



OGLALA SIOUX TRIBE
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DECLARATION NO. _____

**DECLARATION OF STATE OF EMERGENCY
ON THE PINE RIDGE INDIAN RESERVATION**

BY BRYAN V. BREWER, PRESIDENT
OF THE OGLALA SIOUX TRIBE

DECLARATION OF THE OGLALA SIOUX TRIBE DECLARING A **STATE OF EMERGENCY** WITH RESPECT TO OGLALA TRIBAL CHILDREN BEING PUT INTO NON-INDIAN PLACEMENT BY THE STATE OF SOUTH DAKOTA IN VIOLATION OF THE INDIAN CHILD WELFARE ACT, BOTH STATE AND FEDERAL.

The Oglala Sioux Tribe finds as follows:

1. That the right to raise one's own children is a fundamental right guaranteed by the United States Constitution, and
2. That at the time that the Indian Child Welfare Act was passed in 1978, one out of four Native American children or 25% of all Indian children were being placed and raised in non-Indian homes nationwide, including within the state of South Dakota, and
3. That the year-long study conducted by staff of the American Civil Liberties Union in the Pennington County Juvenile Courts has shown that the due process of Native American parents and Native American children appearing in these courts is being violated on a regular basis by the Pennington County Prosecutor's Office, the Pennington County Juvenile Court under Judge Davis and the Department of Social Services for the state of South Dakota, and
4. That currently of the Native American children over which the state of South Dakota has taken jurisdiction, which was over 700 children in the past year, about 90% of these children reportedly are members or eligible for membership in the Oglala Sioux Tribe, and
5. That a 2011 report by National Public Radio entitled "Native Foster Care: Lost Children, Shattered Families" made the following Claims:

Claim No. 1: While Indian children make up 15% of the child population in South Dakota, over one-half of the children in foster care administered by the state are Indian;

Finding: True. Native American children constitute approximately 13.5% of the child population of South Dakota, yet they make up on average 54% of youth who enter foster care in the state each year.

Claim No. 2: [South Dakota] is removing 700 Indian children every year from their homes...[which is] almost three times the rate of other states.

Finding: True. We believe that South Dakota's D.S.S. has created a conception of "neglect" that is severely biased against American Indian families, especially those residing on reservation. First, this conception inappropriately equates economic poverty with neglect. Second, it fails to understand the tribes' kinship system of extended family care, a cultural tradition of the kind the ICWA was actually designed to protect. Under this bias, South Dakota's rate of identifying "neglect" is 18% higher than the national average. In 2010, the national average of state discernment of neglect, as a percent of total maltreatment of foster children prior to their being taken into custody by the state, was 78.3%. In South Dakota the rate was 95.8%.

Claim No. 4: [South Dakota is] failing to place these children with their relatives or tribe - as is required under ICWA ... Indian children are being placed in non-Indian homes or group care [by the Department of Social Services] at an alarming rate - upwards of 90%..."

Finding: True. As of July 2011, there were 440 American Indian children in family run foster homes in South Dakota. Of these, 381 (87%, or 9 out of 10) abided in non-Native family foster care. At the same time, there

were 65 licensed Native American foster homes, and anywhere from 13-28 of these Indian foster homes sat empty.

Claim No. 5: South Dakota is removing children...for what appears to be profit.

Finding: True. Nearly \$100 million in federal funding is being sent to South Dakota to administer foster care each year. Additionally, a sizable amount of federal funding goes to the state to fund foster children's health care, either through Medicaid or through South Dakota's State Child Health Insurance Plan (SCHIP). These federal monies constitute significant portions of state expenditures, and, according to the healthcare consumer nonprofit organization Families USA, they have "a positive and measurable impact on state business activity, available jobs, and overall state income." All this demonstrates a strong financial incentive for state officials to take high numbers of Native American foster children into custody. Anecdotal evidence and testimony confirm that this incentive motivates the state's actions.

6. That the Oglala Sioux Tribe has an immense interest in the adjudications of these children and parents, as the parents are members of the Oglala Sioux Tribe, raising these children who are the future of the Oglala Sioux Tribe, and

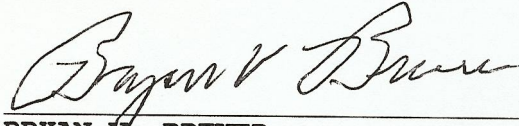
7. That because these parents and children are critical to the future of the Oglala Sioux Tribe and

Because of the overwhelming number of Oglala Sioux Tribal parents and children whose rights are being adversely affected by the regular due process violations being committed by the Pennington County Prosecutor's Office, the Pennington County Juvenile Court under Judge Davis' and the Department of Social Services for the state of South Dakota, I, BRYAN V. BREWER, hereby declare that a **STATE OF EMERGENCY** exists on the Pine Ridge Indian Reservation with respect to the due process rights of Oglala Sioux Tribal parents and children being regularly violated, and with respect to Oglala Tribal children being put into out of home placement by the Department of Social Services of

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the state of South Dakota in violation of the Indian Child Welfare Act, a federal law of the United States of America.

I HEREUNTO SET MY HAND THIS _____ DAY OF JANUARY, 2013 IN PINE RIDGE, SOUTH DAKOTA, ON THE PINE RIDGE INDIAN RESERVATION.



BRYAN V. BREWER
PRESIDENT
OGLALA SIOUX TRIBE