly than that. I know that's because you're a little bit nervous.

If you just talk as loud as you can.

Mrs. DeCOTEAU. I'll start with my oldest boy, John. I had a babysitter watching him and I went to get him, and they wouldn't give him back to me. So, I went to my social worker and I asked him if he would come with me up there.

Senator ABOUREZK. I have to ask you a couple of questions. When did this take place? Can you tell us the month and the year? Do you want to wait a minute before you start testifying?

Mrs. DECOTEAU. Yes.

That was in December 1970, and I asked him——

Senator ABOUREZK. You asked the social worker?

Mrs. DECOTEAU. Yes. Asked him to meet me at the store. He didn't come. So, I left, and I called from that store, and I said that they already went and they took John, and they took him to a foster home, and that I couldn't get him back.

Senator ABOUREZK. They had taken John without your permission or without your knowledge?

Mrs. DECOTEAU. Yes.

They took him, and I went back up there, and I tried to get him back, and they said "No", that they couldn't. I don't know if they had a court hearing or something. I didn't get any papers or nothing.

Senator ABOUREZK. Did you go to the court hearing?

Mrs. DECOTEAU. No, I didn't. I didn't know they had a court hearing.

Senator ABOUREZK. They had a court hearing without your knowledge?

Mrs. DECOTEAU. They had a petition or something.

I didn't know anything about it, and when I did go, they had to appoint me a lawyer. The welfare appointed me a lawyer, so I went to see him. The judge appointed me a lawyer.

I went to see him, and he didn't try to help me or anything. All he did was just ask me my age, name and address, and the name of my first boy and my other one. Then he asked me how old they were, and that was all. Then he said he was going to go talk to the judge and the welfare workers. He didn't do anything because I didn't know anything that happened until July of 1971.

Senator ABOUREZK. Did they keep John all that time?

Mrs. DECOTEAU. Yes. They had John all that time in a foster home.

Senator ABOUREZK. Did you know where he was?

Mrs. DECOTEAU. No; I didn't know where he was. I kept asking, but they wouldn't tell me where he was or anything.

Senator ABOUREZK. I'd like to ask you to back up just a minute. Did this happen in South Dakota or Minnesota?

Mrs. DECOTEAU. It was in Sisseton.

Senator ABOUREZK. Did the welfare department ever, to your knowledge, prove that you weren't being the best mother for that child at all, and perhaps your lawyer, Mr. Hirsch, can answer if you're unable to?

Mrs. DECOTEAU. The man said that I wasn't a very good mother and everything, and that my children were better off being in a white home where they were adopted out, or in this home, wherever they were. They could buy all this stuff that I couldn't give them, and give them all the love that I couldn't give them.

Senator ABOUREZK. They said that, but did they really prove that in court, or did they give any specific examples of why you weren't a good mother?

Mr. HIRSCH. The answer to that is "No."

Senator ABOUREZK. Did you work on this case?

Mr. HIRSCH. Yes. Mrs. DeCoteau was my client. She became my client after she had already had about two or three other lawyers who weren't able to do anything for her.

It was never proven in court that she was unfit. We had a hearing in the district county court.

Senator ABOUREZK. In Roberts County?

Mr. HIRSCH. In Roberts County.

We had a hearing on two full days and the State, or the county put forward several witnesses and we never completed that hearing. So, a final disposition on the merits was never reached because we took an appeal based on lack of jurisdiction of the court to adjudicate anything with regard to Mrs. DeCoteau's children.

That appeal was lost in the South Dakota Supreme Court which stated that the court did have jurisdiction and a petition for certiorari is now before the U.S. Supreme Court in that case.

Since the time that the appeal was taken on the jurisdictional ground, the proceedings on the merits were suspended, pending the outcome of the jurisdictional appeal.

We were successful in retrieving custody of Mrs. DeCoteau's oldest child, John, during the pendency of the appeal on this issue.

But, there were hearings on the merits and there was testimony in the record from Mrs. DeCoteau's social workers, their opinion that she was unfit and the reasons therefore.

Senator ABOUREZK. Is it true that you found out about the original hearing accidentally and that she was given no notice of the hearing?

Mr. HIRSCH. The original hearing was one of the grossest violations of due process that I have ever encountered. Unfortunately, I find it is quite commonplace when you're dealing with Indian parents and Indian children.

Senator ABOUREZK. Did you get notice?

Mr. HIRSCH. She did not get notice of either the first hearing or the second hearing.

The first hearing was a hearing on the petition of the social worker stating that there was a need for emergency custody in the department of welfare over Mrs. DeCoteau's children.

The judge issued an order placing that child in the custody of the department of public welfare without informing Mrs. DeCoteau that such a hearing was taking place, and without allowing her an opportunity to come before the court and submit testimony that such an order should not be issued.

So, the child was placed in a foster home and the judge appointed an attorney for Mrs. DeCoteau and set a hearing date on the issue of dependency and neglect. Pending the hearing the child was to remain in a foster home.

In other words, you were talking before about burden of proof. They already took the child away from her prior to having any hearing on unfitness and the burden of proof was very clearly shifted on Mrs. DeCoteau to prove that she was fit, rather than the State proving that she was unfit.

Then the hearing was scheduled for about 7 months after the child was originally taken from her.

Then the hearing was scheduled. They notified Mrs. DeCoteau by publication in the local Sisseton paper, despite the fact that her

social worker knew exactly where to find her. This is another problem where the State quite frequently uses the publication notice when, in fact, they know very clearly where the person can be found and how to serve that person directly. They use publication notices instead.

Needless to say, these people don't usually make a habit of reading the local paper. She found out entirely by accident that there was a hearing on the merits because another tribal member happened to pick up the paper the day before the hearing and noticed that the hearing was scheduled for the next day.

Senator ABOUREZK. All right.

Cheryl, then, did you have a subsequent experience with the welfare people with regard to your second son, Bobby?

Mrs. DECOTEAU. Yes.

Senator ABOUREZK. I wonder if you could tell us what happened there?

Mrs. DECOTEAU. I was pregnant with Bobby and the welfare came there and asked me if I would give him up for adoption.

Senator ABOUREZK. While you were pregnant with him?

Mrs. DECOTEAU. Yes.

Senator ABOUREZK. Before he was even born?

Mrs. DECOTEAU. Yes.

They just kept coming over to the house. They came every week. On a certain day they come and they kept talking to me and asking if I would give him up for adoption and said that it would be better.

They kept coming and coming and finally when I did have him, he came to the hospital. After I came home with the baby, he would come over to the house. He asked me if I would give him up for adoption and I said no.

He'd go back again and he'd come next week and ask me again and I'd say no.

He let me alone for awhile until I moved into Sisseton and moved in town.

He kept coming over and asking if I would give him up for adoption. Then he called me one afternoon and said if I wanted to give him up, and I said no; and the next morning, real early he came pounding on the door and I let him in and he asked me if I'd come up to the office. He had something to talk to me about.

So, I went up to the office and there were a whole bunch of papers there. I was kind of sick then too and I didn't know what I was signing. He just asked me if I would sign my name on this top paper, and I signed it and he sealed it or something. I signed it and he signed it, and sealed it or something.

Senator ABOUREZK. Do you know what that paper was?

Mrs. DECOTEAU. No; I didn't know what that paper was. But, then they took the baby and I asked him what he was doing, and he said it was too late now, that I gave him up for adoption. I signed the papers.

Then, they took him. They told me to wait a week. Before all this happened, when I did sign the paper, he told me to come back and see him in a week and he would tell me if I could have him back or not.

When I did go back in 1 week, that's when he told me it was too late, that I had signed the papers for adoption and I couldn't get him back.

Senator ABOUREZK. How old was the baby when he took him?

Mrs. DECOTEAU. He was 4 months.

Senator ABOUREZK. Can you describe how they came and took him, or how that happened?

Mrs. DECOTEAU. When they came to the house there, I just had the baby with me. My grandmother took John home the day before. I had the baby with me and then I took him with me when I went up there. Before I signed the paper, one of the social workers came there and took him to the next room. When they did that, I signed the papers and stuff and they wouldn't give him back to me. They wouldn't let me take him home and all that. They told me that they'd give me 1 week and to come back and see him in 1 week.

Senator ABOUREZK. You mean you took the baby with you when you signed the papers and they kept the baby right there?

Mrs. DECOTEAU. When they took me in the office there, the social worker went and called another lady in to watch the baby in the next room until I got done. When he got through talking with me, when they took the baby and I signed the papers, they just took him right out the doors and they took him right to the foster home the same day.

Afterwards, I went to see an attorney and he said that he would help me, and that was in March 1970. And, it took me until February. No, this all happened in March 1970.

I went to this lawyer and he said that he would help me and I filled out all kinds of papers and answered all the questions he wanted to know and then he said he'd let me know.

I didn't hear nothing from him for awhile and I think it was in August he called me and I went to see him. He said that a date was set in September 1970, to have a court hearing.

We went to that, but I lost that. This was before John was taken away, because they took Robert and then John was taken away. My grandfather notified me and said that I had to go to court for both kids. They were going to give them up for adoption and that's when Bert here, he was my lawyer.

Senator ABOUREZK. Did you eventually get Bobby back?

Mrs. DECOTEAU. I got him back last April.

Senator ABOUREZK. How long did you and your lawyer have to fight that in court before you got him back?

Mrs. DECOTEAU. About 10 months, 7 months for Johnny and 10 for Robert.

Senator ABOUREZK. It was almost a year and a half for both kids?

Mrs. DECOTEAU. Yes.

Senator ABOUREZK. Do you have custody now of all three of the children?

Mrs. DECOTEAU. Yes.

Mr. HIRSCH. That was 10 months, Senator, after I became involved in the case. She had been trying for quite some time before that to get the kids back.

Senator ABOUREZK. Yes.

Cheryl, did you have anything more to say?

Mrs. DECOTEAU. No.

Senator ABOUREZK. I want to thank you very much. Senator Bartlett probably has some questions.

Senator BARTLETT. Thank you, Mr. Chairman.

I wonder if, Mr. Hirsch, in either case, was there any indication of black market for adoption?

Mr. HIRSCH. As close as I can come to answering affirmatively to that question is to describe to you an incident that occurred in the county welfare office when I went to serve papers for tribal intervention. The tribe felt very strongly about this case and the tribe wanted to intervene in the case on behalf of Mrs. DeCoteau and to assert a tribal right to maintain custody of these children within the tribe.

I went to serve intervention papers upon the State's attorney and he was with one of the supervisors, codirectors of the county welfare department. When I served those papers we had the following exchange: I gave him the papers. He said why is the tribe so interested in this case. What is the big issue here?

I said that the tribe was concerned that if many more of their children were taken, because there's been quite a history of taking these kids from this reservation, that they were afraid that their very survival would be at stake.

And, the codirector of this county welfare office responded to that by shrugging his shoulders and saying, "So, what?"

Senator BARTLETT. Mr. Hirsch, has there been any indication by the large number of adoptions that there is a black market for children for adoption?

Mr. HIRSCH. I would say you could describe it as a gray market, rather than a black market. Although, there have been in the past, I suppose, quite a few cases that might be more accurately described as black market cases. Recently, they've only had a few of those types of cases that I know of.

I think it is more accurately described as a gray market. I think there's tremendous pressure to adopt Indian children, or have Indian children adopted out. I think that local welfare workers in Indian communities feel this pressure intensely. They have long lists of non-Indian applicants for Indian children, and they feel obliged for a whole variety of social reasons to comply with the orders that they receive for children.

Senator BARTLETT. You say long lists for adopting Indian children. Is that a relative term? Is there more interest in adopting Indian children than other children?

Mr. HIRSCH. I think so. I think there's more interest in adopting Indian children primarily because non-Indian potential adoptive parents are white. They do not want to have a black child, as a generalization. White children are unavailable, there are just a few; and they are generally now settling on either Indians or orientals.

Senator BARTLETT. You mentioned just a moment ago that the tribe took particular interest in Mrs. DeCoteau.

When did they take the interest? At what time in the whole procedures?

Mr. HIRSCH. I first became aware of the tribe's interest, I would say, about 2 to 3 weeks before the proceeding in court the second time. This was the time that Mrs. DeCoteau did not even know of the proceeding. The tribe did not know that Mrs. DeCoteau was going to be there. She was not in his section at that time and they knew where she was but they didn't know whether she had received notice. I was really asked by the tribe to come in and represent the tribe's interest in that proceeding. I was not representing Mrs. DeCoteau.

Mrs. DeCoteau showed up that day and the tribal council and Mrs. DeCoteau. Both asked me if I would represent her. I agreed to repre-

sent both the tribe and Mrs. DeCoteau, since there was no conflict of interest between them.

Senator BARTLETT. Was the Bureau of Indian Affairs contacted by Mrs. DeCoteau or the tribe or anybody connected with the problem?

Mr. HIRSCH. Mrs. DeCoteau says that she did not contact the Bureau of Indian Affairs.

I did contact the Bureau in an effort to obtain some information that they had in their case files on Mrs. DeCoteau and her family situation which I thought would be helpful to my case.

I was told that those files were confidential and I could not get them.

Senator BARTLETT. Who were you told that by?

Mr. HIRSCH. By the area's social worker.

Senator BARTLETT. Was the area's social worker connected with BIA?

Mr. HIRSCH. Yes. He is the chief of social services for the area office.

I was going to pursue that further and make a major effort to get those documents, but because of the turn that these proceedings took, it became unnecessary and I never did pursue it further.

Senator BARTLETT. Thank you very much.

Thank you very much Mrs. DeCoteau.

Senator ABOUREZH. I want to thank you very much Mrs. DeCoteau, especially for your testimony, which is very revealing and which, again, I hope will be very helpful.

Thanks for coming.

Mr. HIRSCH. Senator Abourezk, if I might, I'd like to request permission to submit for the record statistical preparations that we've made.

Senator. ABOUREZH. Yes. They will be accepted.

[Subsequent to the hearings Mr. Hirsch submitted the following:]

ARIZONA INDIAN ADOPTION AND FOSTER CARE

Basic Facts

1. There are 701,098 under-21-year-olds in the State of Arizona.<sup>1</sup>
2. There are 54,709 under-21-year-old American Indians in the State of Arizona.<sup>2</sup>
3. There are 646,389 non-Indians under 21 in the State of Arizona.

I. Adoption. In the State of Arizona, according to the Arizona Department of Economic Security, there is an average of 48 public agency adoptions per year of American Indian children.<sup>4</sup> Using federal age-at-adoption figures,<sup>5</sup> 69 per cent (or 33) of these are under one year of age when placed. Another 11 per cent are one or two years old; an additional 9 per cent are three, four, or five years of age; and 11 per cent are over the age of five. Using the formula then that 33 Indian children per year are placed in adoption for at least 17 years and an additional 15 Indian children are placed in adoption for a minimal average of 14 years, there are 771 Indian under-21-year-olds in adoption in Arizona. This represents one out of every 71 Indian children in the State.

Using the same formula for non-Indians (there is an average public agency placement of non-Indians in adoptive homes in Arizona<sup>6</sup> of 446 per year as of 1971). There are 7,168 non-Indians in adoptive homes at any one time, or one out of every 90 non-Indian children.

Fact: There are therefore by porportion,  
1.3 times as many Indian children  
in adoptive homes as non-Indians.

- II. Foster Care. According to statistics from the Bureau of Indian Affairs,<sup>7</sup> there were 522 Indian children in foster homes in 1972. This represents one in every 105 Indian children in the State. By comparison, there were 2,328 non-Indian children in foster homes in 1972,<sup>8</sup> representing one out of every 278 non-Indian children in the State.

Fact: By rate therefore Indian children  
are placed in foster homes 2.6 times  
more often than non-Indians in Arizona.

- III. Adoptive Care, Foster Care, and Boarding School Attendance.

In the above figures it will be noted that the State of Arizona shows an unusually low number of Indian adoptions and foster home placements by comparison to other states with substantitive Indian population. The reason for this is clear: the large number of Indian children attending boarding schools full time. In Arizona alone 12,342<sup>9</sup> Indian children attend boarding schools, or one out of every 4.4 Indian children under 21 years old in the State. Therefore, a more proper way of computing the number of Indian children who do not live in their natural homes in the State of Arizona, is to include the boarding school figures.

When this is done, it can be seen that the combined total of Indian children in foster homes, adoptive homes and boarding schools is a minimum of 13,635,<sup>10</sup> representing more than one out of every four Indian children in the State.

Since no non-Indians are forced to go to federal boarding schools, the non-Indian figure of 9,496<sup>11</sup> non-Indian children in adoptive homes and foster homes remains the same, thus representing one out of every 268 non-Indians.

Fact: In other words, Indian children are out of their homes and in foster homes, adoptive homes, or boarding schools at a rate more than 17 times greater than that for non-Indians in the State of Arizona

The Arizona statistics are unfortunately based on incomplete totals from the State. Therefore, what is covered here is basically a minimal total. Additionally, because the State of Arizona and the State of New Mexico have a number of duplicated statistics, it is difficult in some cases to sort them out.

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MINNESOTA INDIAN ADOPTION AND FOSTER CARE

Basic Facts

1. There are 1,381,487 under-18-year-olds in the State of Minnesota.
2. There are 11,542 under-21-year-old Indians in the State of Minnesota.
3. There are 1,369,945 non-Indians under 21 in the State of Minnesota.

I. Adoption. We can estimate -- given the conclusion that the vast majority of Indian-child adoptions are non-relative adoptions -- that at the present time approximately 1400 Indian children are now in adoptive homes in the State of Minnesota. This figure is derived from the fact that over the past eighteen years an average of eighty Indian children per year<sup>1</sup> have been placed for adoption (more in recent years, the last five years (1967-1972) averaging 126 per year,<sup>2</sup> 1961-1966 averaging 56 per year<sup>2</sup>). Since the average age at adoption, for non-relative adoptions, is three to four months of age,<sup>3</sup> under-18 adoptions last for approximately 17 years, 8 months. Thus,  $17.66 \times 80 = 1413$ .

Fact: An estimated minimum of 1413 Indian children in Minnesota under 18 years of age are in adoptive homes.

Given 1413 under-18 Indian children in adoptive homes in Minnesota, given a total under-18 Indian population in Minnesota of 11,542<sup>4</sup> we can conclude that approximately one out of every eight Indian children under 18 in Minnesota is in an adoptive home.

Fact: One out of every eight Indian children under 18 is in an adoptive home in Minnesota.

Although the overall 18-year rate for adoption of Indian children shows the above rate, a closer examination of the statistics indicates a ratio figure which more clearly reveals the latest trend. In 1971-1972 one hundred and fifty-nine Indian children were adopted in Minnesota;<sup>5</sup> in that same year an estimated 558 Indian children were under one year of age;<sup>6</sup> since the average age at adoption is 3-4 months, as stated above, most of the 159 adoptions involved the 558 under-one-year-olds. Since 65% of adoptions involve under-3-month-olds,<sup>7</sup> one hundred and three of the 159 children above were under three months old. A purely speculative minimal estimate of another 15% of the children were between 3 months - 12 months of age: if so, another 24 children were under one year of age when placed or a total of 127 Indian children placed for adoption in 1971-72 in Minnesota were less than twelve months of age. Thus, 127 Indian children of the 558 in that age group in 1971-72 were adopted, or one out of every 4.4 Indian children. If that rate were to continue, and indications are that it is continuing and even increasing,<sup>8</sup> an

unbelievable ratio of approximately one in four Indian children under 18 in the State of Minnesota would be in adoptive care and homes within ten years.

Fact: An estimated one in every 4.4 Indian children under one year of age in Minnesota in 1971-72 was in an adoptive home. Stated another way, one out of every 4.4 Indian children born in Minnesota in 1971-72 was placed for adoption.

PROJECTION: At current adoptive rates, within ten years one in every four Indian children under age 18 will be in adoptive homes in the State of Minnesota; thus, 25% of all Indians within a generation would have been brought up by adoptive parents, mostly non-Indian. (At least 91% of the adoptions of Indian children in Minnesota were made by white adoptive parents).<sup>9</sup>

For the State of Minnesota as a whole, there are 1,369,945 non-Indian children under 18 years of age.<sup>10</sup> Of the total, 2242 non-Indians were adopted in 1971-72<sup>11</sup> by non-related petitioners, or one in every 611 children in Minnesota under 18 were adopted in 1971-72. This compares to one in every 76 Indian children under 18 ( $11,542 \div 152$ )<sup>12</sup>. Thus, eight times as many Indian children

under 18 were adopted in Minnesota in 1971-72 as non-Indian children, or, stated another way, 800% more Indian children were adopted in 1971-72 than non-Indian children, by population.

Fact: One in every 76 Indian children in Minnesota was adopted in 1971-1972, compared to one in 611 non-Indian children. Indian children are adopted today in Minnesota at a rate eight times the norm for non-Indian children.

Of the 152 Indian children adopted by non-related petitioners in 1971-72, an estimated 127 were under one year old.<sup>13</sup> Using the same procedure (80% of all non-related adopted children are under one year of age at the time of adoption<sup>14</sup>), 1794 non-Indians under one year of age were adopted in 1971-72. There were approximately 65,796 non-Indians under one year of age in Minnesota in 1971-72, using 1970 census figures.<sup>15</sup> Thus, while one of every 4.4 under-one-year-old Indian children under one year old were adopted in 1971-72,<sup>16</sup> one of every 36.7 non-Indian children under one year old was adopted in 1971-72. Thus, the rate of Indian adoptions under one year old, an ever-increasing rate, is 8.3 times the rate for non-Indians.

Fact: Indian infants -- under-one-year-olds -- are adopted today at a rate 8.3 times (830%) greater than the rate for non-Indians in the State of Minnesota.

An average of 1817 non-Indian children per year under 18 have been adopted by non-relatives in Minnesota over the past 18 years.<sup>17</sup> This means that, given an average age at adoption of 3-4 months,<sup>18</sup> adoptions last an average of 17.66 years. Thus,  $17.66 \times 1817$  or 32,088 non-Indian children under 18 are in adoptive homes in Minnesota. There are 1,369,945 non-Indians under 18 in Minnesota.<sup>19</sup> Thus, one out of every 42.6 non-Indian children under 18 in Minnesota is in an adoptive home. This compares to one out of every 8 Indian children.<sup>20</sup> Therefore, Indian children are adopted at a rate more than five times that for non-Indian children in Minnesota.

Fact: Indian children are in adoptive homes at a rate more than five times that for non-Indian children.

Since at current rates,<sup>21</sup> one in every four Indian children will be in adoptive homes within ten years, the comparative rate difference between Indian children and non-Indian children, if present trends continue, will be greater than 1,000% within ten years.

II. Foster Care. There were a minimum of 262 Indian children in foster care in 1971-72 in the State of Minnesota.<sup>22</sup> This represents one out of every 48 Indian children.<sup>23</sup>

Fact: A minimum of 262 Indian children under 21 are in foster care in Minnesota, or one out of every 48 Indian children.

Whereas, 7,288 non-Indian children under 21 were in foster care in 1971-72<sup>24</sup> of a total under 21, non-Indian population in Minnesota of 1,566,815.<sup>25</sup> Thus, one of every 215 non-Indian children were in foster care in Minnesota as compared to one in every 48 Indian children; or, the rate for Indian children placed in foster homes is 4-5 times the rate for non-Indians, or 450% greater.

Fact: Indian children are placed in foster homes 4-5 times as often as non-Indian children in Minnesota.

An average of 259 Indian children are in foster care in Minnesota in any given year.<sup>26</sup>

III. Combined Foster Care and Adoptive Care. Given the 1971-72 figure of 262 children under 21 in foster care, it can be estimated that approximately 241 are under 18.<sup>27</sup> Further, given 1413 Indian children under 18 in adoptive care,<sup>28</sup>

and 241 under 18 in foster care in 1971-72, a total of 1654 Indian children under the age of 18 were either in foster or adoptive homes in 1971-72. This represents one out of every seven Indian children in the State of Minnesota.

Fact: One out of every seven Indian children in Minnesota is in either a foster home or an adoptive home.

Whereas, there are 7,288 non-Indian children in foster care in Minnesota under 21, an estimated 6,682 are under 18.<sup>29</sup> Additionally, 32,088 non-Indian children are estimated to be in adoptive homes.<sup>30</sup> Thus, 38,770 non-Indian children under 18 are either in a foster home or an adoptive home, or approximately one in every 35.5 non-Indian children under 18.<sup>31</sup> Thus, Indian children are out of their natural homes, in foster or adoptive care at a rate more than five times that for non-Indian children.

Fact: Proportionally, five times as many Indian children as non-Indian children are in foster homes or adoptive homes.

FOOTNOTES

1. Minnesota Department of Public Welfare, Annual Report, Adoptions, 1971-72, P. 14.
2. Ibid., P. 14.
3. Adoptions in 1971, U.S. Dept. of HEW, SRS, Program Statistics & Data System, National Center for Social Studies, P. 3.
4. 1970 Census of Population, American Indians, Bureau of the Census, P. 8.
5. Op. Cit. Minn. DPW - Adopt. - P. 14.
6. Op. Cit. Census American Indian, P. 8.
7. Op. Cit. Adoptions in 1971, HEW, P. 3.
8. Op. Cit. Minn. DPW, Adopt. - P. 14.
9. Ibid., P. 17.
10. 1970 Census of Population, Age and Race of Population of the United States, by States: 1970; U.S. Dept. of Commerce, March, 1972.
11. Op. Cit. Minn. Dept. PW - Annual Report, Adoptions, 1971-72, P. 22.
12. 152 American Indians under 18 were adopted by non-related petitioners in 1971-72; Op. Cit. Minn. DPW, Annual Report, Adopt. 1971-72, P. 22.
13. See P. 2, this report.
14. Op. Cit. U.S., Dept. HEW, SRS, Prog. State, P. 3.
15. Op. Cit. 1970 Census of Pop., Age, Race Pop., U.S. Dept. of Commerce, P. 1-302 and Op. Cit. Census of Population, American Indian, Bureau of Census, P. 8.
16. See P. 2, this report.
17. Op. Cit. Minn. DPW, Annual Rep. - Adopt. - 1971-72, P. 14. Also: Averaging 79% non-related adoptions of non-Indians of total non-Indian adoptions: 79% of 2300 (average total non-Indian adoptions over 18 years).
18. Op. Cit., Adoptions in 1971, U.S. Dept. HEW, SRS, Prog. Stat., P. 3.

19. Op. Cit., Census of Pop., Age/Race Pop., U.S. Dept. of Commerce, P. 1-302. (1,381,487) less Indian under-18 population (11,542 - from U.S. Census of pop., American Indians, Bureau of the Census, P.()) = 1,369,945.
20. See P. 2, this report.
21. See P. 3, this report.
22. Minn. Annual Report for Indian Foster Care Contract (Year ending June 30, 1972, P. 5 hereafter referred to as Minn. Foster Care, 1972. Also: This figure as opposed to adoptions includes 18-20 year olds.
23. Op. Cit., 1970 Census of Pop., American Indian Bureau of the Census, Pp. 8-9.
24. Dept. HEW Publication No. (SRS) 73-03258, "Children Served by Public Welfare Agencies and Voluntary Child Welfare and Institutions, March, 1971, U.S. Dept. of HEW, Table 8. Hereafter: DHEW Public. Less 262 American Indians in foster care = 7288.
25. Op. Cit. 1970 Census of Pop. Age-Race, U.S. Dept. of Commerce, P. 1-302 and Op. Cit. Census of Pop., American Indian, Bureau of Census, P. 8.
 

As follows: Under 18 Minneapolis Pop.	1,381,487
Estimated Pop. 18,19 & 20-yr olds.	<u>198,000</u>
	1,579,487
Less Indian Pop. under 21	<u>12,672</u>
	1,566,815 ÷ 7,288
26. Op. Cit., Minn. Foster Care, 1972, P. 4, "Case Openings and Case Closings, 1962-1972."
27. An average of 12 children/age group are in foster care (259 ÷ 21), but far fewer are between the ages of 18-20 proportionally than in other age groups. I have estimated 7 per year or 21 total for 18-20 age group.
28. See P. 1, this report.
29. Using same procedure as on Page 3, this report see Footnote 27. Footnote 27.
30. See P. 5, this report.
31. 1,369,945 — 38,774, or total under-18 non-Indian pop. divided by non-Indian adoptive children and foster-care children.

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SOUTH DAKOTA ADOPTION AND FOSTER CARE STATISTICS

BASIC FACTS:

BIA serves 28,398 on-reservation Indians in South Dakota\*-1.

Approximately 51% of this population is under 21\*-2

Therefore, approximately 14,482 Indians under the BIA in South Dakota are under 21.

Total South Dakota completed, non-related adoptions (according to records of South Dakota, Department of Public Welfare) since 1967-68: 908 (by telephone)\*3.

Total Indian, non-related completed adoptions since 1967-68: 350 (by telephone)\*3.

- I. One in every 2.6 completed, non-related adoptions in South Dakota since 1967-68 as acknowledged by the South Dakota Department of Public Welfare, has been Indian, whereas only one out of every 15 under 18-year-olds in South Dakota is Indian.\*4. Thus, almost 6 times as many Indians as non-Indians, proportionally, are placed for adoption in South Dakota.  
By percentage, approximately 40% of all adoptions, by South Dakota Department of Public Welfare, are Indian whereas Indians under 18 represent only 7% of the under-18 population in South Dakota.
- II. An average of 55 Indian children per year are adopted in South Dakota. Since at least 80% of these, as a minimum, are placed under the age of one year\*-5 (44), living in an adoptive home therefore for approximately 17 years or more, and since the remainder (11) can be considered to average at least 14 years in adoptive homes,\*6 at any one time

approximately 902 Indian children in South Dakota, under 21, are in adoptive homes; this is one in every 21 Indian children in the State. Using only the non-Indian under 21 population for South Dakota, and the same age-duration of placement formula there are 1,675 non-Indian children in adoptive homes, or one in every 158 non-Indians, a rate more than 7.5 times lower than for Indians.

- III. In 1970-71 one in every 18 Indian children born in that year was placed for adoption (80% of the 67 Indian children listed as placed for adoption by South Dakota Department of Public Welfare in 1970-71, as a portion of the 1,010\*-7 Indian children born in that year); this compares to one in every 94 children (all) born in South Dakota in 1970 placed for adoption (approximately 10,850 children\*-8 born in South Dakota in 1970, and 116 non-Indians placed for adoption). The rate here, once again, is more than 5 times higher for Indians than for non-Indians.
- IV. The Bureau listed 471 under 21-year-old Indian children in foster care in 1972.\*9  
The State lists approximately 600 non-Indians in foster care in 1972\*10 representing one out of every 440 of the 264,051 non-Indians\*-11 and non-reservation Indians in South Dakota under 21. In other words, using only BIA figures, Indian children are removed from their homes and placed in foster care at a rate 11 times the rate for non-Indians.
- V. Additionally, the State of South Dakota lists approximately 360 Indian children in foster care in 1973 (the numbers have not increased according to a phone conversation with SDWD officials since 1972 so we can assume that 1972 figures were at least as high). Of these, the BIA

indicates an average of 60 per month are under State-BIA contract\*-12 and therefore would be duplicated in the above-mentioned 471 BIA figures. Therefore approximately another 200 Indian children are in foster care in the State of South Dakota apart from the Bureau figures. This brings the total number of Indian children in foster care under 21 in South Dakota to a minimum (in 1972) of 671. The combined BIA and State Indian under-21 population as noted by the American Indian Census Report (1970) is 18,864\*-13. This means that one out of every 28 Indians in South Dakota under 21, at a minimum, was in foster care in 1972. Indian children are in foster care in South Dakota therefore at a rate of 15.7 times that for non-Indians.

VI. Combined Foster Care and Adoption Statistics;

Using the adoptive figures cited before of 902 Indian children in adoptive care in South Dakota, and the foster care figures cited above (671) for 1972 we can see that a total of 1,573 Indian children under 21 were either in adoptive or foster care; this represents one out of every 12 Indian children in the State, and does not include Indian boarding school students.

The same calculation for non-Indian children shows 1,675 in adoptive care and 600 in foster care, a total of 2,275 non-Indians were out of their homes in adoptive or foster care in 1972. This represents one out of every 116 non-Indian children. In other words Indian children are taken out of their homes and placed in adoptive or foster care at a rate almost 10 times (9.6) that for non-Indians.

VII. Additionally Indian children represent almost 41% of the children in foster and adoptive care in South Dakota, but they represent only 6.5% of the total under-21 population in the State.

SUMMARY:

ADOPTION: Indian children are placed for adoption in South Dakota at a rate more than 7.5 times that for non-Indian children.

FOSTER CARE: Indian children are placed in foster care in South Dakota at a rate 15.7 times that for non-Indian children.

COMBINED: Indian children are taken out of their homes and placed in foster or adoptive care at a rate almost 10 times that for non-Indian children.

FOOTNOTES

1. From Aberdeen Area Office, BIA.
2. "American Indians" 1970 Census of Population, U.S. Dept. of Commerce, Bureau of the Census, p.14.
3. Gathered from Mrs. Margaret Hansen, S.D. Dept. of Public Welfare, Pierre, S.D.
4. Op. Cit., "American Indians," p.14 and U.S. Census Bureau's, "1970 Age of Race Population," p.1-307.
5. "Adoptions in 1971" U.S. Dept. of HEW, SRS, Program Statistics and Data Systems, Nat'l Center for Social Statistics, May 23, 1973, Table 6.
6. Ibid
7. Op. Cit., "American Indians," p.14.
8. Op. Cit., "1970 Age and Race Population," p.1-307.
9. BIA Statistics, FY1972 - "Child Welfare - Unduplicated Case Count," p.3
10. By phone, A.R. McCorkle South Dakota DFW, and "Children Served by Public Welfare Agencies and Voluntary Child Welfare Agencies, 1971" DHEW Pub. No. (SRS) 73-0325 Table 8.
11. Op. Cit. "1970 Age and Race Population" p.1-307
12. Phone Conversation with Aberdeen Area Office, Roger Lonnevik, February, 1974.
13. Op. Cit. "American Indian Report," p.14

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STATE OF WASHINGTON ADOPTION AND FOSTER CARE STATISTICSBasic Facts

1. There are 1,357,716 under 21-year-olds in the State of Washington.<sup>1</sup>
  2. There are 15,980 under 21-year-old American Indians in the State of Washington.<sup>2</sup>
  3. There are 1,341,736 non-Indians under 21 in the State of Washington.<sup>3</sup>
- I. Adoption In the State of Washington according to the Washington Department of Social and Health Services, there are an average of 48 completed non-related adoptions of Indian children a year. Using the State's own figures, 69%<sup>5</sup> (or 33) are under 1 year of age when placed. Another 11% are 1 or 2 - years-old; an additional 9% are 3, 4, and 5; and 11% are over the age of 5. Using the formula then that 33 Indian children per year are placed in adoption for at least 17 years and an additional 15 Indian children are placed in adoption for a minimal average of 14 years, there are 771 Indian under-21-year-olds in adoption at any one time in the State of Washington. This represents one in every 20.7 Indians under the age of 21 in the State. Using the same formula for non-Indians (an average of 213 non-Indian children per year are adopted in Washington)<sup>6</sup> there are 3,423 non-Indians in adoptive homes at any one time, or one in every 392 non-Indian children.

Fact: There are therefore, by proportion, 19 times as many Indian children in adoptive homes in Washington as non-Indians.

- II. Foster Care According to statistics from the Washington Department of Social and Health Services<sup>7</sup> there were a minimum of 558 Indian children in foster homes in 1973. This represents one in every 28.5 Indian children. By comparison, there were 4,873 non-Indian children in foster care in 1973<sup>8</sup> representing one in every 275 non-Indian children in the State.

Fact: By rate, therefore, Indian children are placed in foster care almost 10 times (9.6) as often as non-Indian child-

ren in the State of Washington.

III. Combined Foster Care and Adoptive Care Using the above figures, a total of 1,329 under 21 year-old Indian children are either in foster homes or adoptive homes in the State of Washington. This represents one in every 12 Indian children. Similarly, for non-Indians in the State, 8,296 under 21-year-olds are either in foster care or adoptive care, representing one in every 162 non-Indian children.

Fact: By rate, Indian children are removed from their homes and placed in adoptive care or foster care 13.5 times more often than non-Indian children in the State of Washington. The above figures are based only on the statistics of the Washington Department of Social and Health Services and does not include private agency placements or boarding school placements. They are therefore minimal figures.

FOOTNOTES

1. "Age and Race Population, by States, 1970," p. I-308.
2. "American Indians, 1970 Census of Population," p.16.
3.  $1,357,716 - 15,980 = 1,341,736$
4. Letter from Dr. Robert J. Shearer, Assistant Secretary, Social Services Division, State of Washington, Department of Social and Health Services, April 4, 1973.
5. Ibid.
6. Ibid.
7. Ibid.
8. Ibid.

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WISCONSIN ADOPTION AND FOSTER CARE STATISTICS

Basic Facts

1. There are 1,843,534 under 21-year-olds in the State of Wisconsin. <sup>1</sup>
2. There are 10,456 under 21-year-old American Indians in the State of Wisconsin. <sup>2</sup>
3. There are, therefore, 1,833,078 non-Indians under 21 in Wisconsin. <sup>3</sup>

I. Adoption. In the State of Wisconsin, according to the State Division of Family Services, there are an average of 48 completed, non-related adoptions of Indian children per year. Using the State's own figures, 69% (or 33) are under one year of age when placed. Another 11% are one or two-years-old; an additional 9% are 3, 4, and 5; and 11% are over the age of 5. Using the formula, then, that 33 Indian children per year are placed in adoption for at least 17 years, and an additional 15 Indian children are placed in adoption for a minimal average of 14 years, there are 771 Indian under-21-year-olds in adoption at any one time in the State of Wisconsin. This represents one out of every 13.5 Indians under the age of 21 in the State. Using this same formula for non-Indians (an average of 473 non-Indians per year are adopted in Wisconsin) there are 7,600 non-Indians under 21 in adoption at any one time, or one out of every 241 non-Indian under 21 years of age in the State.

Fact: There are therefore, by proportion, 17.8 times as many Indian children in adoptive homes in Wisconsin as non-Indians.

Additionally, using the 1970 census figure for Indian births in Wisconsin, we can see that one in every 13 Indian children born in that year (and the average seems to hold true up to the present date) was placed for adoption in his or her first year of life. <sup>7</sup>

II. Foster Care. According to statistics from the Wisconsin State Division of Family Services and county social service departments, a minimum of 545 Indian children were in foster care in 1973. This represents one out of every 19 Indian children. <sup>8</sup>

By comparison, approximately 6,800 non-Indian children were in foster care in 1973, <sup>9</sup> or one out of every 269 non-Indian children.

Fact: By rate, Indian children are placed in foster care more than 14 times as often as non-Indian children in the State of Wisconsin.

III. Combined Foster Care and Adoptive Care. Using the above figures, a total of 1,316 under 21-year-old American Indians are in foster care or adoptive care in the State of Wisconsin in any given year. (This represents one out of every 8 Indian children.

A total of 14,424 non-Indian children are in adoptive care or foster care in any given year in the State of Wisconsin.) This represents one out of every 127 non-Indian children.

Fact: By rate, Indian children are removed from their homes and placed in adoptive care or foster care situations 15.8 times more often than non-Indian children in the State of Wisconsin.

## FOOTNOTES

1. "1970 Census of Population Age and Race," U.S. Dept. of Commerce, Bureau of the Census P. 1-309
2. "American Indians, 1970 Census of Population" U.S. Dept. of Commerce, Bureau of the Census, pp. 16-17
3. Subtracting: 
$$\begin{array}{r} 1,843,534 \\ 10,456 \\ \hline 1,833,078 \end{array}$$
4. Wisconsin Dept. of Health & Social Services, Division of Family Services - Material sent by Frank Newgent, Administrator, Div. of Family Services, Feb. 1974 - "State of Wisconsin Adoptions, 1966 - 70"
5. Ibid
6. Ibid
7. Op. Cit., "Am. Indians, 1970 Census of Pop.," p. 16
8. Op. Cit., Division of Family Services, "Indian Children in Foster Care," by State and County, unduplicated, unrepeated figures, March, 1973
9. "Children Served by Public Welfare Agencies and Voluntary Child Welfare Agencies and Institutions, March, 1971," U.S. Dept. of Health, Education, and Welfare, SRS, Program Statistics and Data Systems, National Center for Social Statistics. Table 8- Also, statement from Ian McClean, Dept. HEW, SRS, Program and Statistics Div.: "The figures have not changed substantively in the past 5 years."

[From the Indian Affairs, Newsletter of the Association on American Indian Affairs, Inc., June-August 1968]

## AAIA AND DEVILS LAKE SIOUX PROTEST CHILD WELFARE ABUSES

On July 16th the Association on American Indian Affairs held a news conference at the Overseas Press Club in New York City to call to the public's attention acute welfare abuses victimizing American Indian children and children of the nation's poor people in general.

At the conference, William Byler, Executive Director of the Association on American Indian Affairs, presented a delegation from North Dakota's Devils Lake Sioux Tribe consisting of Tribal Chairman Lewis Goodhouse and five mothers. One of the women has five children in non-Indian foster homes, another was once jailed for refusing to give up her grandchildren to the county welfare board, and a third woman is a foster parent currently being aided by the Association in her efforts to retain custody of an infant presently in her care.

In his opening statement at the conference Byler said, "As sad and as terrible as the conditions are that Indian children must face as they grow up, nothing exceeds the cruelty of being unjustly and unnecessarily removed from their families.

"On the Devils Lake Sioux Reservation approximately twenty-five percent of the children born on the reservation are eventually taken from their parents to live in adoptive homes, foster homes, or institutions.

"This is fifty times the rate for our nation as a whole. Fifty percent of the children placed in foster care in the States of North and South Dakota are Indians, yet Indians represent only three percent of the population of these two states."

The county welfare people, charged Mrs. Alvina Alberts, mother of eight, are breaking up Indian families. Children are often forcibly removed from Indian homes and sent off-reservation to live with white foster families. Indian foster parents are threatened with jail and loss of welfare payments if they refuse to give up their children. "I will starve before I'll give up my grandchildren," said Mrs. Elsie Greywind, a lady in her fifties who already had been taken to jail for her refusal to let the children go.

"I told them they would take that child over my dead body," Mrs. Alex Fournier said quietly, speaking of her three-year-old foster child. Not long before, a zealous welfare worker had tried to drag the boy from her arms—an adoption agency in Fargo had placed an order for an Indian child.

"They want to make white people out of the Indians," Mrs. Alberts continued. "They're starting with the kids because they couldn't do it to us."

Mrs. Lewis Goodhouse, mother of ten, told of people caught in a vicious cycle of poverty and despair. Unemployment on the Fort Totten Reservation exceeds 90% the major part of the year.

The almost fanatical pursuit of Indian children by county welfare officials was attributed to their appraisal of Indian parents as unfit guardians and Indian homes as too poor.

"They use their own standards to judge us," said Mrs. Alberts. "What is the difference if an Indian home is poor but there is plenty of love. If the child is barefoot, a little dirty, so what?" she asked. "He's happy, I think. In white families I've seen the same thing. Those kids are happy too."

Speaking of the Devils Lake Sioux, Byler commented, "Today in this Indian community a welfare worker is looked on as a symbol of fear rather than of hope."

Ironically, provisions in recent amendments to the Social Security Act seem to have worked to encourage what is referred to as "child snatching." Welfare agencies are instructed to make full use of child-placement service as a means of compelling mothers on welfare to take job training—presumably so they will be able to support their families, if they have any left. The federal government now offers to reimburse foster parents for child-placement costs at a rate up to three times as great as that for the natural parents (a maximum of \$100 per month, compared with a maximum of \$32 per month). Some mothers have suggested that perhaps their children should be returned and foster parents be given job training.

"The Devils Lake Sioux people and American Indian tribes have been unjustly deprived of their lands and their livelihood," Byler said, "and now they are being dispossessed of their children."

"Thousands of Indian children are placed in Bureau of Indian Affairs boarding schools, either because of a lack of day-school facilities or because of the alleged unsuitability of their home environment." Eighty percent of all Navajo children between the ages of six and nine attend boarding schools, away from their parents,

because Congress has not appropriated sufficient funds for the construction of schools and roads.

At the press conference Mr. Byler released the text of letters he had written to Health, Education and Welfare Secretary Wilbur J. Cohen and to Secretary of the Interior Stewart L. Udall.

In his letter to Secretary Cohen, Byler indicated that the Association on American Indian Affairs considers the extraordinarily high rate of placement of Indian children in North and South Dakota to be indicative of abusive child welfare practices by welfare officials, discriminatory standards and laws in child custody matters, and the absence of appropriate preventive and rehabilitative services to Indian communities.

"Indian leaders and parents charge," the letter continues, "that county welfare workers frequently evaluate the suitability of an Indian child's home on the basis of economic or social standards unrelated to the child's physical or emotional well-being and that Indian children are removed from the custody of their parents or Indian foster family for placement in non-Indian homes without sufficient cause and without due process of law."

In closing, the AAIA requested that the Department of Health, Education, and Welfare: 1. Survey child custody problems and official child welfare abuses among the American Indians and among the nation's poor people in general; 2. Develop recommended guidelines for state legislation to guard against discriminatory child welfare practices by establishing culture-free, non-discriminatory criteria in custody matters that do not penalize the poor or the racially different—guidelines that make the physical and emotional well-being of the child the sole test as to the suitability of the child's home; 3. Conduct national and regional conferences and training institutes for state and local court and welfare officials; 4. Evaluate the adequacy of present preventive and rehabilitative services available to the families of the nation's poor in order to minimize those conditions that may make it necessary to remove a child from his home environment; 5. Explore with the Department of Justice and the Office of Economic Opportunity ways to provide legal assistance to parents or guardians who have lost or are threatened with the loss of their children unjustly; and 6. Evaluate the adequacy of existing federal law to protect the rights of parents and children.

Secretary Udall was contacted regarding child welfare problems associated with the placement of Indian children in federal boarding schools.

According to figures provided by the Bureau of Indian Affairs, approximately 30,000 Indian children attend BIA boarding schools. Some of these children are required to attend boarding schools because of the absence of day-school facilities and an adequate road system. Other children attend boarding schools because welfare officials believe that this is a more suitable environment for them than the environment from which they come, for reasons of alleged neglect, abandonment, or abuse by their parents. Additionally, there are other children who attend boarding schools for educational reasons. It is with the first two groups that the AAIA is chiefly concerned.

The Association on American Indian Affairs, in its letter, urged the Department of Interior and the Bureau of Indian Affairs to determine the cost of providing a day-school education to all Indian children presently denied this opportunity because of a lack of federal financing for road-building, school construction, and operation of the schools. "We believe," said Byler, "that Congress should have an opportunity to consider appropriating the necessary funds."

The second recommendation to the Department of Interior was that new guidelines and standards be adopted for use by the Bureau of Indian Affairs welfare personnel to help insure that children are not unnecessarily and unjustly taken from their parents or Indian foster families for placement in non-Indian homes or BIA boarding schools.

The Department of Interior was also urged to direct the BIA to launch a crash program to identify suitable Indian foster homes so that Indian children who do not have an adequate home environment may receive Indian foster care rather than the institutional care presently provided by the BIA.

Following the news conference, the Devils Lake Sioux delegation and AAIA Executive Director Byler journeyed to Washington to seek federal assistance in their struggle to improve child welfare practices on the reservation and to obtain food money from the Bureau of Indian Affairs to replace monies denied to Indian children by the North Dakota authorities when Indian foster parents refuse to surrender custody of the children.

The delegation was only partially successful in obtaining pledges of food money. The Bureau of Indian Affairs agreed to help only those children who are caught in active custody disputes but refused to aid other children that may be denied assistance from the county welfare officials. The AAIA is appealing this decision to Secretary of the Interior Udall.

[EDITOR'S NOTE.—As this goes to press, word has reached us that all Devils Lake Sioux children will receive BIA aid if denied foster care benefits by N.D.'s welfare officials.]

[From the Indian Affairs, Newsletter of the Association on American Indian Affairs, Inc., September- November 1968]

#### INDIAN CHILD WELFARE AND THE SCHOOLS

In testimony before the Senate Subcommittee on Indian Education the Association on American Indian Affairs urged that the problems of Indian education be considered in the broader perspective of the realities of reservation life and survival on a day-to-day basis.

The hearings, chaired by Senator Walter Mondale (D-Minn.), were held in Washington, D.C. in early October. Testifying on behalf of the AAIA was Mr. William Byler, Executive Director, and Dr. Daniel J. O'Connell, Executive Secretary of the AAIA's National Committee on Indian Health.

In his opening statement, Mr. Byler urged that the tasks begun with the subcommittee under its chairman, the late Senator Robert F. Kennedy, be continued in the next Congress and that the mandate of the subcommittee be renewed.

Mr. Byler suggested that the work of the subcommittee result, not in just a report, but in legislation that will enable Indian people to realize the goal they seek to achieve—an exemplary school system.

"The American Indian reservations are communities in crisis, and there is evidence to suggest that our present educational program contributes to the disintegration of the community and of the family and to the social maladjustment of many of the children. Conversely, the environment in which the children live often places severe handicaps on their ability to learn in school.

"We hope that the subcommittee will not neglect to examine the problems of Indian education in the broader perspective of child welfare," Byler concluded.

Dr. O'Connell, in his testimony, recalled that in December of 1967 when the subcommittee launched its investigations into the problems of Indian education, the Association on American Indian Affairs emphasized the psychological hazards which may result from early separation of a child from the family setting. In urging that a major effort be made in the direction of phasing out boarding school placement for Indian children in the primary years, the AAIA suggested that one objective of the subcommittee be to explore means of providing local schooling for the very young.

"We would like now," O'Connell said, "to place emphasis on certain general considerations of Indian education and certain aspects of contemporary Indian life which relate to the problem of Indian education.

"Here," he continued, "we would place emphasis on the need to view environment in its total reality. Indian education has failed to bear fruit because it has not offered an experience which could be integrated within the expectable life pattern of most Indians; because the school system itself (like other administrative interventions into the lives of Indian people) adds to the psychological and social disruption which the Indian child endures; because the conditions of economic deprivation and psychosocial disintegration prevalent in many Indian communities place these communities beyond the grasp of a standard modern American educational enterprise, based as it is on certain values, assumptions, expectations and motivations which are part of the input of family, pupil, teacher, administrator and of the entire community in a middle-class American school system.

"Without now attempting to review once again the entire range of problems in Indian education and the sorry toll taken among the Indian people themselves by the monumental environmental problems which they face, we would prefer to highlight a few general aspects of Indian administration bearing on the soundness of Indian societal life and the task of Indian education. . . . We would suggest that in our administrative attempts to alleviate problems, we have, in no small measure, intensified these problems. First of all, the schools themselves must be included in any cataloging of the potentially damaging experiences faced by

Indian children. This is not because of malevolence or malfeasance on the part of school administrators or teachers, but stems rather from the often unrecognized conflict between the larger contemporary American culture of which the school is the apostle and interpreter and the native culture which has been the definitive developmental influence upon the child in his pre-school years." O'Connell noted that one of the investigators who has identified this problem, Dr. Harry Saslow, states, "The culture shock of having to renounce, with the beginning of school, much of what has been learned before school undoes the pattern of trust and personal worth developed up to that time." Another authority in the field, Dr. Bernard Spilka, has concluded that the school system contributes toward the feelings of alienation by virtue of the abruptness of change in culture that it presents and by its concentration upon the defense of that culture.

"Whatever the scope of the problem of cultural shock inherent in the situation of an Indian youngster entering school," O'Connell observed, "the damage will be magnified a hundred-fold when he is removed totally from the home and community and placed in a boarding school or a non-Indian foster home.

"Furthermore," he continued, "when a child is removed from his home for social reasons, and many boarding school placements are made for social reasons, the problems within the family may well be intensified by the administrative solution affected." Dr. O'Connell used as an example a situation in which one or both parents might have a drinking problem, the children are removed to protect them from possible neglect, or even abuse, and placed in a boarding school or in a foster home. "We have taken a family on the verge of disintegration and pushed it over the brink," O'Connell said. "The removal of the children only aggravates the emotional problems of which the excess drinking was symptomatic, and we may have set in motion a downward spiral from which this family may not recover."

Referring to earlier testimony to the effect that about 9,000 Indian children nine years old or younger are in federal boarding schools, and to illustrate the extent of administrative disruption of Indian family life through foster care and adoptive placement "however well meaning," Dr. O'Connell noted that in the states of North and South Dakota approximately seventeen times as many Indian children as white children are in foster home placement. In Montana, Indian children are placed in foster homes at ten times the national foster home placement rate. Minnesota places children in foster homes at a rate that is twenty-four times the national rate, and one out of every sixty-seven Indian children is adopted in Minnesota as compared with one out of every 1,111 children for the country as a whole. In general, foster home placements of Indian children are not with Indian families, but are with non-Indian families, most frequently off the reservations.

Both foster care placement and boarding school placement loom large in any consideration of the experience of the Indian community today, O'Connell said. "We would suggest that Indian education needs to be considered in the larger context of Indian child welfare in general. It is the total environment of the child that the educator must address himself to if he is to understand the children."

The Association on American Indian Affairs called for a basic shift in perspective in viewing the problem of Indian education, Indian welfare, and Indian life in general. Rather than the administrative model which seeks to resolve a family crisis through removal of the most vulnerable members, a medical-epidemiological model was suggested in which the object of any therapeutic-rehabilitative intervention would be to assist a particular family or community toward reintegration.

The AAIA went on record as being in support of the Department of Health, Education and Welfare in its contemplated investigation of the problems in Indian child welfare and expressed the hope that any such investigation would attempt to delineate the problem in relation to the quite distinct environments of the different tribes and localities, that approaches to providing remedies be based on the model of providing rehabilitative services to families and communities in crisis rather than extending the baleful practice of the wholesale separating of Indian children from their home or community environment.

In concluding, Dr. O'Connell quoted from a report commissioned by the Department of the Interior itself which states, in part:

"The first and foremost need in Indian education is a change in point of view. Whatever may have been the official governmental attitude, education for the Indian in the past has proceeded largely on the theory that it is necessary to remove the Indian child as far as possible from his home environment; whereas the modern point of view in education and social work lays stress on upbringing

in the natural setting of home and family life. The Indian educational enterprise is peculiarly in need of the kind of approach that recognizes this principle; that is less concerned with a conventional school system and more with the understanding of human beings.

"The methods must be adapted to individual abilities, interests, and needs. Indian tribes and individual Indians within the tribes vary so greatly that a standard content and method of education no matter how carefully they might be prepared, would be worse than futile."

"As may well have been recognized," O'Connell said, "the source from which I am quoting is the Merriam Report, entitled *The Problem of Indian Administration* submitted to the Secretary of the Interior in 1928, a document which has lost little of its timeliness in spite of diligent attempts over the past forty years to administer away the problems which it so lucidly identifies."

[From the Indian Family Defense]

#### TRIBES ACT TO HALT ABUSES

One step in preventing the removal of children from their reservations is a resolution which sets forth the will of the tribe. Reprinted here are three such resolutions which were adopted by tribes confronting a child-welfare crisis; and a general resolution passed by the Coalition of Indian Controlled School Boards.

#### SISSETON-WAHPETON SIOUX

Whereas, The Sisseton-Wahpeton Sioux Tribe is interested in the well-being of all the enrolled members of the tribe and

Whereas, Minor children of Sisseton-Wahpeton descent have been placed in non-Indian foster and adoptive homes all over the United States.

Whereas, The tribal council is in the process of researching the sovereign status of the tribal entity in respect to its jurisdiction as stated in the constitution of the Sisseton-Wahpeton Sioux Tribe, and,

Whereas, It is the intent of the Sisseton-Wahpeton Sioux Tribe to establish its own method of social and economic development and well-being of the enrolled members, and,

Whereas, It is the strong feeling of the tribal council to "make every stand possible to keep these children on the reservation" (minutes of June 6th council meeting) and "the tribal council would like these children to be placed in an Indian licensed home until an Indian home can be found for them to be adopted;"

Therefore, be it

*Resolved*, That Mr. Bert Hirsch, legal counsel from the Association on American Indian Affairs, will stand on these grounds in his argument in Roberts County Court on July 7, 1972 and future cases of this nature.

Adopted July 6, 1972.

(This resolution was passed in reference to the Cheryl DeCoteau case—and after many other children had already been removed from the reservation.)

#### CICSB

At its meeting in December 1973, the Coalition of Indian-Controlled School Boards, Inc., representing 120 school boards, adopted a strong resolution condemning the wholesale removal of Indian children from their families. The CICSB, Inc. deplored the conditions whereby Indian children are not only physically deprived of their culture, but even their attitudes and ideas are turned against their traditional tribal customs and lives. It further resolved to support by any means within its resources any efforts to counter the removal of Indian children from their families, relatives, and tribes.

#### THREE AFFILIATED TRIBES

Whereas, Many of our Indian children are being placed in foster homes off the Reservation and in non-Indian homes, and,

Whereas, It is the Tribe's opinion that our children in need of foster home placement will adjust to placement in an Indian home more readily, and, now therefore be it

*Resolved* by the Tribal Business Council of the Three Affiliated Tribes that all agencies involved with the placement of Indian children in foster homes place such children with Indian families wherever and whenever possible.

Adopted September 9, 1971.

OGLALA SIOUX

Whereas, Many of our Oglala Sioux Indian children have been placed in foster-home care with non-Indians; and

Whereas, This placement of our Indian children has resulted in many cases in adoption of our Indian children to non-Indian people, thus causing our Indian children to lose their identity as Oglala Sioux; and

Whereas, We have many Oglala Sioux parents who are capable and qualified to properly care for our Indian children, making it possible for our Indian children to associate themselves with their own race and learn their own culture; and

Whereas, If our Indian children are placed with members of our own race, not only will our children benefit by this association but it would also be an incentive for the Indian families to assume responsibility and develop themselves to a point where perhaps in time they can become self-sufficient; and

Whereas, The State Welfare Department and the BIA Welfare Department have both stated, that they would continue to place our Indian children in non-Indian homes for foster care purposes, unless they received a direction from the Oglala Sioux Tribal Council; now therefore be it

*Resolved* by the Oglala Sioux Tribal Council in Regular Session on this 17th day of August, 1972; that, the Tribal Council feels that in order to protect the rights of the children and to encourage the concern of the adult members of the Tribe, that henceforth the placement of Indian children with non-Indians by the State and BIA Welfare Departments cease. Be it further

*Resolved*. That the Crazy Horse Planning Commission take immediate steps to develop a Foster Child Care Program and to further initiate a study for family development.

Mr. HIRSCH. I also request that we be able to submit further documents at a later date.

Senator ABOUREZK. The record will stay open for 2 weeks, so you can submit additional statistical information.

Mr. HIRSCH. Statistical, and I also have, what might be of interest to the committee, some legal documents, for example, the Petition for Neglect in Margaret Townsend's case, which I think is particularly revealing; and I have other legal papers of that nature.

Senator ABOUREZK. Fine. They will be accepted for the file and the decision as to whether they will be put into the record or not will be up to the committee itself and the staff.

Thank you very much.

The next witness is Dr. James Shore of Portland, Oreg.

Dr. Shore, we would like to welcome you to the Senate committee. We would like to thank you for coming out from Oregon to present your testimony.

Did you plan on reading your entire statement?

Dr. SHORE. No. I did not, I will abbreviate it.

Senator ABOUREZK. Fine, we appreciate that.

**STATEMENT OF DR. JAMES H. SHORE, PSYCHIATRY TRAINING PROGRAM, PORTLAND, OREG.; ACCOMPANIED BY WILLIAM W. NICHOLLS, DIRECTOR, TRIBAL HEALTH PROGRAM, CONFEDERATED TRIBES, WARM SPRINGS RESERVATIONS**

Dr. SHORE. Senators, at the present time, I am director of the community psychiatry training program for psychiatric residents in the State of Oregon and associate professor at the University of

Oregon Medical School. Formerly I was chief of mental health programs for the Indian Health Service in the Pacific northwest area, including the States of Washington, Oregon, and Idaho from 1969 through 1973.

I'm also a member of the Indian Affairs task force of American Psychiatric Association.

I should add at the beginning, the statement that I will present here will also be discussed at the annual meeting of the American Psychiatric Association meeting in Detroit at the end of this year.

I would like to recognize Mr. William Nicholls, who is the director of the tribal health program of the Confederated Tribes of the Warm Springs Reservation, in Oregon, who with his tribal health program staff has helped me to prepare this statement.

Senator ABOUREZK. Is he here now?

Dr. SHORE. He is not here now.

There was an old Indian custom among plateau tribes of the Pacific northwest that exemplified community responsibility for child care. The tradition concerned an individual called the Whipper Man who was outside of the immediate family. The Whipper Man was a highly respected person. Respect was shown by the elders and the young. However, this respect had to be earned. He was chosen by tribal leaders and relatives, based on the development of character beyond reproach. The Whipper Man functioned in the role of disciplinarian. He disciplined youngsters if they were disrespectful to elders. This discipline was administered in a very positive sense, and was understood by young and old. The whip he used hung over the door or on the wall, and was the omnipresent symbol reminding the children that the Whipper Man might be coming.

The plateau culture of central Oregon has demonstrated the impact of the communities sponsorship on the effectiveness of Indian child care.

After 2 years of intensive planning, a children's group home was opened. The development of this service has taken place under the sponsorship of the tribal council with mental health consultation from the Indian Health Service and support from other agencies. A child neglect committee of community participants had been functioning for several years with official tribal council endorsement and had established the precedent for community initiative in making decisions for the placement of Indian children. At the time the group home opened, there were 219 Indian children under age 18 who were not living with their natural parents. These children were part of the total youth population of approximately 800 under 18 years of age. The children in placement represented 28 percent of the total youth population. Of this number 74, 34 percent, were in foster care placement with the State children's services agency, 47, 21 percent, were in boarding schools, and the remainder in tribal foster homes or other off-reservation homes. Local homes were not licensed and received few if any services. Children were removed from their family homes because of complaints of neglect or abandonment. In 1971 and 1972, the number of new Indian children placed in foster homes were 40 and 30 respectively. In 95 percent of cases, this was directly related to alcohol misuse of their parents. Child abuse or battered child syndrome was virtually unknown and in my experience, very rare among American Indians.