

Jeanne Torske
Big Horn County Attorney
P.O. Box 908
Hardin, MT 59034
(406) 665-9720
Attorney for State of Montana

**MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURT
BIG HORN COUNTY**

<p>STATE OF MONTANA, Plaintiff,</p> <p>vs.</p> <p>ALBERT CAPLETT, III aka "John Boy", Defendant.</p>	<p>Cause No. DC 2023- <u>DC-2-2023-0000063-IN</u></p> <p>Judge: Matthew J. Wald</p> <p>MOTION FOR LEAVE TO FILE AND AFFIDAVIT OF PROBABLE CAUSE</p>
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The State of Montana, represented by Big Horn County Attorney, Jeanne Torske, respectfully requests this Court grant leave to file an Information against Defendant, **ALBERT CAPLETT, III**, without a preliminary examination hearing, charging Defendant with:

Official Misconduct, a misdemeanor, in violation of § 45-7-401, M.C.A.

Beginning in May 2023 and continuing through to the present, Defendant engaged in acts in Big Horn County which violated Montana law as more fully described in the Affidavit of Probable Cause filed concurrently.

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Duties

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10. The Wyola School Board is required to have open meetings. § 2-3-203, M.C.A.
11. The minutes of those meetings must be available for public inspection. § 2-3-212, M.C.A.
12. The trustees of a school board are required to make payments into the teachers' retirement system. § 20-3-324(5), M.C.A.
13. The trustees of a school board are required to make reports "from time to time as the county superintendent may require." § 20-3-324(20), M.C.A.
14. Defendant along with the two additional board members has violated provisions of the Montana Code Annotated. Violating these sections of the Montana Code Annotated and failing to fulfill his duties, more fully described below, constitutes official misconduct.

Open Meetings

15. Montana's open meeting laws require that meetings are open to the public and that the public be allowed to make public comment. On May 9 and 15, 2023, the public was not allowed to provide comment at the meetings.
16. On October 5, 2023, letters purportedly written and signed by Wyola Superintendent of Schools Deputee were given to members of the public. The letters stated: "This letter is to inform you that you have been officially banned from attending the Wyola [sshool] and its curricular, cocurricular, and extra-curricular activities until further notice. I will rigorously enforce this ban on school premises should you abridge its terms and conditions."
17. These letters did not give any reasons for the banishment nor cite any school policy or law. There does not appear to be any legal justification for banning certain members of the public from attending Wyola school functions, including Board meetings.

Minutes Available for Inspection

18. County Superintendent Small has made both verbal and written requests to the Wyola School Board to see the Board minutes. To date, the Board has not provided the minutes.

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Failure to Pay into the Teacher's Retirement System

19. On October 25, 2023, County Superintendent Small received notice from the Montana Teacher's Retirement System that the Wyola School District had not paid into the retirement system since June 2023.

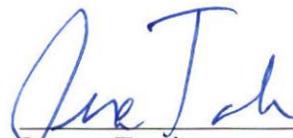
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20. County Superintendent Small has made both verbal and written requests to the Wyola School Board to see the Board's claim book. To date, the Board has not provided the claims book.

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The State requests this Court issue an order granting leave to file a Criminal Information.

Dated this 1st day of November, 2023.

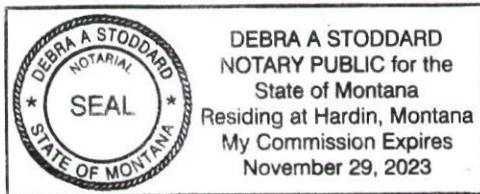


Jeanne Torske
Big Horn County Attorney

State of Montana)
)ss
County of Big Horn)

On this 1st day of November, 2023, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Jeanne Torske, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year in this Certificate first above written.





-FILED-

November 3, 2023
Big Horn County
District Court

STATE OF MONTANA
By: Michelle Massine

3

MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURT
BIG HORN COUNTY

DC-2-2023-0000063-IN

STATE OF MONTANA,

Plaintiff,

Vs.

ALBERT CAPLETT, III, aka "John Boy",

Defendant.

Cause No. DC-2023-0000063-IN

Hon. Judge Matthew J. Wald

**ORDER GRANTING LEAVE TO FILE
AN INFORMATION DIRECT AND
AFFIDAVIT OF PROBABLE CAUSE**

Pursuant to the State of Montana's *Motion for Leave to File An Information Direct and Affidavit of Probable Cause* charging the Defendant, **ALBERT CAPLETT, III, aka "John Boy"**, with committing the offense(s) of **Count I: Official Misconduct**, a misdemeanor, in violation of M.C.A. § 45-7-401.

IT IS HEREBY ORDERED that the State of Montana is granted leave to file the Information direct.

Dated this 3 day of November 2023.



Matthew J. Wald, District Judge

-FILED-

November 3, 2023
Big Horn County
District Court

Jeanne Torske
Big Horn County Attorney
P.O. Box 908
Hardin, MT 59034
(406) 665-9720
Attorney for State of Montana

STATE OF MONTANA
By: Michelle Massine
DC-2-2023-0000063-IN

**MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURT
BIG HORN COUNTY**

<p>STATE OF MONTANA, Plaintiff,</p> <p>vs.</p> <p>ALBERT CAPLETT, III aka "John Boy", Defendant.</p>	<p>Cause No. DC 2023- DC-2-2023-0000063-IN</p> <p>Judge: Matthew J. Wald</p> <p>INFORMATION</p>
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The State of Montana represented by Big Horn County Attorney, Jeanne Torske, believes there is sufficient evidence to prove that beginning in May 2023 and continuing through to the present, in Big Horn County, Montana, Defendant, **ALBERT CAPLETT**, did commit:

Official Misconduct, a misdemeanor, in violation of § 45-7-401, M.C.A.

Maximum Penalties:

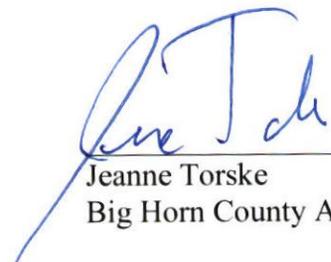
Official Misconduct, a person convicted of official misconduct shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

A list of possible witnesses for the State now known to the prosecution is as follows:

BHC Superintendent of Schools John Small
BHC Sheriff's Deputy Captain Michael Colvin

All other witnesses listed in the discovery

Dated this 1st day of November, 2023.

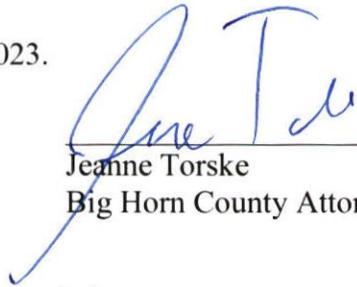


Jeanne Torske
Big Horn County Attorney

STATE OF MONTANA)
 : ss
County of Big Horn)

Jeanne Torske, Big Horn County Attorney, being first duly sworn, on oath, deposes and says that she is the Complainant herein, and that she has read the foregoing Information, and knows the contents thereof, and that the statements therein are true of her own knowledge, except for those matters stated on information and belief, and as to those she believes them to be true.

Dated this 1st day of November, 2023.



Jeanne Torske
Big Horn County Attorney

SUBSCRIBED AND SWORN TO before me this 1st day of November, 2023.

DEBRA A STODDARD
NOTARY PUBLIC for the
State of Montana
Residing at Hardin, Montana
My Commission Expires
November 29, 2023

Jeanne Torske
Big Horn County Attorney
P.O. Box 908
Hardin, MT 59034
(406) 665-9720
Attorney for State of Montana

**MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURT
BIG HORN COUNTY**

<p>STATE OF MONTANA, Plaintiff,</p> <p>vs.</p> <p>JUANITA KATE STEWART, aka "Anita Stewart", Defendant.</p>	<p>Cause No. DC 2023-DC-2-2023-0000064-IN</p> <p>Judge: Matthew J. Wald</p> <p>MOTION FOR LEAVE TO FILE AND AFFIDAVIT OF PROBABLE CAUSE</p>
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The State of Montana, represented by Big Horn County Attorney, Jeanne Torske, respectfully requests this Court grant leave to file an Information against Defendant, **JUANITA KATE STEWART, aka "Anita Stewart"**, without a preliminary examination hearing, charging Defendant with:

Official Misconduct, a misdemeanor, in violation of § 45-7-401, M.C.A.

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14. Defendant, along with the two additional board members, has violated provisions of the Montana Code Annotated. Violating these sections of the Montana Code Annotated and failing to fulfill her duties, more fully described below, constitutes official misconduct.

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Minutes Available for Inspection

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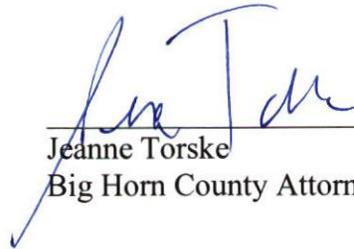
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The State requests this Court issue an order granting leave to file a Criminal Information.

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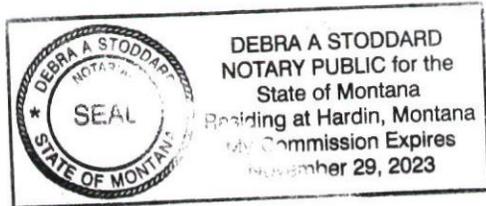


Jeanne Torske
Big Horn County Attorney

State of Montana)
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On this 1st day of November, 2023, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Jeanne Torske, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year in this Certificate first above written.





-FILED-

November 3, 2023
Big Horn County
District Court

STATE OF MONTANA

By: Michelle Massine

DC-2-2023-0000064-IN

3

**MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURT
BIG HORN COUNTY**

STATE OF MONTANA,

Plaintiff,

Vs.

**JUANITA KATE STEWART, aka "Anita
Stewart"**

Defendant.

Cause No. DC-2023- 64

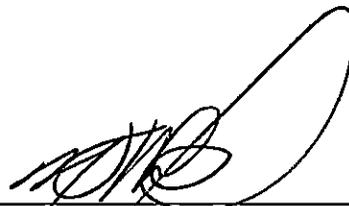
Hon. Judge Matthew J. Wald

**ORDER GRANTING LEAVE TO FILE
AN INFORMATION DIRECT AND
AFFIDAVIT OF PROBABLE CAUSE**

Pursuant to the State of Montana's *Motion for Leave to File An Information Direct and Affidavit of Probable Cause* charging the Defendant, **JUANITA KATE STEWART, aka "Anita Stewart"** with committing the offense(s) of **Count I: Official Misconduct**, a misdemeanor, in violation of M.C.A. § 45-7-401.

IT IS HEREBY ORDERED that the State of Montana is granted leave to file the Information direct.

Dated this 3 day of November, 2023.



Matthew J. Wald, District Judge

-FILED-

November 3, 2023
Big Horn County
District Court

Jeanne Torske
Big Horn County Attorney
P.O. Box 908
Hardin, MT 59034
(406) 665-9720
Attorney for State of Montana

STATE OF MONTANA
By: Michelle Massine
DC-2-2023-0000064-IN

**MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURT
BIG HORN COUNTY**

<p>STATE OF MONTANA, Plaintiff,</p> <p>vs.</p> <p>JUANITA KATE STEWART, aka Anita Stewart, Defendant.</p>	<p>Cause No. DC 2023- <u>DC-2-2023-0000064-IN</u></p> <p>Judge: Matthew J. Wald</p> <p>INFORMATION</p>
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Maximum Penalties:

Official Misconduct, a person convicted of official misconduct shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

A list of possible witnesses for the State now known to the prosecution is as follows:

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All other witnesses listed in the discovery

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Big Horn County Attorney

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**MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURT
BIG HORN COUNTY**

<p>STATE OF MONTANA, Plaintiff,</p> <p>vs.</p> <p>MISTY OLD COYOTE, aka “Misty Takes Enemy”, Defendant.</p>	<p>Cause No. DC 2023- <u>DC-2-2023-0000065-IN</u></p> <p>Judge: Matthew J. Wald</p> <p>MOTION FOR LEAVE TO FILE AND AFFIDAVIT OF PROBABLE CAUSE</p>
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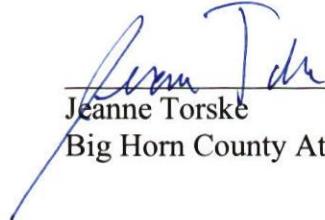
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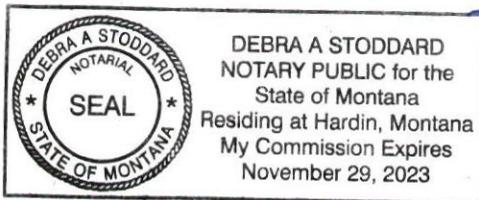


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Big Horn County Attorney

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-FILED-

November 3, 2023
Big Horn County
District Court

STATE OF MONTANA
By: Michelle Massine
DC-2-2023-0000065-IN

**MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURT
BIG HORN COUNTY**

STATE OF MONTANA,

Plaintiff,

Vs.

**MISTY OLD COYOTE, aka "Misty Takes
Enemy"**

Defendant.

Cause No. DC-2023- DC-2-2023-0000065-IN

Hon. Judge Matthew J. Wald

**ORDER GRANTING LEAVE TO FILE
AN INFORMATION DIRECT AND
AFFIDAVIT OF PROBABLE CAUSE**

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IT IS HEREBY ORDERED that the State of Montana is granted leave to file the Information direct.

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Matthew J. Wald, District Judge

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November 3, 2023
Big Horn County
District Court

Jeanne Torske
Big Horn County Attorney
P.O. Box 908
Hardin, MT 59034
(406) 665-9720
Attorney for State of Montana

STATE OF MONTANA
By: Michelle Massine
DC-2-2023-0000065-IN

**MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURT
BIG HORN COUNTY**

STATE OF MONTANA, Plaintiff,	Cause No. DC 2023-DC-2-2023-0000065-IN
vs.	Judge: Matthew J. Wald
MISTY OLD COYOTE, <i>aka Misty Takes Enemy</i> , Defendant.	INFORMATION

The State of Montana represented by Big Horn County Attorney, Jeanne Torske, believes there is sufficient evidence to prove that beginning in May 2023 and continuing through to the present, in Big Horn County, Montana, Defendant, **MISTY OLD COYOTE, aka Misty Takes Eneym**, did commit:

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Maximum Penalties:

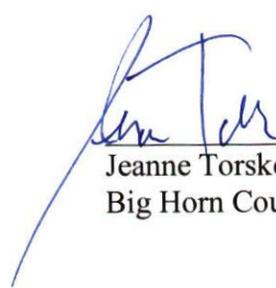
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- BHC Superintendent of Schools John Small
- BHC Sheriff's Deputy Captain Michael Colvin

All other witnesses listed in the discovery

Dated this 1st day of November, 2023.



Jeanne Torske
Big Horn County Attorney



**THE CROW NATION
TRIBAL COURT**

**CRIMINAL COMPLAINT,
AFFIDAVIT AND WARRANT
REQUEST**

**CASE NO.
CR-23-0649**

Court Address
P.O. Box 489,
Crow Agency, Montana 59022

Court telephone no.
(406) 638-7400

Court fax no.
(406) 638-7415

THE CROW TRIBE

V.

**ALBERT CAPLETT III, IM.
(DOB: 12/31/1974)
Defendant.**

A. CRIMINAL COMPLAINT

The undersigned upon review of the investigative materials from the BIA law enforcement Uniform Services Division and other sources has information and reason to believe that the Defendant has committed the offense of **Official Misconduct**, in violation of §8B-7-301, CLOC.

B. AFFIDAVIT

1. The Crow Tribal Constitution states in relevant part:

Section 1.

The rights of freedom of worship, conscience, speech, press, assembly and association of member of the Crow tribe of Indians shall not be abridged or hindered without due process of law.

Section 2.

This Constitution shall not in any way alter, abridge, or otherwise jeopardize the rights and privileges of the members of the Crow Tribe as citizens of the United States.

Section 4.

In accordance with Title II of the Indian Civil Rights Act of 1968 (82 Stat. 77), the Crow Tribe of Indians in exercising its powers of self-government shall not:

- (a) Make or enforce any law prohibiting the full exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people to peaceably assemble and for a redress of grievances.

2. 8B-7-310. Official misconduct.

- a. A public servant commits the offense of official misconduct when, in official capacity, he/she commits any of the following acts:
 - i. purposely or negligently fails to perform any mandatory duty as required by law or by a court of competent jurisdiction;
 - ii. knowingly performs an act in official capacity which he/she knows is forbidden by law;
 - iii. with the purpose to obtain advantage for himself/herself or another, he/she performs an act in excess of his/her lawful authority;
 - iv. solicits or knowingly accepts for the performance of any act a fee or reward which he/she knows is not authorized by law.

- b. A public servant who has been charged may be suspended from his/her office without pay pending final judgment. Upon final judgment of conviction, he/she shall be reinstated in his/her office and receive all back pay if not impeached or removed under the Crow Tribal Constitution and By-Laws or other applicable Tribal Law.
- c. Final judgment occurs only after an individual has exhausted all avenues of appeal.
- d. This section does not affect any power conferred by law to impeach or remove any public servant or any proceeding authorized by law to carry into effect impeachment or removal.
- e. Official misconduct is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

On or about October 11, 2023 the Defendant (Chairman of the Wyola School Board) refused to allow at least a dozen parents, who are members of the public, into the School Board Meeting and feed at the school. This is an infringement on the members' right to free assembly.

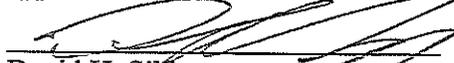
Additionally, each of those members of the public were informed that they were banned from the school without explanation infringing on their right to free speech guaranteed under the Crow Constitution of 2002 as well as a violation of their rights under the Indian Civil Rights Act of 1968 to peaceably assemble and petition for a redress of their grievances.

Finally, the Defendant, as the Chair of the Board, failed to perform a mandatory duty of the office by allowing the school to be closed without explanation. Many of the children who attend the school (88 as of the date of this filing) receive both breakfast and lunch at the school. By depriving the children of food, in allowing the school to be closed without explanation, the Defendant, along with the other members of the Board are depriving each of those children of both their right to assemble and their right to petition for a redress of grievances.

As far as the Tribe is aware, all of the children in question and the Defendant are all members of a federally recognized tribe. Such action is against the peace and dignity of the Crow Tribe.

C. REQUEST FOR SUMMONS

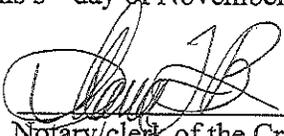
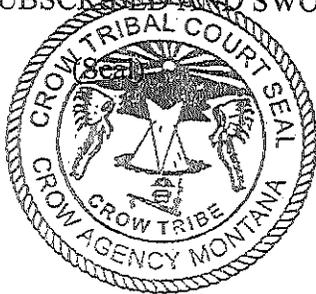
The Undersigned requests that the Court issue a SUMMONS for the Defendant, and require that he appear and answer to the above charge.



David H. Sibley
Chief Tribal Prosecutor
CROW TRIBE OF INDIANS

DATE: November 3, 2023

SUBSCRIBED AND SWORN TO before me on this 3rd day of November, 2023.



Notary/clerk of the Crow Tribal Court

 <p>THE CROW NATION TRIBAL COURT</p>	<p>CRIMINAL COMPLAINT, AFFIDAVIT AND WARRANT REQUEST</p>	<p>CASE NO. CR-23- 0650</p>
<p>Court Address P.O. Box 489, Crow Agency, Montana 59022</p>	<p>Court telephone no. (406) 638-7400</p>	<p>Court fax no. (406) 638-7415</p>
<p>THE CROW TRIBE</p>	<p>V.</p>	<p>JUANITA STEWART, IF. (DOB: 10/15/1962) Defendant.</p>

A. CRIMINAL COMPLAINT

The undersigned upon review of the investigative materials from the BIA law enforcement Uniform Services Division and other sources has information and reason to believe that the Defendant has committed the offense of **Official Misconduct**, in violation of §8B-7-301, CLOC.

B. AFFIDAVIT

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This Constitution shall not in any way alter, abridge, or otherwise jeopardize the rights and privileges of the members of the Crow Tribe as citizens of the United States.

Section 4.

In accordance with Title II of the Indian Civil Rights Act of 1968 (82 Stat. 77), the Crow Tribe of Indians in exercising its powers of self-government shall not:

- (a) Make or enforce any law prohibiting the full exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people to peaceably assemble and for a redress of grievances.

2. 8B-7-310. Official misconduct.

- a. A public servant commits the offense of official misconduct when, in official capacity, he/she commits any of the following acts:
 - i. purposely or negligently fails to perform any mandatory duty as required by law or by a court of competent jurisdiction;
 - ii. knowingly performs an act in official capacity which he/she knows is forbidden by law;
 - iii. with the purpose to obtain advantage for himself/herself or another, he/she performs an act in excess of his/her lawful authority;
 - iv. solicits or knowingly accepts for the performance of any act a fee or reward which he/she knows is not authorized by law.

- b. A public servant who has been charged may be suspended from his/her office without pay pending final judgment. Upon final judgment of conviction, he/she shall be reinstated in his/her office and receive all back pay if not impeached or removed under the Crow Tribal Constitution and By-Laws or other applicable Tribal Law.
- c. Final judgment occurs only after an individual has exhausted all avenues of appeal.
- d. This section does not affect any power conferred by law to impeach or remove any public servant or any proceeding authorized by law to carry into effect impeachment or removal.
- e. Official misconduct is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

On or about October 11, 2023, the Wyola School Board, of which the Defendant is a member, refused to allow at least a dozen parents, who are members of the public, into the School Board Meeting and feed at the school. This is an infringement on the members' right to free assembly.

Additionally, each of those members of the public were informed that they were banned from the school without explanation. This is an infringement on the members' right to free speech guaranteed under the Crow Constitution of 2002 as well as a violation of their rights under the Indian Civil Rights Act of 1968 to peaceably assemble and petition for a redress of their grievances.

Finally, the Defendant, as a member of the Board, failed to perform a mandatory duty of the office by allowing the school to be closed without explanation. Many of the children who attend the school (88 as of the date of this filing) receive both breakfast and lunch at the school. By depriving the children of food, in allowing the school to be closed without explanation, the Defendant, along with the other members of the Board are depriving each of those children of both their right to assemble and their right to petition for a redress of grievances.

As far as the Tribe is aware, all of the children in question and the Defendant are all members of a federally recognized tribe. Such action is against the peace and dignity of the Crow Tribe.

C. REQUEST FOR SUMMONS

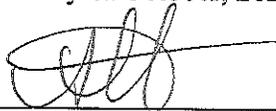
The Undersigned requests that the Court issue a SUMMONS for the Defendant, and require that he appear and answer to the above charge.


David H. Sibley
Chief Tribal Prosecutor
CROW TRIBE OF INDIANS

DATE: November 3, 2023

SUBSCRIBED AND SWORN TO before me on this 3rd day of October, 2023.





Notary/clerk of the Crow Tribal Court

 <p style="text-align: center;">THE CROW NATION TRIBAL COURT</p>	<p>CRIMINAL COMPLAINT, AFFIDAVIT AND WARRANT REQUEST</p>	<p>CASE NO. CR-23- 0651</p>
<p>Court Address P.O. Box 489, Crow Agency, Montana 59022</p>	<p>Court telephone no. (406) 638-7400</p>	<p>Court fax no. (406) 638-7415</p>
<p>THE CROW TRIBE</p>	<p>V.</p>	<p>MISTY OLD COYOTE, IF. a.k.a. TAKESENEY (DOB: 09/02/1979) Defendant.</p>

A. CRIMINAL COMPLAINT

The undersigned upon review of the investigative materials from the BIA law enforcement Uniform Services Division and other sources has information and reason to believe that the Defendant has committed the offense of **Official Misconduct**, in violation of §8B-7-301, CLOC.

B. AFFIDAVIT

1. The Crow Tribal Constitution states in relevant part:

Section 1.

The rights of freedom of worship, conscience, speech, press, assembly and association of member of the Crow tribe of Indians shall not be abridged or hindered without due process of law.

Section 2.

This Constitution shall not in any way alter, abridge, or otherwise jeopardize the rights and privileges of the members of the Crow Tribe as citizens of the United States.

Section 4.

In accordance with Title II of the Indian Civil Rights Act of 1968 (82 Stat. 77), the Crow Tribe of Indians in exercising its powers of self-government shall not:

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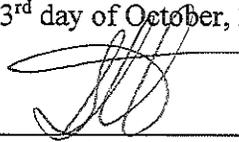
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