

**TRIBAL COUNCIL  
(AT LARGE)**

**Jesse "Jay" Taken Alive**

**Ronald C. Brownotter**

**Avis Little Eagle**

**Paul Archambault**

**Phyllis Young**

**Randal J. White Sr.**

**Mike Faith**  
*Vice Chairman*



**Adele M. White**  
*Secretary*

**Sharon Two Bears**  
*Cannonball District*

**Henry Harrison**  
*Long Soldier District*

**Duane Claymore**  
*Wakpala District*

**Frank A. White Bull**  
*Kenel District*

**Errol D. Crow Ghost**  
*Bear Soldier District*

**Milton Brown Otter**  
*Rock Creek District*

**Frank Jamerson Jr.**  
*Running Antelope District*

**Samuel B. Harrison**  
*Porcupine District*

April 23, 2013

Dear Congressman Markey,

When six members of your House of Representatives demanded in November of 2011 that the Bureau of Indian Affairs investigate reporting by NPR of a crisis related to Lakota foster care in South Dakota, your expectation seemed clear to us: that NPR's allegations concerning serious violations of the Indian Child Welfare Act by South Dakota would be treated by the BIA as a grave matter of Native child welfare and tribal sovereignty. Your intentions were clear to the BIA as well, as they wrote in response to you, on November 22, 2011, that they would host a summit in early 2012 with "all the stakeholders" on this issue to "ensure compliance with ICWA and to ensure the protection of Indian children and preservation of Indian families."

We Lakota/Dakota leaders, therefore, find it unacceptable that the BIA's draft summit agenda, as of now—only three weeks away from the now-scheduled summit in Rapid City, South Dakota for May 15-17, 2013—fails to address *any* of NPR's dominant claims, or to propose what we consider to be serious solutions to our crisis.

The BIA's draft summit agenda includes, for example, no planned investigation of:

- Evidence that South Dakota, while placing 90% of our Lakota foster children into non-Native homes each year, in many cases takes *no steps* to cultivate kinship placement options for our children, as is required of them by ICWA;
- The fact that the state has recently prosecuted two (now acquitted) state-employed child advocates as part of, what appears to us, an effort to prevent a lawsuit from being filed against DSS for grossly neglecting seven of our Lakota children who were abused in a non-Native foster home (learn about the “Mette affair” here: [www.ChildAdvocatesDefenseFund.org](http://www.ChildAdvocatesDefenseFund.org)).
- Financial incentives involving federal funding for foster care in South Dakota which we, as tribal leaders, suspect motivates a refusal on the part of DSS to aggressively qualify our Lakota people as foster parents or seek kinship care placements for our children.

Language contained in the draft agenda appears, moreover, to hold us *tribes* primarily responsible for improving foster care in South Dakota, even while the BIA assumes that DSS will continue removing and placing the majority of our foster children. The draft agenda reads: “Tribes have opportunities to effectively and proactively advance recommendations and changes to state ICWA policies. As an example, all South Dakota Tribes were recently approached to submit suggestions for amending and improving the “Green Book” (a DSS handbook on foster care protocols).”

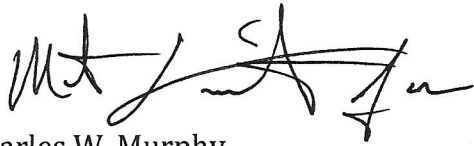
We respectfully reject the notion that somehow, after all the evidence compiled by NPR and by our own ICWA directors showing willful neglect by DSS of ICWA’s placement standards, that we ought to have to “recommend” changes to South Dakota’s foster care system in order to protect our children. The state should be abiding by Lakota customary law and federal law—especially since it relies so heavily upon federal funding to provide child welfare services to our tribes. Indeed, we leaders find it regrettable that the BIA would hold *us* principally responsible for enforcing ICWA over and against a well-funded state apparatus of enormous size compared to our own under-funded, barely-staffed ICWA agencies.

In sum, we hope that the BIA can understand our exasperation with its assumption that we ought to plead with South Dakota to protect our children. Rather, we prefer to demand adherence by the state to ICWA in the short term, and to build our own, federally funded (in part) foster care programs in the medium-long term. We are confident that with help from the federal government comparable to that which South Dakota itself receives to administer foster care we can operate our own child welfare programs. We hope that the BIA, and lawmakers, will strongly support us in this.

In light of the above comments, we would like to see the following changes made to the May 15-17 BIA summit agenda:

- The addition of a segment on the first day during which our Lakota relatives can testify about their experiences with South Dakota's DSS. Each of the nine tribes, working with their ICWA directors, should be able to select 2 speakers to present for five minutes each. It is possible that not all the tribes will avail themselves of this option, so the number may end up fewer than 18.
- South Dakota Senator James Abourezk, who chaired the yearlong Indian Policy Review Commission in 1977 that resulted in the ICWA law, should be invited to speak at the summit. ICWA was largely written by Senator Abourezk and hence he knows the original intent of the law. He is willing to present at the summit.
- There should be a segment articulating pathways for our tribes to solicit, and gain, direct federal funding to run tribal foster care programs. The National Indian Child Welfare Association (NICWA) has expertise on this topic and is willing to present at the summit. Also, the Port Gamble Tribe in Washington State, as the only tribe in the nation that receives IV-E federal monies for child welfare directly from the federal government, should be invited to present. Lastly, Lakota Oyate Wakanyeja Owicakiyapi, Inc. (LOWO) of the Pine Ridge Reservation, as the only functioning tribal IV-E foster care program in South Dakota, should be invited to participate.

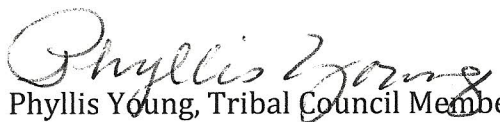
Sincerely,



Charles W. Murphy  
Chairman



Jesse Taken Alive, Tribal Council Member  
HEW Committee Member



Phyllis Young, Tribal Council Member



Terrence Yellow Fat  
ICWA Director

---

---

---

---

---

---

---

---

---

---