

# Taken From Families, Indigenous Children Face Extreme Rates of State Violence in US

By [Britney Schultz Truthout](#) Published July 12, 2015



In a photo taken around 1936, Aboriginal Canadians attend a school at Fort Resolution in the Northwest Territories. Canada's Truth and Reconciliation Commission has concluded that the country's former policy of removing Aboriginal children from families for schooling could be best described as "cultural genocide." In the US, Native children were subjected to similar policies for more than a century. (Photo: Library and Archives Canada)

The plight of Indigenous children recently made headlines, as Canada's Truth and Reconciliation Commission released a [damning report](#) calling the country's long-held policy of removing Native children from their families by force and placing them in state-funded residential schools "cultural genocide." [According to the report](#), even before Canada was founded in 1867, churches were operating boarding schools for Indigenous children, and the last federally supported residential school didn't close until the late 1990s.

In the US, Native children were subjected to similar policies for more than a century. [Article VII of the Fort Laramie Treaty of 1868](#) stated, "In order to insure the civilization of the Indians entering into this treaty ... they, therefore, pledge themselves to compel their children, male and female, between the ages of six and sixteen years, to attend school."

In response to the history of removing Native children from their families and cultures and forcing them into (often abusive) boarding schools, [the Indian Child Welfare Act \(ICWA\)](#) was passed in 1978. The law [established requirements](#) for public and private child welfare agencies and state courts to adhere to when working with tribal children and families. However, the current manifestation of Native child removal is the child welfare system, and the ICWA is theoretically supposed to prevent that system from becoming a vehicle of systematic removal of children.

According to Assistant Attorney General for the Cherokee Nation Chrissi Nimmo, at its most basic level, "ICWA requires state courts and private agencies to always seek family reunification or family placement, involve tribes in decision-making of their children and protect parental rights – one of the most basic and fundamental rights in this country."

However, due to continued violations and noncompliance with the ICWA, in February of 2015, the Bureau of Indian Affairs (BIA) [published new guidelines](#) to strengthen the law, which will be codified at the end of the year.

Daniel Sheehan, chief counsel of the Lakota People's Law Office in Rapid

City, South Dakota, believes there is currently no enforcement mechanism inherent in the ICWA, which makes it easier to violate. “No federal agency feels its place is to enforce the Indian Child Welfare Act, and the issue is under the radar because [the group it represents] is not a politically powerful constituency.”

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Nimmo said that the proposed changes are to federal regulations that interpret ICWA, not changes to ICWA itself. “As the mother of Indian children and a tribal attorney, I personally and professionally fully support the proposed changes,” she said. The most important aspects of the new regulations, according to Nimmo, are clarifications on notifying tribes of potential ICWA cases, a definition of “active efforts” to prevent the breakup of families and a definition of “good cause,” which is a critical term in the ICWA.

In spite of efforts to prevent it, the current generation of Indigenous children in the US is facing a double threat: being removed from their homes and tribes to be placed with (usually) white foster families and being forced into privately and publicly funded programs for “at-risk youth” – institutions that are often havens of neglect and abuse, and sometimes even have political conflicts of interest.

These ongoing threats are the continuation of a long series of broad-scale attempts at forced assimilation. Indigenous activist, writer and prison abolitionist Kelly Hayes, who is also Truthout’s Community Engagement Fellow, speaks to this firsthand. “As the child of a displaced Indigenous man [of the Menominee Nation], I see the removal of our people ... as part of the larger effort to diminish the number of Native people in the United States,” Hayes said. “While anti-Blackness, as perpetrated by the American government, has often taken the form of persecuting anyone with any known

Black heritage, regardless of appearance, anti-Native policies have involved a process of destruction that has, in the last hundred years, included concerted efforts at assimilation.”

## **Foster Care, “Children’s Homes” and Profiting Off Native Loss**

In South Dakota, Indigenous children make up 15 percent of the child population, but comprise more than half the children in foster care. Nearly 90 percent of the kids in family foster care are [placed in non-Native homes or group care](#).

Daniel Sheehan works with tribal leaders in the state to end the epidemic of illegal seizures of Native children by the state of South Dakota. Sheehan said the biggest concern of the nine tribes he works with is their children being taken away and the parents being prosecuted for “neglect.” This practice represents a pervasive bias against Native families – especially those living on reservations – the Lakota People’s Law Office [asserts in a 2013 report to Congress](#). The South Dakota Department of Social Services equates economic poverty with neglect and fails to understand the tribes’ kinship system of extended family – something the ICWA was actually designed to protect. “Under this bias,” the report goes on to say, “South Dakota’s rate of identifying ‘neglect’ is 18% higher than the national average.”

Chrissi Nimmo said the issues that disproportionately affect tribes and lead to the removal of children should be considered “correctable conditions,” instead of accepted as the status quo. Currently, one typical state response to poverty seems to be to immediately and permanently remove children from their families. “There is, without a doubt, lasting trauma to children who are permanently removed from their birth families,” she said.

“[Native] women most often are the ones thrown under the bus,” Sheehan said. “Hence the disproportionate rate of incarceration.” Native Americans also report widespread discrimination by the police. According to a [2009 report](#) by the National Council on Crime and Delinquency, Native women are

criminally prosecuted at six times the rate of white women.

The women often get charged with assault for resisting arrest, Sheehan said. “Lakota women don’t accept being manhandled by white police, and these cops are being trained like military occupying forces, with military equipment like BearCat armored vehicles patrolling the reservations.”

When Native parents are arrested and their children are taken away, the parents have no means of contact with their children, and no information is communicated to them, Sheehan said. This makes it harder for families to reclaim their children, and easier for the state to perpetuate the cycle of forced removal of Indigenous children.

Taking children away from their Native families is also profitable: According to a February 2015 report from IBISWorld, adoption and child welfare services in the United States rake in [\\$14 billion a year](#). And there are other indications of moneyed influence in child removal.

## **Money Motives**

With its high dependence on federal financial support, Sheehan said, South Dakota receives \$79,000 per Native child per year under the adoption track of the state’s foster care system.

He said the kids are often dosed with pharmaceuticals because they are labeled as having “special needs,” and [goes on](#):

“We found out that when the state of South Dakota seizes a Lakota child, they were forced to take a mental health screening test. The screening test was drafted up by the Eli Lilly Corporation, which is a major manufacturer of psychotropic drugs. When they flunked the test, they were determined to be in need of one or more of these drugs.”

A [report](#) by South Dakota Indian Child Welfare Act directors found that, “South Dakota appears to have prescribed antipsychotic drugs to foster

children prior to 2006, even though the FDA had not approved the use of these drugs by children at that time. And after 2006, South Dakota seems to have overprescribed these agents to children.”

The federal Adoption and Safe Families Act of 1997 includes a provision called the [Adoption Incentive Bonus](#), through which states earn federal bonuses when they increase adoptions of children who are in need of new permanent families.

A designation of “special needs” is significant to note, because [Congress authorized a bonus payment](#) of \$4,000 for each foster child, with an additional \$2,000 for each “special needs” adoption above the baseline payment of the Adoption Incentives program. According to the [North American Council on Adoptable Children](#), families who finalize the adoption of a child with special needs in 2015 can claim a tax credit of \$13,400.

Furthermore, for the decade since data has been collected on the status of “special needs” children in the foster care and adoption system, each year (from 2003/2004 to fiscal year 2013), South Dakota has claimed [100 percent of the children in its system as “special needs.”](#)

Some of these facilities, such as the Children’s Home Society of South Dakota, have ties to politicians. Before he pivoted into politics full time and became the state’s 32nd governor, then-Lieutenant Gov. Dennis Daugaard left his banking job in 1990 to become the development director of the Children’s Home Foundation, the fundraising arm of the Children’s Home Society of South Dakota. He held the position for 12 years before becoming the [executive director of the organization](#).

According to an [NPR investigation](#), under Daugaard’s leadership, the organization’s finances grew sevenfold, adding two additional facilities and doubling the amount of money it received from the state. Children’s Home then began to outsource its examination of potential foster homes and its training of foster care parents. Additionally, [the investigation noted](#), this



conflict of interest was evidence of Daugaard using his power to grant contracts to the Children's Home, often not even considering other social service organizations.

A [2013 report](#) endorsed by seven tribal governments concluded there is “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.”

## **The Juvenile (In)Justice System and Native Youth**

According to [US Census Bureau data](#), in 2013, there were about 5.2 million Native Americans in the United States, representing approximately 2 percent of the total population. About 32 percent of Indigenous people in the US are [under the age of 18](#).

Though they are only a small percentage of the country's demographic, Native youth “disproportionately suffer adverse effects at the stages of arrest, diversion, detention, petition, adjudication, probation and secure placement in the juvenile justice system,” concludes a [February 2015 report](#) from the Lakota People's Law Project.

Significant resources are funneled toward “services” that displace and confine Indigenous youth.

From 2012-2013, the South Dakota Department of Social Services contracted with Youth Services International to provide services for juveniles placed through Corrections, Child Protection, and Tribal Court at the Chamberlain Academy, a youth detention and treatment facility in Chamberlain, South Dakota, at a rate of [\\$142.94 per child per day](#).

Youth Services International describes its work as “serving at-risk youth ... rehabilitating juveniles through integrated programs, staff mentoring and environments to promote [learning and change](#).” However, the [Florida-based](#)

[company](#) has a [history of abuse allegations](#).

Until recently, one purveyor of these “services” was the Chamberlain Academy, which [closed in January 2014](#). In 2000, former residents of the academy brought an action against it in [Brown v. Youth Services Intern. of South Dakota](#). The plaintiffs said they had been sexually assaulted by a counselor.

Following the 1999 death of a 14-year-old girl at a boot camp program at South Dakota’s Juvenile Training School in Plankinton, South Dakota, an investigation [uncovered a widespread pattern of systemic abuse](#) by facility guards, including youth being held in isolation or chained to their beds and the use of pepper spray against young prisoners. After being closed for five years, the facility reopened under a new name, Aurora Plains Academy, and [new management](#). According to [Niche rankings and statistics](#), Native American children constitute 53 percent of the students at Aurora Plains Academy.

Daniel Sheehan told Truthout that such abuses are not anomalies. “The children at these institutions are subjected to extreme discipline and punishment,” he said. “They only get about two real hours of schooling per day in joint-age classrooms, and if they act up, they get points against them, with multiple violations of rules leading to the student being transferred to a juvenile facility.”

## **Lasting Impact**

Sheehan believes that state violence toward and oppression of Indigenous children is under-reported. “There aren’t powerful groups lobbying on behalf of Natives to give them a voice, so nobody knows about the issues affecting them.”

Truthout’s Kelly Hayes said Native children removed from their families and tribes are attempting to learn and thrive in a society that has not only



inflicted historical traumas, but also one that imposes values that exist in opposition to the affirmation of their own self-worth. “Removal and assimilation – the dilution of identity through the unlikelihood that removed children would produce offspring with their own kind, while living in white society, and the destruction of culture by way of separation and cultural isolation, as well as the forced sterilization of women living on reservations, is not simply the transition from genocide to ‘cultural genocide’ – It is genocide, and requires no qualifiers,” she said. “It is a continued effort to annihilate us, and wipe the Indigenous off the face of the continent.”

There are [566 federally recognized tribes](#) in the US, and as Truthout reported before, suicide rates for Native youth are at least [triple the national average](#).

There is undoubtedly lasting trauma to children who are permanently removed from their birth families, said Chrissi Nimmo.

“Each child literally holds the future of a tribe,” she said. “If children are removed, tribes are at risk of becoming extinct – both because there literally may not be children to continue the tribe and because the cultural identity of the tribe cannot be passed to the next generation.”