



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

NOV 22 2011

The Honorable James P. Moran
House of Representatives
Washington, D.C. 20515

Dear Representative Moran:

Thank you for your letter dated November 1, 2011, concerning the National Public Radio (NPR) news story about the disproportionate number of Indian children in the South Dakota foster care system. The Bureau of Indian Affairs (BIA) appreciates your concern about the Indian Child Welfare Act (ICWA), particularly adherence to the Act by states when Indian children are taken into state custody. You inquired about the accuracy of reports made by NPR, and you asked what the BIA intends to do.

Please note that any information regarding an individual Indian child is considered confidential and cannot be disclosed. We have, however, some operational knowledge of the situation on the Crow Creek Reservation, one of the cases reported by NPR. The Crow Creek Tribe lacks an agreement with the State of South Dakota that would allow the South Dakota Department of Social Services to place children in Crow Creek-approved foster homes. Due to contract issues, the ICWA program at the Crow Creek Agency is currently operated by the BIA. In the future, this program may go back to the Tribe in the form of a grant.

In general, the BIA directly funds and oversees programs and services throughout the country that support tribal child welfare programs (also known as ICWA programs). The BIA Human Services Division carries out these duties through tribal social services, welfare assistance, and Indian child welfare programs. The ICWA grants to tribes are administered at either the Regional level or by the Office of Self Governance through Annual Funding Agreements. The BIA ICWA programs support all 565 federally recognized tribes through the Tribal Priority Allocation system, and funding for these programs totaled \$18.95 million in FY 2011.

The BIA is committed to hosting a summit in early 2012 in South Dakota with all stakeholders regarding this issue. We will meet with the tribes, the South Dakota Department of Social Services, and the South Dakota Office of Tribal Relations, as well as other tribal, State, and Federal advocacy groups for children to explore ways in which we can work together cooperatively to ensure compliance with ICWA and to ensure the protection of Indian children and preservation of Indian families. Other issues to be explored at the Summit include:

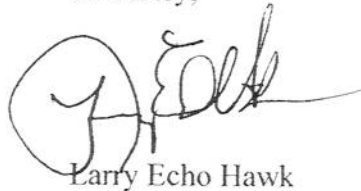
- Working with the State of South Dakota to conduct a thorough review of South Dakota case law and statutes affecting application of ICWA;
- Reviewing funding and oversight of tribal ICWA programs;
- Reviewing and updating the 1979 BIA Child Custody Proceedings Guidelines in light of more recent case law development; and

- Working with tribes and congressional committees to analyze ways ICWA can be amended to better meet the needs of all Indian children and tribes.

As to your suggestion to detail Federal attorneys to Indian reservations to assist tribes in enforcing Federal law, the Department is considering the concept of intergovernmental personnel agreements with tribes to permit the temporary assignment of Solicitor's Office attorneys to help tribes enforce ICWA. The Department also is including ICWA enforcement issues in our ongoing discussions with the Departments of Justice and Health and Human Services regarding the interagency Memorandum of Agreement under the Tribal Law and Order Act.

Thank you for your interest in and attention to this very serious matter. Please be assured I am committed to addressing these matters as expeditiously and thoroughly as possible. A similar letter is being sent to Representatives Mike Simpson, Dale Kildee, and Tom Cole.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Echo Hawk", with a large circular flourish on the left side.

Larry Echo Hawk
Assistant Secretary – Indian Affairs

cc: Honorable Ignacia S. Moreno
Honorable George Sheldon