



September 24, 2003

**Testimony of the Hopi Tribe Before the Committee on Indian Affairs on S. 1601, the  
“Indian Child Protection and Family Violence Prevention Act of 2003”**

The Hopi Tribe is pleased and honored to be invited to address and testify on S.1601, the “Indian Child Protection and Family Violence Prevention Act of 2003.” The Tribe wishes to describe to you our very real experiences as a community and government in implementing the original Act of 1990 and provide important input and advocacy that we believe will improve and strengthen this Act which is so critical to effectively addressing child protection and child abuse prevention. As such, we wish to endorse changes to the Act as proposed by the Honorable Senator Nighthorse-Cambell.

As you may be aware, the Hopi Tribe, which is located in northeastern Arizona, experienced directly the tragedy and immense pain associated with the abuse of over 100 children - apparently beginning sometime in the late 1970’s and which continued until 1987 when a Bureau of Indian Affairs (BIA) schoolteacher was exposed as a prolific pedophile. As result of this tragedy, and other similar, horrible circumstances in Indian Country, the original Act was passed into law and it became one of the primary vehicles for child protection and child abuse prevention and treatment in Indian Country. It must be understood that Tribes, in general, lacked services, programs, and funding to effectively address child abuse issues prior to the passage of the Act and we advocate strongly the Senator’s proposed changes so that the Hopi Tribe and its people do not have to experience a similar tragedy in the future.

Before the Act’s passage, Tribes were at a disadvantage in that they were without vital resources and laws addressing child abuse. Unfortunately, despite the original Act, Hopi is still in developmental stages and in need of greater and more sophisticated systems, laws, and funding necessary to effectively prevent child abuse, treat its victims, and deal with the offenders.

It is the Hopi Tribe’s position that the Act is critical to its child abuse prevention efforts. However, the Act does not provide for adequate resources to fulfill its requirements. There is a significant need for more funding for prevention and treatment, and for the development of the proper and necessary infrastructure for Tribal institutions to be more effective program and service providers in their mission of child protection, prevention, and treatment.

As an example, Hopi, in its efforts to address child abuse on its Reservation and in accordance with the standards provided in the Act, developed with its own resources a Children's Code, which created a Tribal Child Protective Services Program. When the code was passed into Tribal law, the Tribe still faced the problem of how it was going to carry out the provisions of its Code, which are derived from the mandates and direction of Congress through the Act. The Hopi Tribe chose to utilize its BIA funded social services program to host and provide infrastructure for the Tribe's Child Protective Services. Since the Tribe received no additional funding for this necessary service, the Tribe assumed the costs at the risk of affecting other important social services.

The Tribe's law enforcement departments lack proper funding to adequately meet all of its law enforcement and investigative needs; and investigation of child abuse, child sexual abuse in particular, is a specialized service. Today, Hopi has two investigators for any and all criminal investigation on our Reservation of approximately 8,000 Hopi people. Resources clearly are still lacking in the realm of personnel and training to ensure that such sensitive investigations are handled properly, successfully, and to ensure that the children will suffer no further.

The Tribe's Prosecutor, too, lacks the necessary resources and is inadequately equipped to manage and prosecute all the cases within the Hopi Tribe's jurisdiction generally, let alone those specifically involving child abuse. The Tribe's Prosecutor is completely Tribally funded and we have yet to persuade the proper federal agencies that funding should be specifically earmarked within the Department of the Interior for child abuse services. Prosecutors will tell you how awesome child abuse cases are, involving several entities, families, as well as the extra attention and resources that are needed to adequately manage and prosecute these cases. In addition, the federal governmental bodies responsible for handling major crimes on the Hopi Reservation are challenged to meet the demands of their workload, which includes serious and criminal child abuse cases. Not only do these entities need increased resources, but both Tribal and federal agencies responsible for addressing major crimes on Reservations need support and training in their mutual and cooperative efforts to effectively address child abuse on Hopi.

The Hopi Tribe, its social services and mental health programs, its schools, law enforcement, Courts, and Prosecutors can tell you that that ability to conduct proper and adequate background checks is hindered because there is no specific funding to carry out this important and necessary mandate. The Hopi Guidance Center, the entity responsible for child protective services and mental health and substance abuse services on the Hopi Reservation, has had to rely on periodic surplus from its BIA funding base, or find alternative funding streams, to fund its background checks. Tribes have had to meet the Act's mandate through other means, struggle to maintain compliance, and have inefficient and ineffective turn around time on the completion of the background checks. The Bureau of Indian Affairs should be provided the manpower and resources necessary to help Tribes carry out this requirement of the Act more expeditiously and efficiently. The Act's proposed amendments expand the requirements for background checks to include volunteers and employees of other federal entities beyond the BIA and HIS. While the Tribe supports this amendment it is critical that while adding to the list of who must have a background check, actual funding must accompany not just the additions, but the current background check requirements under the Act.

Tribes do receive funds to support its contracts, including personnel costs such as background investigations, but that funding has never been 100%, and in fact is now hovering around 80%. We believe at the Hopi Tribe that passage of this amended Act should include specific funding for background investigations for both Tribes and the BIA. We cannot afford to continue to have important mandates to Tribal programs for their administration without an analysis of the additional funding that will be needed for their current and future important duties.

Another significant issue with the Act that continues to arise involves the major entities that regulate and/or provide valuable services in Indian Country, and are major figures in the prevention and treatment of child abuse and the lack of clarity and direction from Congress toward these entities in cooperatively and effectively working together to assist Tribes in implementing the Act. The Indian Health Service and the BIA continue their difficulty in coordinating services and information, as well as in fully supporting the sharing of resources between entities, which negatively affects their ability to successfully coordinate services to children and families affected by child abuse. For instance, the BIA promulgated social services regulations in 2000, which are the primary directive for the provision of child welfare services in Indian Country, without consulting the IHS and its own Education Department. Those entities are responsible under the BIA's regulations to assist in the funding for treatment and education costs for Indian children while in residential treatment. The problem however is that the BIA's regulations are not binding on IHS, who will tell you it does not have the funding to support the costs allocated to it. Tribal agencies are unable to provide adequate services to children as a result and have to struggle to find resources to meet children's needs while facing issues of non-compliance as a result of the regulations imposed on Tribes but not on all the responsible regulatory entities named in the regulations.

In addition, traditional healing methods should be recognized as part of treatment for child abuse as it includes and promotes the Tribes' cultural perspectives. The ability of Tribes to include cultural practices as part of the scope of services should be included in all federal programming. As well, the Hopi Tribe advocates that funding be provided to incorporate more specific and specialized treatment for child abuse, including traditional healing. The Hopi Tribe is fortunate to have received funding for the treatment of sexual abuse, but other Tribes do not have this specific funding. Funding for these services need to be provided more broadly, increased, and expanded to include treatment for offenders of child abuse.

The Act's amendments facilitates establishment of safety measures for child protection workers. This proposed addition is an example of the training needs and other costs associated with implementing stronger systems, protocols, and procedures in the provision of child protection and child abuse prevention and other services – needs that must be addressed with proper funding.

The definition of child abuse provided in the proposed Act includes incidences where the child is subjected to family violence. Mental health, emotional well-being, and self-esteem are important factors in the health of Indian children, and children facing family violence should be able to access child abuse services. The Hopi Tribe agrees with the expanded definition of child abuse provided in the Act and that more children and families be able to access specific and specialized services as a result of serious domestic

family issues. This proposed amendment highlights the need to provide adequate financial resources to investigators, Prosecutors, and Courts who will now see more cases coming through an already overcrowded door. Anytime we expand definitions, the responsible entities will need the resources to effectively handle, process, and prosecute the resulting expanded cases.

The feasibility study from the original Act is replaced with a federal study of impediments to reducing child abuse in the proposed amendments. The feasibility study was conducted in 1994, but the law has not been amended to reflect its findings. Child abuse continues to rise and we must study and understand the impediments to reducing such abuse in order to make effective decisions. The Hopi Tribe agrees with expending resources to better capture how to effectively reduce child abuse. Funding for programs to conduct expanded but innovative programming must also be encouraged and supported, including ideas regarding the meaningful consultation, cooperation, and collaboration between entities such as the BIA, the IHS, and the Tribes in this area.

The Act's amendments emphasize strengthening Tribal infrastructure to develop effective Tribal programs, including databases for accessing current national central registries for child abuse information. The Tribe supports not only this provision, but the general building of administrative infrastructure. Funding should be included to fund child protection workers. Management information systems and other related forms of technology must be funded, as they are necessary to efficiently provide services and administer programs. The demand for increased accountability by federally funded Tribal programs will require greater quality controls and quality management, which current budgets do not fund. In the case of Hopi, there have been no increases from the BIA in funding and the Hopi Tribe struggles to meet the provisions of the current Act.

In conclusion, the Hopi Tribe urges the Committee to move forward with the proposed amendments and also to ensure that its provisions as well as those of the original Act receive full funding to meet their mandates. In the original Act, grants were established for child abuse treatment, which were not funded – they should be funded now. Necessary funding for technical assistance must be provided to help facilitate the infrastructure development being proposed in the Amendments. The Hopi Tribe asks that funds be made available to establish child resource and family resource centers as promised in the original Act. In short, the funds originally proposed must be made available and the proposed amendments should be fully funded from the beginning.

Thank you again for this opportunity to present the issues and concerns of the Hopi Tribe.

Sincerely,

Wayne Taylor, Jr.  
Chairman  
The Hopi Tribe