



# < Native Foster Care: Lost Children, Shattered Families

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From NPR News, this is ALL THINGS CONSIDERED. I'm Michele Norris.

MELISSA BLOCK, HOST:

And I'm Melissa Block.

For more than a century, the U.S. government forced Native American children into boarding schools, stripping them of their families and traditions. In 1978, Congress put a stop to that. The Indian Child Welfare Act says Native children should not be separated from their relatives or tribes. Except now, it's happening again. This time, it's foster care.

Today, we begin an investigation that uncovers a disturbing pattern of how one state places Indian children in foster care. NPR's Laura Sullivan reports on the cultural and financial forces at work in South Dakota, a state where Indian children make up just 15 percent of the population, but account for more than half the children in foster care.

LAURA SULLIVAN, BYLINE: It's not hard to find them. There are thousands of them - Native Americans with missing children.

TANYA HILL: Well, my name is Tanya Hill(ph) from the Standing Rock Sioux tribe. I lost nine grandchildren through the Department of Social Services.

DELORES HIPINTS: My name is Delores Hipints(ph). I am from Cheyenne River Sioux tribe. I've got two grandchildren in the system.

LIZ GUGLI: I'm Liz, Liz Gugli(ph). I have nine grandchildren, two of which were taken by DSS.

WESTILA CUPWIN: My name is Westila Cupiwin(ph). I come from the Mnikhowozu band. I had a grandchild and I haven't seen him - well, he was like, 4 years old. He's 16 now.

SULLIVAN: These families want their grandsons and granddaughters, nieces, nephews, their children. And federal law says they should have them. Poverty, crime and alcoholism are real problems in South Dakota's poorest areas. Still, federal law says that except in the rarest cases, Indian kids must be placed with relatives, tribal members or at the very least, other Native Americans. But in South Dakota, that's not happening.

An NPR investigation has found that every year, the state is removing roughly 700 Indian children, some in questionable circumstances. At the same time, they have largely failed to place them with family or their tribes. In South Dakota, nine out of 10 Native kids in foster care are in non-Native homes or group care, according to state records.

State officials say they're doing everything they can to keep Native families together. But there's another powerful force at work, too: money. We'll talk in a minute about how the federal government sends the state thousands of dollars for every child it takes. Four of those children were Janice Howe's grandkids.

Hi. Are you Janice?

JANICE HOWE: I'm Janice.

SULLIVAN: I'm Laura. It's nice to see you.

Howe lives on one of the many dirt roads of the Crow Creek Indian Reservation, where the dust blows on the window frames of simple houses. People here are poor, in the way few Americans are poor. There's electricity when you can pay the bill. Howe turns a chair to cover a hole in the unpainted wall.

HOWE: I'm the eldest of nine kids, and I got my bachelor's degree in nursing.

SULLIVAN: Her sister lives across the street; her parents, across the road; her daughter, two doors down with her two granddaughters and two twin grandbabies. A tight-knit family. At least they were until one afternoon two years ago, when Janice Howe's phone rang.

HOWE: She said, you don't know me but - she said - I work for the Department of Social Services. And I'm calling you in reference to your daughter, Erin Yellow Robe. And I said, what's going on? And she says, your daughter is going to be arrested for drugs. And I said, drugs?

SULLIVAN: Howe wondered, could there be something she missed? She'd never seen any sign of drugs. Then the social worker changed Howe's life.

HOWE: And she said, we need to come and take the kids.

SULLIVAN: Early the next morning, a car pulled up out front. Howe's daughter wouldn't let go of the babies. She kept saying she hadn't done anything wrong. Howe could barely watch.

HOWE: I seen them pull up, and I seen them go in. And then I seen them bringing them out.

SULLIVAN: Outside, the babies were calm.

HOWE: They were sitting in them cars and they were just looking at me like - most babies, they don't cry if they're raised in a secure environment. So I went out there, and I took their diaper bags and stuff out there. And I was just crying -and they left.

SULLIVAN: But as Janice Howe watched the car pull around the bend, something occurred to her. The social worker took the two babies, but she said Howe could keep her two granddaughters, 5-year-old Rashauna and 6-year-old Antoinette.

HOWE: I thought that was weird. I just thought, why can't I just keep them all?

SULLIVAN: The babies were driven to a white foster family a hundred miles away. At home, Janice Howe and her daughter sat on the steps and cried, as they waited for the police to come to take her daughter to jail. The hours went by.

HOWE: And no one ever came.

SULLIVAN: A week went by, a month, nothing. The summer turned into fall.

HOWE: No one ever came.

SULLIVAN: Howe's daughter, Erin Yellow Robe, has never been arrested for drugs or anything else. Social service officials say they can't talk about individual cases. But one source who has reviewed the department's file said the social worker believed Yellow Robe was abusing her prescription pills. But the file also says the case was based on a rumor from a woman who, it turns out, didn't like the Howe family.

And yet not only did they take the two babies, two months later, Janice Howe waited at the school bus stop. But the girls weren't on it. A social worker had taken them from school.

HOWE: I felt like, oh, my God. It's happening again. They didn't even call and tell me. Nothing. Nothing.

SULLIVAN: The social worker, like many in the state, was new to the job and left a short time later. She told Howe the girls were gone because they had had too much contact with their mother - a woman who had never been charged with anything. Then Antoinette and Rashauna - they, too, were gone.

PETER LENGKEEK: It enrages me. Cousins are disappearing, and family members are disappearing. We're very tight-knit families here. This breaks my heart.

SULLIVAN: Peter Lengkeek is a Crow Creek tribal council member. This tribe has lost more than 33 children in recent years, an astounding number for a reservation with only 1,400 people. Every one was placed in a white foster home.

LENGKEEK: If the state had their way, we'd still be playing cowboys and Indians. I couldn't imagine what they tell these kids about where they come from and who they are. It's kidnapping - that's how we see it.

VIRGENA WIESELER: We come from a stance of safety. That's our

overarching goal with all children.

SULLIVAN: Virgena Wieseler runs a division of the Department of Social Services, an hour away in Pierre. She says the department believes in the Indian Child Welfare Act, and does its best to place as many Native American children with relatives or tribal members as it can find.

WIESELER: If they can be returned to their parent or returned to a relative, and they can be safe, then that's our goal.

SULLIVAN: Officials say they're dealing with abject poverty and substance abuse, and they have to do what's best for the kids. Rysdon is the department's secretary. And she says what's best often means driving onto a reservation and taking a child.

KIM MALSAM-RYSDON: Of course we think it's legal, or we wouldn't be doing it.

SULLIVAN: Malsam-Rysdon says state law supports that. But federal law says tribes are sovereign and two South Dakota judges, two lawyers and a dozen tribal advocates told NPR a state official can't drive off with an Indian child from Crow Creek, any more than a Crow Creek official could drive off with a child from Rapid City.

Some tribes have agreements with the state; Crow Creek doesn't. But the state has never been challenged in court about this. So Janice Howe was stuck in a strange but common legal limbo.

Howe lives on a reservation; state courts don't apply to her. But especially on poor reservations, tribal courts can be overrun, underfunded, operated part-time by a revolving door of judges who rubber-stamp social service requests. Howe didn't know how to get a hearing. She didn't know any judges or lawyers. She certainly couldn't afford one. And Social Services told her they couldn't tell her anything.

HOWE: I have written letters to Virgena Wieseler, asking questions. I wrote letters to the governor.

SULLIVAN: How did the Department of Social Services respond to this?

HOWE: They didn't.

SULLIVAN: Three months had passed, and Janice Howe was waiting in silence. Howe thought there must be something she could do. And then she thought of one more person: her tribe's Indian Child Welfare Act director, Dave Valandra. He's a federal employee. He's supposed to make sure kids are placed with tribal or family members So she called him.

HOWE: I can't help you; there's nothing I can do - that's what he said to me.

SULLIVAN: He never called you back?

HOWE: Uh-uh, never.

SULLIVAN: Dave Valandra is from Indiana. He works in a square, gray building for the Federal Bureau of Indian Affairs.

DAVE VALANDRA: I'm the ICWA officer. I do the ICWA for the Crow Creek Sioux tribe.

SULLIVAN: Valandra's job is to help tribal members with cases in state court. And he can also push tribal court to hold hearings. But he usually doesn't do that, he says, because he trusts the state to do what's best.

VALANDRA: I get along real good with the state, and I have a good rapport with them. I'm satisfied with them.

SULLIVAN: The tribe is not satisfied. Tribal officials say he won't show up at their council meetings. Valandra says he doesn't need to, because the Indian Child Welfare Act is being followed.

VALANDRA: The state does have Native American foster homes. So yeah, it's working.

SULLIVAN: But state records show only 13 percent of Native kids in foster care are placed in Native homes. In fact, Valandra admits that not one of the children in his almost three-dozen cases is placed with a Native American family. So I asked him...

Do you feel like maybe these children have been let down a little

bit?

VALANDRA: Of my cases, I think they're all, right now - how do I want to - the placement of the children right now are - are - boy, that's...

SULLIVAN: With Valandra, a dead end, Janice Howe asked to have the kids moved to a Native home. She wanted them to go to sweats and sundance, but nothing changed. Social Services' Virgena Wieseler says they would like all Native kids to be in Native homes, but they've only got a few and they don't have room.

WIESELER: And we're always trying to recruit them because we need more. We are constantly recruiting in all of our offices, for all kinds of foster families.

SULLIVAN: That comes as a surprise to Marcella Dion. She's Native, and she's a licensed foster-care provider. She has lots of room.

MARCELLA DION: I was like, whoa, what's going on? I got my ICWA license, no kids.

SULLIVAN: Dion's home has been empty for six years. Then there's Suzie Crow, also from Crow Creek.

SUZANNE CROW: I've been a foster parent here over a year. They've never called me for a kid.

SULLIVAN: In that year, more than 600 Native children in South Dakota were placed in white foster homes. The Pine Ridge Reservation says they've got 20 empty homes. A few months ago, Suzie Crow asked a social worker why she hadn't gotten any kids.

CROW: He said, well, there's a long process, this and that. I said, no. I said, the long process is there's no road from you to Indian people. That's the long process.

SULLIVAN: The long process for Janice Howe and her daughter was waiting months just to see the kids. She missed braiding their long hair. They follow tradition that you don't cut hair unless there's a death in the family. When they were finally granted a visit in January of 2009...

HOWE: I started crying. Their hair was cut to their shoulders.

SULLIVAN: The girls looked so thin. They begged Howe and their mother to take them home.

HOWE: I didn't want to cry in front of them because I knew that they were already upset. I just said: You know what? Pray hard, OK? Pray. Look outside because I'm looking at the same sky. OK? OK, Grandma, they said. And they left.

SULLIVAN: She wouldn't see them for another year. In downtown Rapid City, Danny Sheehan's in a closet down the hall from his office, pulling open file cabinets.

DANNY SHEEHAN: So these are all of the different people who've had their kids taken away from their entire families. Not one of them has had their children left with a relative.

SULLIVAN: Sheehan works for the Lakota People's Law Office, a small, barely funded nonprofit. He's collecting more than 150 of his clients' stories. He's hoping one day to sue, but that kind of case is time-consuming and legally challenging. As he walks back to his office, he explains his predicament with the Department of Social Services, or DSS.

SHEEHAN: Maybe if we devoted all of our resources to a particular case and said, look, we're going to land on you like a ton of bricks, DSS, and make you give this one kid back, then they would probably just turn the kid loose. But it wouldn't help any of the other people. It wouldn't stop them from doing it 100 times again.

SULLIVAN: Without question, some children in South Dakota need to be removed from their families. But according to state figures, less than 12 percent of the children in foster care in South Dakota have been actually physically or sexually abused. That's less than the national average. And yet South Dakota is removing children at almost three times the rate of other states, according to the National Coalition for Child Protection Reform.

To understand how that's possible, how the state can remove Janice Howe's four grandchildren and more than 700 other Native kids every year, you have to understand one word: neglect. The state says parents have neglected their children, and neglect is

subjective.

BOB WALTERS: The standards are set too high for our people.

SULLIVAN: Bob Walters is a council member for the Cheyenne River Sioux tribe. He says what social workers call neglect is often poverty and sometimes, Native tradition.

WALTERS: We're family people. If there's 30 people in my home, that's fine. I was raised with my mom and dad and 12 kids. I'm very thankful I grew up that way.

SULLIVAN: He says social workers are often young, and many have never set foot on a reservation. He says they don't understand that food is often shared among families. State officials acknowledge that only 11 of their 183 caseworkers are Native American. But officials say they do yearly training to expose workers to Native practices.

Sometimes, though, it's not just cultural differences. Jolene Abourezk worked for the department for seven years. She says taking kids was expected.

JOLENE ABOUREZK: It's just the norm here; that it happens so often, people don't question it - like, good, you are doing a good job for taking more kids in. It's just the way it's been, and it continues to be that way.

SULLIVAN: Now, she works for her tribe, the Oglala Sioux, and reviews every case to help get the kids back.

ABOUREZK: When I look at the cases and read the police reports, it just seems like a lot of them are just minor offenses.

SULLIVAN: Most social workers care deeply about the children they work with, and few would voluntarily take on more cases. But a close view of South Dakota's budget shows there's a financial incentive at work. Every time a state puts a child in foster care, the federal government sends money. Because South Dakota is poor, it sends lots of money - almost \$100 million a year.

BILL NAPOLI: When that money came down the pike, it was huge. That's when we saw real influx of kids being taken out of families.

Families were being disrupted because the money was there.

SULLIVAN: Bill Napoli is a former state senator who served on the Appropriations Committee. He says there was little state lawmakers could do. This was federal money, and it went straight to Social Services.

NAPOLI: I'm sure that they were trying to answer a public perception of a problem and then slowly, it grew to the point that they had so much power that no one - no one - could question what they were doing. Is that a recipe for a bureaucracy that's totally out of control? I would say so.

SULLIVAN: Department officials Virgena Wieseler and Kim Malsam-Rysdon strongly disagree. They say money has never influenced their decisions to remove a child.

WIESELER: The state doesn't financially benefit from kids being in care.

MALSAM-RYSDON: Right, no.

WIESELER: The state is always paying some part of it.

SULLIVAN: But, in general, the more children that the department has, the more money they may be getting from the federal government.

WIESELER: It's still, you know, state general dollars that have to match all those federal dollars that come in.

MALSAM-RYSDON: Right, right.

SULLIVAN: Except it's not exactly a match. According to federal records, last year, the federal government reimbursed the state for almost three-quarters of its foster care expenses. Then there's the bonus money. States get money if they move kids out of foster care and into adoption, about \$4,000 a child. But if the child has special needs, they can get as much as \$12,000.

Well, a decade ago, South Dakota designated all Native American children special needs, so Native American children who are permanently removed from their homes are worth more financially to

the state than other children. In 10 years, just this bonus program has brought South Dakota almost \$1 million.

MALSAM-RYSDON: The key to that funding, though, is that those dollars are to be used to support adoptive placements.

SULLIVAN: The department's Kim Malsam-Rysdon.

MALSAM-RYSDON: So the state does not gain monetarily from placing kids in adoption.

SULLIVAN: Or does it? That money, and almost \$100 million more, funnels into the state economy every year. The department employs 1,000 workers. It supports almost 700 foster families, who receive as much as \$9,000 a year for per child; 1,400 families who receive thousands in adoption subsidies; and dozens of independent group homes that get millions of dollars in contracts to take care of children. Just ask former Governor Bill Janklow, who ran the state in the 1990s.

How important was the money that was coming from the federal government to Social Services?

BILL JANKLOW: Incredibly important. Look, we're a poor state. We're not a high-income state. We're like North Dakota without oil. We're like Nebraska without Omaha and Lincoln. We don't have factories opening here, hiring people at high-wage jobs.

SULLIVAN: The federal government gave South Dakota at least \$15,000 for Janice Howe's grandchildren while they were in foster care. South Dakota spent more than half of that money on administrative costs, according to federal records. But even now, as the money filters in, the federal government asks few questions about whether states are complying with the Indian Child Welfare Act. In fact, a 2005 government audit found at least 32 states are failing, in one way or another, to abide by it.

GEORGE SHELDON: I think we've got to do better. And frankly, to the extent to which we can provide some leadership, I'd like to see us do that.

SULLIVAN: George Sheldon is the man in Washington sending the money. He just took over the federal Administration of Children and

Families, and says he wants to make changes.

SHELDON: When you have a financing system that pays states based on the number of children in care, what's the incentive to keep kids out of care?

SULLIVAN: It had been a year and a half, and Janice Howe's grandchildren were still in foster care. Howe made one, last desperate move. She went to her tribe's council meeting. She told the whole story - how they came one day and took the kids, how her daughter had never been charged with anything, how a social worker had told her they were now putting them up for adoption.

Many on the council nodded with familiarity, and then they did something they had never done before. They passed a resolution warning the state that if it did not return the Yellow Robe children, it would be charged with kidnapping and prosecuted.

Nobody really thought it would work. But a few weeks later, a car pulled up with Rashauna, Antoinette and the two twins - no longer babies, but 2-and-a-half-year-olds.

HOWE: Antoinette came in and she just - Grandma, Grandma, we get to stay. We get to stay!

SULLIVAN: The state offered no explanation, no apology. In fact, the social worker issued a dire warning. This is a trial run, the worker said. We can take them back at any time.

Howe thinks the two babies were treated well. But Rashauna and Antoinette, the older kids, Howe says they hoard food under their pillows, and hide under the bed when a car pulls up.

HOWE: I feel like they were traumatized so much. Are we going to ever get them out of that?

SULLIVAN: Antoinette, the oldest, can't remember her Native dance.

HOWE: We go to sweats. We have ceremonies at certain time of the year. She's got to be getting ready to learn these things that she has to do in order to become a young lady. You took a year and a half of that away from us. How are we going to get that back?

(SOUNDBITE OF CHILDREN SINGING)

SULLIVAN: Janice Howe now runs a support group in a church for families that have lost children to foster care. On this night, 48 people showed up to talk and exchange stories. In front, Antoinette and Rashauna played. Usually, when NPR producer Amy Walters and I would visit, they would hide. They later explained that like their mother, they are scared of white people and do not want to talk to them. But on this day, they drew closer. Rashauna took the final step, and pointed out a pair of radio headphones.

RASHAUNA YELLOW ROBE: Can I try them on?

SULLIVAN: They held the microphone up to each other.

ANTOINETTE YELLOW ROBE: What's your name?

RASHAUNA YELLOW ROBE: Rashauna.

ANTOINETTE YELLOW ROBE: Uh-uh.

RASHAUNA YELLOW ROBE: I mean, (unintelligible).

SULLIVAN: Janice Howe leaned in and quietly asked them, what was it like in foster care? Rashauna looked up at her.

RASHAUNA YELLOW ROBE: I thought we were going to stay there forever.

SULLIVAN: And then suddenly, Antoinette blurts out a story about how Rashauna wet her pants, and the foster parents made her wear the underwear on her head.

ANTOINETTE YELLOW ROBE: Whenever Rashauna wet her pants, they put underwear on their head - the ones that she peed in, on their head.

SULLIVAN: Janice Howe looked away so they wouldn't see her eyes fill with tears. Rashauna climbed into her lap. As the singing started, they slowly swayed, knowing that even now, Social Services can come back. Even now, at any time, they can take the children.

Laura Sullivan, NPR News.

(SOUNDBITE OF SINGING)

BLOCK: You're listening to ALL THINGS CONSIDERED from NPR News.

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