The Massachusetts Commission on Indian Affairs has reviewed your Indian Child Welfare Act of 1977 (S.1214), and we feel that this bill is worthy of serious attention and consideration of the United States Congress.

As you seem to understand, for too many years, too many of our Indian Children have been removed from their families, relatives and Indian communities by non-Indian social workers who are not capable of properly assessing the Indian family unit/life-style. Most of these children have been adopted by or put in foster homes of non-Indian people. These children are being robbed of their culture, for only an Indian family as the same Nation as the child can 'raise the child in his/her proper cultural ways. These children sustain tremendous psychological suffering from this situation which continues to have substantial impact on them in their adulthood. A good number of these children never live long enough to reach adulthood.

We feel that S.1214 is making an honest attempt to help remedy this situation. However, parts of Section 4 (Definitions) pose major problems in terms of application of the bill's provisions to all Indian People living in the United States. Section 4 (a) says, "'Secretary,' unless otherwise designated, means the Secretary of the Interior." It is therefore obvious that it is intended
that this bill be implemented through the Bureau of Indian Affairs. The BIA has its own criteria as to who the Indian People are. For the most part, Indian People East of the Mississippi will be excluded (as has been the case historically) from the provisions of the bill, as well as all other Indian People who do not have direct affiliation with Tribes occupying federal trust reservation lands. Yet, the children of the "non-recognized" Tribes are equally subject to this immoral mistreatment as the children of the "recognized" Tribes. Section 4 (b), (c) and (d) supports the BIA criteria by definition, again leaving out non-reservation Indian People.

There is yet another group of Indian People who are left out of this bill. Many Indians from Tribes whose homelands are in Canada are living in the United States, especially in the border states. These children and their parents also need the protection of this bill. While they are living in the United States, they face the threat of United States authorities taking their children; therefore, while they are living here they should also be extended the protection from that threat.

We are proposing that the bill be amended as follows:

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3. Section 4 (c) - The definition of "Indian Tribe" should read as follows: "Indian Tribe" means a distinct political community of Indians which exercises powers of self-government.

4. Section 4 (d) - The definition of "Indian Organization" should read as follows: "Indian Organization" means a public or private nonprofit agency whose principle purpose is promoting the economic or social self-sufficiency of Indians in urban or rural non-reservation areas, the majority of whose governing board and membership is Indian.

With the exception of these proposed amendments, we feel that this is a very crucial bill deserving of passage and implementation. The Massachusetts Commission on Indian Affairs is in basic agreement with and in support of the bill, particularly in its suggested amended form. We strongly urge that you seriously consider these proposed amendments and support their implementation, in the best interests of our Indian Children.

Sincerely,
Beatrice Gentry
Chairman
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cc: President Carter
    Senator Edward M. Kennedy
    Senator James Abourezk
    Representative Lloyd Mens
    Members of the Senate Sub-Committee on Indian Affairs
    Members of the House Sub-Committee on Indian Affairs
The Commonwealth of Massachusetts

Commission on Indian Affairs
State House - Room 178
Boston, Mass. 02133
Telephone 617-727-4302

July 15, 1977

Lloyd Meeds, Chairman
House Sub-Committee on Indian Affairs
Room 2352
Rayburn House Office Building
Washington, D.C. 20515

Representative Meeds:

The Massachusetts Commission on Indian Affairs has reviewed Senator Abourezk's Indian Child Welfare Act of 1977 (S.1214), and we feel that this bill is worthy of serious attention and consideration of the United States Congress.

For too many years, too many of our Indian children have been removed from their families, relatives and Indian communities by non-Indian social workers who are not capable of properly assessing the Indian family unit/life-style. Most of these children have been adopted by or put in foster homes of non-Indian people. These children are being robbed of their culture, for only an Indian family of the same Nation as the child can raise the child in his/her proper cultural ways. These children sustain tremendous psychological suffering from this situation which continues to have substantial impact on them in their adulthood. A good number of these children never live long enough to reach adulthood.

We feel that Senator Abourezk's bill S.1214 is making an honest attempt to help remedy this situation. However, parts of Section 4 (Definitions) pose major problems in terms of application of the bill's provisions to Indian People living in the United States. Section 4 (a) says, "Secretary, unless otherwise designated, means the Secretary of the Interior." It is therefore obvious that it is intended that this bill be implemented through the Bureau of Indian Affairs. The BIA has its own criteria as to who the Indian People are. For the most part, Indian People East of the Mississippi will be excluded (as has been the case historically) from the provisions of the bill, as well as all other Indian People who do not have direct affiliation with Tribes occupying federal trust reservation lands. Yet, the children of the "non-recognized" Tribes are equally subject to this immoral mistreatment as the children of the "recognized" Tribes. Section 4 (b), (c) and (d) support the BIA criteria by definition, again leaving out non-reservation Indian People.

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Beatrice Gentry
Chairman

cc: President Carter
Senator Edward W. Brooke
Senator Edward M. Kennedy
Senator James Abourezk
Members of the Senate Sub-Committee on Indian Affairs
Members of the House Sub-Committee on Indian Affairs

Edward M. Kennedy
Room 431
Russell Senate Office Building
Washington, D.C. 20510

Senator Kennedy:

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Chairman

cc: Senator Edward W. Brooke
Senator Edward M. Kennedy
Senator James Abourezk
Representative Lloyd Needs
Members of the Senate Sub-Committee on Indian Affairs
Members of the House Sub-Committee on Indian Affairs

September 1, 1977

Senator James Abourezk
Room 1105
Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Abourezk:

I am requesting from you a report on the present status of S. 1214, "The Indian Child Welfare Act of 1977." It has come to my attention that it has been suggested that S. 1214 be scrapped and amendments be added to S. 1928, "The Child Welfare Amendments of 1977," to provide some of the specific provisions from S. 1214 for the Indian People. Is this, in fact, the case?

Your reply on the matter would be most appreciated.

I am also requesting that you send to me a copy of the S. 1928.

Thank you for your consideration in this matter and for your assistance in the past.

Sincerely,

Jacob Thompson
Executive Director
June 7, 1977

Senator James Abourezk
Select Committee on Indian Affairs
U.S. Senate
Washington, D.C.

Dear Senator:

We appreciate the opportunity to provide comments on S.1214.

At this time we would like to register general support for the bill because it faithfully reflects definite solutions to the many complicated social and jurisdictional problems and issues identified during the 1974 Indian Child Welfare Hearings. This is a tribute to S.1214 because so much federal legislation today fails to clearly address the causes, or at least some of the basic roots of problems identified through the legislative hearing process. S.1214 does progress toward a meaningful system to erase the negative aspects of Indian child welfare programs in a manner which coincides with the federal policy of Indian Self Determination. In addition S.1214 establishes an enlightened and practical approach to legal jurisdiction and social services delivery to Indian People.

We are not including any recommendations for specific modifications at this time, but we will be working with and in support of such recommendations which will soon be forthcoming from individual Indian tribes and organizations in Washington state and the National Congress of American Indians.

While S.1214 does not amend P.L. 83-280, it will provide some important financial and social service relief and protections to Indian tribes, organizations, and individual families and children in partial P.L. 83-280 states such as Washington. Of course, the recent landmark U.S. 9th Circuit Court of Appeals decision regarding the reversal of State P.L. 83-280 jurisdiction on the Yakima Reservation emphasizes the need for the passage of S.1214.

Thank you again for the opportunity to register support for S.1214.

Sincerely,

Don Milligan
State Office Indian Desk
Department of Social and Health Services
Washington State
The inclusion of S.1214 within DHFW/ANA would also ensure that attention be given to the child welfare problems of Indian people from Canada who live in the United States and whose rights and status in this country are protected by the Jay Treaty of 1794, the Explanatory Articles of 1796, the Treaty of Ghent of 1814 and other treaties and agreements which they signed. The ONAP definition of Indian was redrafted specifically to deal with such people. Indian people, from tribes usually associated with Canada, are a major source of Indian to White foster and adoptive placements across the northern sections of the United States. In Aroostook County, Maine, for instance, nearly all 1,000 Indians residing there are Micmacs and Maliseets. Aroostook is part of Maliseet aboriginal territory. In 1972 there were 73 Indian children in foster care in Aroostook, about one of every seven Indian children in the county; (using incorrect 1970 census data AIPRC Task Force IV estimated one of every 3.3 Indian children, p. 805). These statistics support the contention that the Indian foster and adoptive problem in Maine is substantially a Micmac and Maliseet problem, for although this county has only one-fourth of the Indian population in the State, it has consistently had more than one-half of the Indian foster placements. In August of 1977, at the Penobscot Nation in Maine, a convention attended by 300 Native people from New England and eastern Canada, drawn primarily from the Wabanaki confederacy tribes (Penobscot, Passamaquoddy, Maliseet, Micmac and Abenaki) unanimously adopted a resolution citing the Indian Child Welfare problem (attachment 3). The resolution in part states that:

"The existing non-Indian child welfare systems in both countries have seriously undermined the Indian family structure and have contributed to the loss of Indian identity, and families and children who have crossed the (U.S.-Canadian) border are particularly vulnerable to these systems..."

I understand that DHFW has requested that the Select Committee defer action on S.1214 in lieu of S.1928, the "Child Welfare Amendments of 1977." To the extent that these "amendments" can be changed to accommodate the program proposed in S.1214, I have heard no major objection to this suggestion, especially if this strategy will give added strength to your Bill's likelihood of passage. However, there would be great concern, if by its merger with S.1928, your proposal would in some way be diluted. Native groups in New England would particularly object to the dropping of direct Federal funding of Indian tribes and community organizations. The history of State/Indian relations, both within this region and without, casts considerable doubt on the feasibility of any funding arrangement which would channel such Federal support through States.
Dear Senator Abourezk:

I am writing to you at the request of your aide, Mr. Tony Strong, to provide an alternative definition of "Indian" and "Indian Tribe" to be included in the Indian Child Welfare Act. The definition of Indian now contemplated in the draft restricts the term to members of so-called "federally recognized" tribes. This definition would cause a great hardship to New England Indians, many of whose children have been placed in foster care. Definitions of "Indian" and "Indian Tribe" preferred by this Office are as follows:

"Indian", unless otherwise designated, means any person who is a member of, or who is eligible for membership in an Indian tribe, as defined below.

"Indian Tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native region, village or group as defined in the Alaska Native Claims Settlement Act which is indigenous to the United States or which otherwise has a special relationship with the United States or with one of its states through treaty, agreement, or some other form of recognition.

The pattern of Indian foster care in New England is no different from that in the rest of the country. The total number of Indian children in foster care is probably around 500. Yet official state counts are very low. The computer listings in Connecticut and Massachusetts, for instance, are 9 and 28 respectively. The experience of tribal investigators in Maine shows the probable inaccuracy of these figures.

The issue of New England Indian foster care first arose in Maine in 1971, when the Passamaquoddy Tribe and the Division of Indian Services of the Roman Catholic Diocese called for legislation to grant foster home licensing powers on reservation to the tribes. The bill passed one house before it fell to intensive lobbying by the state Department of Health and Welfare.

During 1972 the Association of Aroostook Indians reopened the foster care discussion in Maine by approaching the Director of the Bureau of Social Welfare in DHW. After initial agency resistance was overcome, a survey of all foster

Sincerely,

[Signature]

Gregory Bucking
FRC/LE Coordinator
Senator James Abourezk
United States Senate
Washington, D.C. 20510

Dear Senator Abourezk:

This is a second letter from the Indian Task Force regarding the draft Indian Child Welfare Act. Both were written in conjunction with conversations with a member of your staff, Mr. Tony Strong. Copies of earlier relevant correspondence are attached.

There are several problems in the draft Indian Child Welfare Act which we wish to identify for your review:

(a) the definition of Indian in the Act excludes New England Indians; this matter is discussed in the attached correspondence;

(b) the administration of this Act by the Secretary of Interior could lead to unequal services for New England Indians;

(c) there is no provision requiring States to provide an accounting of all Indian children who are in State custody or who have been placed in adoptive homes within a reasonable number of years prior to the passage of the Act;

(d) there is no provision for supplemental services, aimed at the social reintegration of Indian foster children into the Indian world, in those cases where the child is in a non-Indian placement and there is no immediate prospect for return to an Indian community;

(e) it appears to be no provision for Indian group homes on and off reservation; the legislation should also remove civil rights restrictions on such homes funded under other Acts;

(f) there is nothing requiring States to enroll Indian foster children and adoptees in their tribe, thereby protecting political rights of both the child and the tribe.

Sincerely,

[Signature]

MEMBER AGENCIES

- Department of Agriculture
- Environmental Protection Agency
- Department of Health, Education & Welfare
- Department of Housing & Urban Development
- Department of Interior
- Department of Labor
- Department of Transportation
- Department of Labor
- Office of Economic Opportunity
- Office of Economic Opportunity
- Office of Economic Opportunity
- Office of Economic Opportunity
To: Al Elgin, Chairman  
Task Force #6  
American Indian Policy  
Review Commission

Date: February 17, 1976

From: Don Milligan - Indian Desk  
Dept. of Social & Health Services  
Washington State

Subject: TESTIMONY FOR URBAN AND RURAL NON-RESERVATION TASK FORCE HEARING AT SEATTLE ON FEBRUARY 17, 1976

Please refer to the copy of my testimony for the February 2-3 hearings of Task Force #6 at Yakima, Washington sent to you under separate cover. ATTACHED

As I pointed out in that testimony most of the issues involving the Department of Social & Health Services and jurisdiction on Indian Reservations in Washington can be applied with appropriate modification to issues which concern the Urban Indian/Alaskan Native and Rural Non-Reservation Indian communities in Washington State.

However, I would like to make some specific additional comments:

1. There is a direct spill-over into the urban and rural Indian communities of the problems caused by state jurisdiction on reservations in respect to foster care, adoption, child protection, public assistance, mental health, juvenile delinquency, dependent children, etc. There is a constant two-way movement of Indian families and individuals between reservations and urban areas. The harmful results of some state services on reservations in a state like Washington follow families as they move to urban and rural Indian communities that contribute to the process of negative acculturation, assimilation and termination. When it comes down to it, the Indian people on reservations as it does over Indian people in urban and rural areas and vice versa. One major difference is that now that tribal governments are generally exercising more sovereignty the department is starting to show a little more respect and cooperation related to social services. However, the Indian community in general is less politically organized and protected by trust responsibility and the Federal-Indian relationship, the state agency will continue to exercise a strict and many times harmful control over social and health factors in the lives of Indian people unless some rather extensive steps are taken by the Congress and the federal government.

Child Welfare Services:

Adoption: The largest percentage of Indian children being adopted by non-Indian families occur in urban and rural areas.

Child Protection:

I have no current statistics on Indian children receiving child protection services on or off-reservation. However, the trend is very definitely comparable to the foster care and adoption situation; i.e., the largest percentage of such cases are in urban and rural off-reservation areas.

The point I am making is that the proportion of Indian child welfare cases on reservations is a numerical minority in comparison to Indian child welfare cases off-reservation though the intensity of the problem is probably equal in both situations. However, the urban and off-reservation Indian communities are faced with a situation of greater numerical magnitude and with less resources and political organization and power.

Steps which can provide some solutions to the problem include:
1. Amendment of Title XX of the Social Security Act to protect and provide for relevant state social services to Indian people.
2. Enactment of a federal Indian Social Service Act which will fund the design, planning, and delivery of social services to tribal, urban Indian/Alaskan Native, and rural Indian communities by themselves.
3. Federal and state funding for the operation of Indian Child Care and Placing Agencies administered and staffed by Indians in urban Indian/Alaskan Native and off-reservation rural areas. Indian child welfare cases now handled by the state and private agencies could be turned over to the Indian Child Placing Agencies for services.
4. The establishment of a separate Indian program development and service delivery division within the state agency staffed and administered by Indian persons with an explicit accountability to tribal governments.

The August, 1975 State Indian Child Welfare printout indicates that out of 1,072 Indian children who appear on it, approximately 800 are located in urban or rural non-reservation areas.

A limited state-wide survey of private child care agencies in Washington State from April 15, 1975 to August 28, 1975 indicated that a total of 1,157 Indian children were served in that short time. 807 referred for services 320 in foster care, and 20 were adopted. I would estimate that over 90% of these children were living in urban and rural off-reservation areas.

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and urban and off-reservation Indian communities. Federal and state legislation with suitable appropriations would be necessary to establish all 4 of these inter-related solutions so that the problem is addressed in a comprehensive manner.

Public Assistance:

The comments made in my report to Task Force 4 apply here also in respect to financial assistance programs, exception of all Indian trust income, vocational rehabilitation, public health, mental health, alcoholism and drugs relative to urban and off-reservation urban Indian communities.

The total range of alternative direct federal, state, county or city funding for the above-mentioned services should be made available to urban and non-reservation rural Indian communities so each community may choose.

In the case of those communities who choose to have the state, county, or city service delivery system provide the service, specific requirements and guidelines must be developed and enforced to ensure maximum Indian benefits from the service including Indian affirmative action and cultural relevance factors.

Affirmative Action & Civil Rights:

My comments in the report to Task Force 4 again apply.

Thank you for the opportunity to present my comments and recommendations related to state social and health services and urban and off-reservation rural Indian communities. Meaningful comprehensive solutions to these problems must be developed and enforced to ensure maximum Indian benefits from this service including Indian affirmative action and cultural relevance factors.

Refer to a recent task force report: The People Speak Will You Listen? prepared by the Governor's Urban and Non-Reservation Indian Advisory Councils in Washington State. If you examine the issues raised and recommendations presented and the measurable response of the federal, state, and local governments to those issues, the Commission will see exactly what I mean. Thank you.

Dmsab cc: File (2)

Gail Thorpe Louis Bruce

Edward House Adolph Dial

Emile Stevenson Greg Frazier - Seattle Indian Center

Kirke Kickingbird Bernie Whitebear - United Indians - Seattle

Max Kichelman Luma Reyes - Seattle Indian Health Clinic

Lloyd Needs Herb Rosas - Blackfoot Association - Seattle

Sam Steiger Margaret Tillman - Tlingit - Haida - Seattle

Sidney Yates John Dalton - Triangle Association - Seattle

James Abourezk Fred Lane - Oakland Indian Center

Lee MacCall

Mark Hatfield

ATTACHMENTS
March 1, 1976

Sherwin Broadhead, Chairman
Federal, State & Tribal Jurisdiction
Task Force
American Indian Policy Review Commission
House Office Building Annex #2
2nd & D Streets SW
Washington, DC 20515

Dear Mr. Broadhead:

I am submitting my written testimony as promised at the February 2 & 3, 1976 Federal, State and Tribal Jurisdiction Task Force Hearings in Yakima, Washington.

Introduction:

My name is Don Milligan. I am currently serving as a member of the State Office Indian Desk staff of the Washington State Department of Social & Health Services which is the state's major social service agency including the divisions of corrections, community services, health, and vocational rehabilitation. The Indian Desk was established in October, 1972 at the request of Indian Tribes in Washington State under a unique agreement between the tribe, the Department of Social & Health Services, and the Governor. It is the responsibility of the Indian Desk to be an agency-wide advocate and monitor for just and relevant departmental services to Indian clients, communities, and tribes.

In respect to my own personal background I am a member of the non-status Metis/Cree Nation of Saskatchewan, Canada and am of Cree, Assiniboine, Sioux and Scotch-Irish descent. My professional background includes three years as a child welfare caseworker on the Yakima Reservation, a Master of Social Work degree from the University of Washington specializing in alcoholism counseling and community organization related to Indian Affairs, and 3 years as a member of the Indian Desk staff.

General Statement:

I would like to preface my comments on specific jurisdictional subjects with some general statements:

1. The Department of Social & Health Services in Washington State is directly involved in the state's implementation of 5 of the 8 points of jurisdiction assumed by the State Legislature under P.L. 83-280; i.e.,
   1. Public Assistance
   2. Mental Illness
   3. Juvenile Delinquency
   4. Adoption Proceedings
   5. Dependent Children

2. Needless to say, ever since the adoption of P.L. 280 in Washington State a tremendous conflict has been building between Indian Tribal Government and People and the State Government, and State and County courts and agencies.

3. One reason for this conflict is the harmful manner in which child welfare and public assistance services have been administered by the federal, state, and county involving Indian people both on and off-reservation.

4. Some reasons why the services are harmful include:
   a. Tribal courts and social service resources have been kept out of the picture by state and county court and agency staff, and service policies and manuals.
   b. Non-Indian caseworkers and court workers are delivering the services to Indian children and families but are unable to understand and communicate with the Indian clients, and therefore are unable to deliver relevant social services. In many instances this communication and attitudinal problem on the part of non-Indian staff has resulted in numerous inappropriate deprivations, adoptions, foster home placements and other disruptions of Indian family and tribal life.
   c. Non-Indian juvenile court judges basing decisions over the lives of Indian children and families on their own non-Indian background.
   d. Failure of the Bureau of Indian Affairs and the Department of H.E.W. to protect Indian children and their families against harmful state services in P.L. 83-280 states such as Washington.

5. All of these factors result in harmful effects on the individual lives of Indian families as well as direct attacks on the rights of Indian people to remain a distinct people under treaty. Being shuttled from one non-Indian foster home to another and deprived of a normal Indian upbringing have caused great psychological damage to thousands of Indian children.

6. Three documents this Commission should study and incorporate regarding Indian child welfare are:
   c. Draft recommendations related to Juvenile Justice by the Association on American Indian Affairs of New York City. These recommendations and other related items appear in their publication "Indian Family Defense".
The Commission needs to consider two aspects of this issue: National and State.

A. National Aspect:

ARENA (Adoption Resource-Exchange of North America) receives a BIA grant for a special sub-project whose purpose is to facilitate the adoption of Indian children by Indian families.

Statistics available from 1974 Annual Report (ARENA) show:

Total Indian Placements = 120

Recommendation:

1. Retrocession of jurisdiction so that interested tribal governments can handle their own adoptions.

II. Foster Parent Adoption Form:

The basic process includes a situation where an Indian child is in a non-Indian foster home usually over 1 year, a juvenile court orders a deprivation, the non-indian foster parent adopts the Indian child.

The pending amendments will only provide for Indian evaluation of prospective placements.
March 1, 1976

foster parent adoptive homes. Again the actual decision is in the hands of the state worker.

The current system has locked in a very dangerous practice:

a. Many Indian children are kept in non-Indian foster homes because the non-Indian caseworker and court worker are unable to communicate with Indian parents and children. Therefore no effective support services are delivered to get the Indian child back home.

b. Caseworkers, court judges and attorney generals have taken the general position that it will do too much psychological damage to young Indian children who have spent some time with particular foster parents who have become their "psychological parents" for them to be moved to the home of Indian relatives or an Indian adoptive home. This theory is generally espoused by non-Indian psychiatrists and psychologists who prepare evaluations paid for by the court or department. These evaluations obviously do not include considerations of Indian psychology, heritage, or culture and completely ignore the proven problems which affect Indian children adopted by non-Indians and usually show up between ages 10 and 16.

Recommendations:
1. Retrocession of jurisdiction to interested tribes who want to handle their own adoption and foster care programs.

2. In the case of those tribes and communities not taking that jurisdiction, a separate Indian staffed and designed adoption and foster care program within the state agency to handle all Indian foster care and adoption cases served by the state.

III. Private Agency Form

Numerous private child care agencies are licensed by the state to deliver adoption and foster care services in Washington State.

Statistics available to the Indian Desk show that from April '75 through July '75 20 Indian children were adopted through private agencies. This number only covers 4 months of the year. We do not have information as to how many of the 20 Indian children went to Indian families.

Current state regulations governing private child care agencies have established the rule of Indian preference for adoption of Indian children. However, a major problem is the lack of departmental Indian staff to monitor the private child care agencies and the lack of Indian control of private agency services and Indian staff in the private agencies.

Recommendation:
1. Retrocession of jurisdiction

IV. Private Adoption Form

This process involves doctors and private attorneys who arrange for adoptions of their Indian client's children to a non-Indian through their attorney directly through a court.

We have no way to monitor the ethical practice and abuse of this form. All of us are well aware of the adoption black market which has blossomed due to effects of modern family planning efforts. Some people will pay thousands of dollars for a child. It is also well-known that Indian children have always been a prize catch in the field of adoption.

Recommendation:
1. Federal and state legislation and monitoring is needed to address this problem.

V. Out of State Placement Form

This process involves an out-of-state agency (public or private) which attempts to place an Indian child with a non-Indian family living in Washington.

Pending state regulations which are not yet in effect will require out-of-state agencies to document that they have followed an Indian preference procedure before allowing placement. However, once again the problem is one of each of Indian control and monitor.

Recommendation:
1. Retrocession

2. Legislation to restrict inter-state adoption of Indian children by non-Indians.

3. Separate Indian system of monitoring within the state agency.

2. Dependent Children & Juvenile Delinquency

The following departmental services are directly related to the implementation of these two jurisdictional points: Foster Care; Child Protection; Juvenile Parole; Juvenile Rehabilitation; Delinquency Protection; Juvenile Probation Subsidy.

I would again recommend to the Commission that you study the Washington Administrative Code, Procedural Manuals, Title XX, and other pertinent material and statistics related to the above services.

There has been some improvement in some of these departmental services to Indian clients since 1972, however, I can say with confidence that due to
state jurisdiction, non-Indian control of the program planning and development, preponderance of non-Indian service delivery staff, and the overall inadequate budget for the services in general, several of these services have been extremely harmful to individual Indian families and the remainder of the services have not been available or delivered in a relevant manner.

Foster Care:

There are three basic forms of implementation:

1. **County:** Juvenile courts staffed by non-Indian judges and probation and detention staff initiate dependency and delinquency actions, placement orders and some support services.

2. **State:** Foster care caseworkers working out of local department offices, prepare court orders, sometimes initiate court petitions, and provide supervisory and placement services to children and families.

   Foster home licensers working out of local department offices license homes for foster care applying state standards.

   Local offices process foster care payments for licensed state and private agency foster home services.

3. **Private:** Caseworkers employed by private licensed child care agencies and working out of their own offices sometimes initiate court petitions and case summaries and provide support services to children and their families.

Statistics: December 1974 for State Agency

- 357 Indian children in parents homes but usually wards of court
- 150 Indian children in relative's homes but usually wards of court
- 445 Indian children in county foster homes usually wards of court in non-Indian foster homes
- 58 Indian children in private agency homes being financed by state public assistance
- 40 Indian children in institutions
- 51 Indian children elsewhere but receiving departmental supervision or public assistance
- 19 In process of being adopted

Total: 1,120

**747** of the 1,120 children are wards of county courts.

It must be noted that these computer printouts are an undercount of the number of Indian children on the state's list because not all Indian children receiving services have been identified as Indian.

I have attached several statistical breakdowns for Washington state for Dec. 1974 including specific statistics related to the Yakima Reservation.

Statistics: For County Juvenile Court Foster Care are unavailable to us.

Statistics - Private Child Care Agencies

To date the state is not receiving specific Indian statistics on a regular basis. However, we do have some returns for April 15, 1975 to August 28, 1975.

- **137** Licensed Indian Foster Homes
- **33** Licensed Indian Day Care Homes

Recommendations:

1. **Retrocession;**

2. Separate program development and service delivery system within the state agency staffed and administered by Indian persons with defined accountability to Indian Tribal Councils to cover reservations where the tribe has decided not to retrocede.

3. Establishment of Indian child placement agencies funded by federal and/or state government.

Child Protection:

The following characteristics are involved in this service:

1. A state child protection law;

2. This service is totally delivered by state staff working out of local offices;

3. This service can result in court petitions and actions involving dependency, delinquency or deprivation.

No statistics are available on the Indian child protection caseload at present.

The delivery problems are similar to those mentioned in my general statement and in my foster care comments.

Recommendations:

1. **Retrocession;**

2. Amendment to state law to accommodate tribes who do not retrocede but desire modification of law;

3. Separate system within the state agency as described in the foster care section of this report.
3. Public Assistance

I would classify the following departmental services as being an implementation of this jurisdictional point:

a. Financial assistance
b. Medical assistance
c. Vocational rehabilitation
d. Public health
e. Developmental disabilities.

3. Financial Assistance involves:

1. A federal program called Supplemental Security Income (SSI) which is administered by the Social Security Administration and provides old age, disability, and blind assistance;
2. Federally funded state administered programs providing Aid to Dependent Children, Medical Assistance, and food stamp payments.
3. State funded and administered general assistance payments.

There is a need for extensive outreach to Indian communities in all programs especially Aid to Dependent Children with Employable Male, General Assistance, and Medical Assistance. Indian people are reluctant to apply because of fear of state child welfare and trust income and land practices. Therefore, their rights as citizens are denied.

Recommendation:
1. Tribal administration of federally funded financial assistance programs on reservations.
2. Separate Indian administration and delivery system for financial programs within the state agency to serve reservation and urban and rural Indian communities which choose to remain under state jurisdiction.

The issue of Indian trust income also enters here:

1. Over the years many Indian people have been deprived of the benefits of thousands of dollars of trust income because it is considered a non-exempt resource when determining public assistance eligibility.
2. This also resulted in termination of public assistance grants, overpayments, and fraud charges. These events in turn resulted in financial deprivation and emotional and psychological stress on young mothers and old grandmothers and their families.
3. Judgment claims are now exempt from state and federal public assistance eligibility (except for general assistance).

However, tribal dividends from timber resources, land lease, grazing and trust timber and land sales are not exempt from state and federal public assistance eligibility.

4. Through the influence of Montana Inter-Tribal and an I115 Demonstration Project in Montana which exempted tribal dividends, Senator Helmer has introduced H.R. 9532 which would exempt tribal dividends by amending the Social Security Act.

Recommendation:
This Commission should recommend to Congress that H.R. 9532 be made law.

All these years, the federal government and the BIA has stood by and allowed the state and SSI to encroach on the treaty status of Indian trust income.

5. Another issue here is that of trust land and public assistance:

Prior to 1972 Washington State regulations required Indians applying for public assistance to sell trust allotments to become eligible for public assistance.

Therefore many thousands of acres of Indian trust lands passed into non-Indian hands. This practice was directly related to the termination policies of the federal government and helped create the current checkerboard reservation problem.

Again the federal government stood by despite the objections of tribal governments and Indian people.

Recommendation:
In respect to the alienation of trust land I recommend that the Congress pass a law which will return to individual Indians and their descendants newly created trust land equal to the trust land which they were forced to sell to be eligible for public assistance.

b. Vocational Rehabilitation

The benefits of this service are hardly reaching Indian clients. Affirmative action Indian staff goals are sadly neglected and monitored. Relevant outreach and routine service delivery procedures for Indian clients have been generally ignored.

Recommendation:
I would recommend a thorough study of Vocational Rehabilitation services to Indian people.

The Indian Desk has not had the staffing to concentrate on this departmental division. An increase in our staff for this and other purposes would be of great assistance.

Direct contracts to tribes and urban Indian communities to deliver these
to their own people should be studied and implemented if requested by tribes or communities.

c. Public Health

The primary issue here is that County Health Departments receive state funding by submitting a plan which is approved by the state. In practice Indian tribal governments are generally not consulted by the County Health departments and Indian health needs are not addressed once the counties receive their allocation using a headcount that includes Indians.

Recommendation:
1. Retrocession should also bring with it increased direct health appropriation to tribal governments.
2. For those tribes who continue to be counted in the county headcount, the state should develop and enforce relevant special regulations ensuring maximum Indian benefits from the County Public Health Plan.

Mental Illness

I would include the following departmental services as implementation of this jurisdictional point:
- Alcoholism & Drug Abuse
- Mental Health
- Mental Illness Offender

a. Alcoholism & Drug Abuse

My comments in the Public Health section above apply here also.

b. Mental Health

My comments in the Public Health section above apply here also.

I would add that the existing mental health Washington Administrative Code and the past performance of county mental health programs are a very bad resource to Indian people.

No outreach or relevant mental health services are being extended to Indian people in this state by the current method of plan approval or implementation.

I have attached a recent memo from the Office of Mental Health to the Deputy Secretary of the Department.

I do not agree with the overly optimistic statement that the newly-adopted Rules & Regulations will produce real results for Indian people. My reason for saying this is that there is no real Indian control of the monitoring function and the state rarely takes forceful steps to force compliance of counties who ignore or neglect Indian needs.

To bring the discussion of jurisdictional points to a close I must mention the Division of Adult Corrections which involves the state's adult prisons and adult probation and parole services. This relates directly to the criminal jurisdiction assumed by the state under P.L. 93-280.

Again, the Indian Desk has had to spend most of its concentration on the foster care, adoption, financial and other services delivered by the department's Community Services Division because of the larger number of Indian clients involved.

The plight of Indian persons in prison and on probation and parole has not received the attention of the department and Indian tribes and people that they deserve.

The lack of Indian staff to serve as advocates and counselors is a major problem here as in other areas. Relevant service delivery methods for serving Indian inmates and probationers and parolees are non-existent.

Recommendation:
1. Retrocession so that Indian tribes can develop unique correctional and court services to Indian clients.
2. A separate system within the state agency administered and staffed by Indian persons.

Affirmative Action Employment

To be short and to the point - the department's affirmative action employment program for Indian people is a "paper tiger".

There has only been a slight total increase of permanent Indian employees since 1973. (97 in March, 1973; 180 in January, 1976.) The stated goal is approximately 280 for January, 1976.

There are only 9 Indian caseworkers, 3 Indian vocational rehabilitation counselors.

There are numerous reasons why the program is failing:
1. No meaningful systematic recruitment of Indian employees;
2. The goals for Indian employees:
   a. Are goals and not quotas.
   b. Are not properly monitored for compliance.
   c. Do not designate specific positions which will provide direct services to Indian clients. Consequently most of the Indians hired fill non-direct service positions usually at the lowest grades.
3. No "teeth" in the compliance factor;
4. No follow-up on Indian applications going through the state office personnel.
5. When a position comes open in a local office which has not met any or all of its minority affirmative action goals, it is up to the various minority affirmative action specialists to fight over which group gets the position if indeed any group finally gets the position filled.

6. Since the Indian Desk left the Affirmative Action/Minority Affairs Unit which retained the jurisdiction over the Indian affirmative action program, the Indian affirmative action employment program is now administered, implemented, and monitored by non-Indian staff.

Recommendation:

1. Establishment of a separate Indian affirmative action program with at least one Indian specialist attached to the Indian Desk.

2. The new Indian AA plan would be based on two factors:
   A. A percentage based on % of clients served by a particular service;
   B. Specifically designated administrative, program development, service delivery, and clerical positions in local offices serving Indian clients and in state administrative offices. This plan would be integral to the separate Indian planning and service delivery system mentioned in previous recommendations.

Civil Rights

The same basic problem stated in the Affirmative Action section above applies to the department's civil rights program. The Affirmative Action/Minority Affairs Unit has retained the jurisdiction over the implementation and monitoring of civil rights as it relates to Indian clients and staff. Consequently, a unit of non-Indians is "protecting" the civil rights of Indian people.

Recommendations:

1. Return this jurisdiction to the Indian Desk and increase its staff to handle it.

CONCLUSION

In my estimation an examination of all the Washington Administrative Code, Procedural Manuals, State and County Plans covering all the services I've enumerated and the actual service delivery practices and the real needs of Indian people on reservation proves:

1. The necessity of retrocession as outlined by S.210 and appropriate additional appropriations and technical assistance to Indian tribes to plan, administer, and deliver their own social services in the areas I've enumerated.

2. The necessity of establishing a method of strong accountability of federal, state, county, and city financial, social service, and
October 18, 1976

Mr. Phil Shenk
Friends Committee on National Legislation
245 Second Street N.E.
Washington, D.C. 20002

Dear Mr. Shenk:

This is in response to your request for reactions to Senator Abourezk's Indian Child Welfare Bill (S-3777).

It is encouraging to see legislative concern being directed toward preserving family life and providing protection to children being removed from their natural families so that they do not get lost in the system. However, our concern is that S-3777 is directed only toward a minority group. Based upon our experience, the abuses of placing Indian children indiscriminately with white families has been corrected in Wisconsin. This has not been done through legislation but through increased awareness of the importance of using the resources within the Indian community. In addition, careful planning is done with the natural family to protect the confidentiality and wishes of the parent.

Enclosed you will find remarks typed in the margin of the Bill. An attempt was made to do some editing. However, it would require a complete revision to properly reflect the needs of all children who may be in need of child welfare services and to permit parents freedom of choice and to preserve confidentiality for natural parents and child.

Sincerely,

Frank Newgent, Administrator
DIVISION OF FAMILY SERVICES

Enclosure
train in coordination with the local Indian child welfare advisory committee to meet the special needs of Indian foster children and in the geographical proximity that will ensure continuation of the parent-child relationship. The training of non-Indian foster parents shall be designed and delivered in cooperation with the above committee and/or persons designated by the committee.

(1) For each Indian child who will be in care for more than 30 days, including those for whom adoption is planned, the ESSO shall make documentary efforts to complete the forms of the "family ancestry chart" (except in those cases where parents specifically indicate in writing they do not want the child enrolled). The copies will be retained in the child's file; the other will be forwarded to the bureau of Indian affairs office or the department of Indian affairs agency in Canada serving that child's tribe or band. The PIAs of the department of Indian affairs agency will review the chart to possible enrollment eligibility in conjunction with the enrollment committee of the appropriate tribe or urban Indian community.

(2) The ESSO shall develop its social resources and staff training programs designed to meet the special needs of Indian children and in the geographical proximity that will ensure continuation of the parent-child relationship. The training of non-Indian foster parents shall be designed and delivered in cooperation with the above committee and/or persons designated by the committee.

(3) For each Indian child who will be in care for more than 30 days, including those for whom adoption is planned, the ESSO shall make documentary efforts to complete the forms of the "family ancestry chart" (except in those cases where parents specifically indicate in writing they do not want the child enrolled). The copies will be retained in the child's file; the other will be forwarded to the bureau of Indian affairs office or the department of Indian affairs agency in Canada serving that child's tribe or band. The PIAs of the department of Indian affairs agency will review the chart to possible enrollment eligibility in conjunction with the enrollment committee of the appropriate tribe or urban Indian community.

(4) The ESSO shall develop its social resources and staff training programs designed to meet the special needs of Indian children and in the geographical proximity that will ensure continuation of the parent-child relationship. The training of non-Indian foster parents shall be designed and delivered in cooperation with the above committee and/or persons designated by the committee.

(5) For each Indian child who will be in care for more than 30 days, including those for whom adoption is planned, the ESSO shall make documentary efforts to complete the forms of the "family ancestry chart" (except in those cases where parents specifically indicate in writing they do not want the child enrolled). The copies will be retained in the child's file; the other will be forwarded to the bureau of Indian affairs office or the department of Indian affairs agency in Canada serving that child's tribe or band. The PIAs of the department of Indian affairs agency will review the chart to possible enrollment eligibility in conjunction with the enrollment committee of the appropriate tribe or urban Indian community.

(6) The ESSO shall develop its social resources and staff training programs designed to meet the special needs of Indian children and in the geographical proximity that will ensure continuation of the parent-child relationship. The training of non-Indian foster parents shall be designed and delivered in cooperation with the above committee and/or persons designated by the committee.

(7) The ESSO shall develop its social resources and staff training programs designed to meet the special needs of Indian children and in the geographical proximity that will ensure continuation of the parent-child relationship. The training of non-Indian foster parents shall be designed and delivered in cooperation with the above committee and/or persons designated by the committee.
NEW

WAC 182-70-110 ADOPTION SERVICES FOR CHILDREN—LEGAL.

DINING PERIOD; (1) RCW 26.11.520 defines "child welfare services" as "public social services which encourage supplement or substitute for parental care and supervision."
(2) The purpose of the department's adoption program is to meet the needs of children who are in the department's care and custody.

NEW

WAC 182-70-110 DEFINITIONS. (1) Adoption: Adoption is a legal and official process provided for by law to establish the legal relationship of child and parent when they were not so related by birth.
(2) Placement: families applying for placement through the adoption exchange, department's central exchange, Washington adoption resource exchange (Warez); and the adoption resource exchange of North America (ARENA).
(3) Placement: families applying for placement by a foster parent and applying for placement or (b) placement by a foster parent.
(4) Placement: the child for adoption placement is not a resident and/or citizen of the United States.
(5) Department: means the department of social and health services.

NEW

WAC 182-70-110 ELIGIBILITY FOR ADOPTION SERVICES. (1) Children: Adoption services may be provided to any child supervised by the department in foster home or at the request of their parents prior to adoption services.
(2) Eligibility: families applying for the adoption services provided by the department are resources to children and subject to the eligibility requirements.

NEW

WAC 182-70-110 ADOPTION SERVICES FOR CHILDREN. (1) Adoption Services for children include:
(a) Services with parents focused on a permanent home for their children.
(b) Services with children.
(c) Families for children.
(d) Determination of children's medical and social needs.
(e) Psychiatric and psychological evaluations as well as any needed medical evaluations are provided.
(f) Adoption: Family Home Studies (placement reports).
(g) Evaluations of adoption resources.
(h) Adoption: placements which best meet the child's needs.

NEW

WAC 182-70-110 ADOPTION PLANS FOR INDIAN CHILDREN BY DEPARTMENT RULES. (2) Definitions: For the purposes of these rules the term 'Indian' includes the following groups:
(a) Indian Indian: a person who is enrolled or eligible for enrollment in a recognized tribe.
(b) Indian Indian: a person who is a member of a treaty tribe.
(c) Indian Indian: a person who is an Indian citizen of the United States.
(d) Indian Indian: a person who is an Indian citizen of the United States.
(e) Indian Indian: a person who is an Indian citizen of the United States.
(f) Indian Indian: a person who is an Indian citizen of the United States.
(g) Indian Indian: a person who is an Indian citizen of the United States.
(h) Indian Indian: a person who is an Indian citizen of the United States.

Page 3
(b) Foster parent adoptions. As a part of the total evaluation for approving a foster parent adoption, the ESSO staff shall document the foster family's past performance, and future commitment in exposing the child to its Indian tribal and cultural heritage. The child's wish to be involved in his Indian culture shall be considered.

c) When an Indian child, in the custody of an out of state agency, is referred for potential adoptive parents residing in Washington, documentation shall be obtained that assures the department's standards for placement of Indian children have been complied with.

d) Local staff shall utilize an Indian child welfare committee in planning for placement of Indian children.

e) Monitoring for conformity to these rules is a joint responsibility of the Office of Family, Children and Adult Services, the state Indian child welfare advisory committee, the BIE Indian desk, the regional administrator, ESSO administrator, and local Indian child welfare advisory committee.

WAC 388-70-145 ADOPTION SERVICES FOR FAMILIES. (1) Department guidelines:
(a) Applications are accepted from families residing in the state of Washington based upon the anticipated children needing placement.
(b) Upon acceptance of an application, a home study shall be initiated by the ESSO staff and one of the following decisions made:
[1] Application to adopt is withdrawn by family;
[2] Application to adopt is denied;
[3] Family is approved for adoptive placement and registered at the central office exchange.
(c) A family shall be removed from the central office exchange registry for any of the following reasons:
[1] The department has placed a child with the family;
[2] The family decides to receive adoption services from another agency or through an independent placement;
[3] The family is not able to meet the needs of any other child;
[4] The family physically leaves the state;
[5] A family removed from the central office exchange registry must request a new background check;
[6] Family will be referred in writing to action taken according to the rules of this section and of their right to a fair hearing on the request for adoption services.
(2) Independent placements:
(a) ESSO staff may refer to Washington families' requests for special adoption studies and foster care requests depending on staff time and other community resources available.
(b) An office not providing service on independent placements shall inform the Superior Court in its area of the available community resources that is available for placement and foster care requests.

WAC 388-70-146 INTERSTATE PROCEDURES. (1) The State of Washington is a member of the Interstate Compact on the Placement of Children (Chapter 26.36 RCW).
(1) No child shall be placed for adoption without prior approval of the compact administration of the state of Washington and the receiving state.
(2) ESSO staff shall not provide supervisory services on an interstate adoptive placement unless the interstate compact form or their equivalent have been signed by the compact administrators of the two states.

WAC 388-70-147 RECORD CONFIDENTIALITY. (1) All records and information obtained by the department in providing adoption services are confidential as specified in RCW 26.36.010, 26.36.020, 26.36.030, and 26.36.050.
(2) Upon issuance of the decree of adoption, a child's record is sent to the central office for archiving.
(3) Information from the record required for the medical and/or emotional treatment of an adopted child may be released to the central office adoption specialist, under the authority of RCW 26.36.050. The request for information shall be made in writing by the professional treating the child and include the adoptive parent's written authorization to release the information.

WAC 388-70-148 LOCAL INDIAN CHILD WELFARE ADVISORY COMMITTEE PROGRAM. The intent of WAC 388-70-060, 388-70-150 and WAC 388-70-060 through WAC 388-70-610 is to ensure protection of the Indian identity of Indian children, their rights as Indian children, and the maximum utilization of available resources and services to Indian children. To ensure the realization of this intent, each and every current and future case involving Indian children for whom the department of social and health services has responsibility shall be referred to a local Indian child welfare advisory committee on an ongoing basis.
The purposes of local Indian child welfare advisory committees are:

1. To promote folklore social service planning for Indian children.
2. To encourage the preservation of the Indian quality, tribe, language, and identity of each Indian child.
3. To secure participation by representatives of tribal governing and Indian organizations in departmental planning for the care and protection of Indian children.

VAC 388-70-610 LOCAL INDIAN CHILD WELFARE ADVISORY COMMITTEE--MEMBERSHIP. Local Indian child welfare advisory committees shall be established within each region. The number and locations of the local committee shall be mutually determined by the Indian tribal governments and urban Indian organizations served by that region and the DHS regional administrator.

(1) The committee shall consist of representatives designated by tribal governments and urban Indian organizations. The Regional Administrator shall appoint, consult, and remove members from among those in Indian designees designated by Indian authorities.

(2) The committee may also include areas of Indian affairs and urban Indian service areas, if approved by participating tribal councils and urban Indian organizations.

(3) The Regional Administrator and the ESSO administrator shall appoint a member to the local advisory committee as a liaison member of the committee.

VAC 388-70-620 LOCAL INDIAN CHILD WELFARE ADVISORY COMMITTEE--MEMBERSHIP. Each committee may appoint a subcommittee of certain members to participate in reviewing the situation of an individual child or children for the purpose of recommending foster placement, adoption, or other services.

(a) Participation in foster care planning for Indian children.

VAC 388-70-630 LOCAL INDIAN CHILD WELFARE ADVISORY COMMITTEE--MEMBERSHIP. Each committee and the regional administrator and/or ESSO administrator shall mutually agree on time, place, and conduct of official committee meetings.

VAC 388-70-640 LOCAL INDIAN CHILD WELFARE ADVISORY COMMITTEE--CONFIDENTIALITY. The members of the local Indian child welfare advisory committee shall agree to abide by RH 36-36.02 and the rules of confidentiality binding the DHS staff.

VAC 388-70-650 ADMINISTRATIVE PROCEDURES. When local Indian child welfare committee members cannot reach an agreement, they may seek review by the child welfare supervisor, ESSO administrator, regional administrator, chief, office of family, children and adult services, director, bureau of social services, director, community services division, and secretary, respectively.

Consultation from the state office of Indian desk should be pursued at all levels.

(b) Consultation to DHS staff in providing adoption, foster care, and child protective services.
Dear Mr. Shenk:

Thank you for your letter of September 29, 1976, inquiring about this Department’s reaction to the child placement standards set forth in Senate Bill 3777.

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

Since most of the provisions of Title I of the bill would have direct impact on the procedures of district courts, rather than on the policy and procedures of this Department, we have enclosed for your information a copy of Oklahoma’s Children’s Code. Reference to this publication will show that some procedures mandated by S.3777 are already prescribed by Oklahoma statute.

Recognizing that any bill is subject to substantial change between introduction and eventual enactment, we hope that any legislation finally adopted by Congress will strike a fair and equitable balance between the interests of parents and the sometimes conflicting interests of their children. It might be of interest to you to compare the child placement standards promulgated by S.3777, as introduced on August 27, 1976, with those of the Child Welfare League of America.

We hope the enclosed publication is helpful to you. If we can be of any further assistance, please do not hesitate to contact us again.

Very truly yours,

[Signature]

L. R. Rader, Director of Institutions, Social and Rehabilitative Services