



JUDICIAL COUNCIL OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

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TRIBAL COURT-STATE COURT FORUM

NOTICE AND AGENDA OF OPEN MEETING

Open to the Public (Cal. Rules of Court, rule 10.75(c)(1) and (e)(1))

THIS MEETING IS BEING CONDUCTED BY ELECTRONIC MEANS

THIS MEETING IS BEING RECORDED

Date: August 11, 2022
Time: 12:15 - 1:15 p.m.
Public Call-in Number: 833 568 8864 Meeting ID: 160 333 3129 (Listen Only)

Meeting materials will be posted on the advisory body web page on the California Courts website at least three business days before the meeting.

Members of the public seeking to make an audio recording of the meeting must submit a written request at least two business days before the meeting. Requests can be e-mailed to forum@jud.ca.gov.

Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order.

I. OPEN MEETING (CAL. RULES OF COURT, RULE 10.75(C)(1))

Call to Order and Roll Call

Approval of Minutes

Approve minutes of the June 9, 2022, Tribal Court-State Court Forum meeting.

II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(1))

This meeting will be conducted by electronic means with a listen only conference line available for the public. As such, the public may submit comments for this meeting only in writing. In accordance with California Rules of Court, rule 10.75(k)(1), written comments pertaining to any agenda item of a regularly noticed open meeting can be submitted up to one complete business day before the meeting. For this specific meeting, comments should be e-mailed to forum@jud.ca.gov. Only comments received by 12:15 p.m. on August 10, 2022 will be provided to advisory body members prior to the start of the meeting.

III. INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

Item 1

Cochairs Report

Item 2

Background and context for Truth and Healing Initiatives

Presenter: Ann Gilmour, Attorney, Judicial Council of California Center for Families, Children, and the Courts

Item 3

Federal Indian Boarding School Initiative Investigative Report: Relevance for Child Welfare and Courts

Presenter: Hon. Patricia Lenzi, Chief Judge of the Chemehuevi Tribal Court

Item 4

California Truth and Healing Council: Update and Judicial Branch Issues

Presenter: Ms. Christina Snider, Tribal Affairs Secretary to Governor Gavin Newsom

IV. ADJOURN

Adjourn



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OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

www.courts.ca.gov/forum.htm
forum@jud.ca.gov

TRIBAL COURT-STATE COURT FORUM

MINUTES OF OPEN MEETING

June 9, 2022
12:15-1:15 p.m.

Advisory Body Members Present: *Hon. Abby Abinanti, Co-chair*, Hon. Erin Alexander, Hon. April Attebury, Hon. Richard Blake, Hon. Gregory Elvine-Kreis, Hon. Ana España, Mr. Christopher Haug, Hon. Joni Hiramoto, Hon. Lawrence King, Hon. Patricia Lenzi, Hon. Devon Lomayesva, Hon. Nicholas Mazanec, Hon. Victorio Shaw, Ms. Christina Snider, Hon. Dean Stout, Hon. Allen Sumner, Hon. Sunshine Sykes, Hon. Mark Vezzola, Hon. Christine Williams, Ms. Stephanie Weldon.

Advisory Body Members Absent: *Hon. Suzanne Kingsbury, Cochair*, Hon. Leona Colegrove, Hon. Gail Dekreon, Hon. Leonard Edwards (Ret.), Hon. Patricia Guerrero, Ms. Merri Lopez-Keifer, Hon. Gilbert Ochoa, Hon. Michael Sachs, Hon. Delia Sharpe, Hon. Juan Ulloa, Hon. Joseph Wiseman.

Others Present: Ms. Vida Castaneda, Ms. Ann Gilmour, Ms. Anne Hadreas, Ms. Andi Liebenbaum, Ms. Amanda Morris.

OPEN MEETING

Call to Order and Roll Call

The co-chairs called the meeting to order at 12:21 p.m.

Approval of Minutes

The Forum approved the April 14, 2022, meeting minutes Motion by Judge King Second by judge Lenzi, motion carries.

DISCUSSION AND ACTION ITEMS (ITEMS 1-5)

Item 1

Cochairs Report

Planning in-person meeting

Item 2

Review of the New Amnesty International Report: "The Never-Ending Maze: Continued Failure to Protect Indigenous Women from Sexual Violence in the USA" & Discussion on Education and Prevention Efforts in California.

Presenter: Vida Castaneda, Senior Analyst, Center for Families, Children and the Courts, Judicial Council of California

Ms. Vida Castaneda provided an overview of the recently released [report](#) from Amnesty International focusing on four specific areas that the Forum has been concerned with over the years including issues of legal jurisdiction under the Tribal Law and Order Act and the Violence Against Women Act; issues surrounding policing including resources for tribal police, interagency coordination and investigation responses; healthcare and services to victims; and problems related to prosecutions including federal restrictions on tribal authority to prosecute crimes, declination rates for U.S. Attorney Office prosecutions and cooperation among agencies regarding Indian Country crimes.

New committee members asked if this is the first time the DV issue has been brought to the forum's attention and were advised that it has been a continuing topic of discussion. The Forum collaborates with the CSEC Action Team and the VAWEF committee on these issues. A committee member was part of a committee that offered a week long training for judges on DV issues, it's nationally available to all including tribal court judges and would highly recommend the training.

A member of the Forum has been BIA to put together a training for DV and VAWA reauthorization to give the tribes a base line understanding of what is required if tribes in California want to exercise the expanded jurisdiction providing for in the VAWA reauthorization.

Several tribal court judges expressed interest in partnering on such a training and plans for their courts to expand jurisdiction.

Item 3

Federal Indian Boarding School Initiative Investigative Report: Relevance for Child Welfare and Courts

Presenter: Ann Gilmour, Attorney, Center for Families, Children and the Courts, Judicial Council of California

This item was deferred to the August meeting due to lack of time.

Item 4

Rules and Forms: Family Law: Recognition of Tribal Court Orders Relating to Division of Marital Assets

Presenter: Ann Gilmour, Attorney, Center for Families, Children and the Courts, Judicial Council of California

Proposal to adopt two new forms AB 627 went to public comment, only 4, only minor suggestions and revisions. Commenters said rules for implementation would be helpful. In the future.

Members had no additional comments or edits to the proposal.

Motion to approve sending the proposal to the rules committee: Judge Stout, seconded by Judge King. No discussion. Motion carries

ADJOURNMENT

There being no further business, the meeting was adjourned at 1:08 p.m.

Pending approval by the advisory body on October 19, 2022.



Background

The Alyce Spotted Bear and Walter Soboleff Commission on Native Children was established by Congress as an independent federal entity charged with conducting a comprehensive study of federal, state, local, and tribal programs and developing recommendations on solutions that would improve the health, safety, and well-being of Native Children.

How to Submit Public Comment and Questions

The public can submit oral and written comment, as well as questions, at any time to email@commissiononnativechildren.org.

ADDITIONAL INFORMATION

For the latest information, please visit <https://commissiononnativechildren.org/>. Follow the Commission on Facebook at: Alyce Spotted Bear & Walter Soboleff Commission on Native Children, or on Twitter: @asbwscnc.

Pacific Regional Hearing

WOODLAND CA ■ AUGUST 25–26

Agenda

The Pacific Regional Hearing is currently scheduled to be held simultaneously in-person and virtually on August 25 and 26. Both days comprise a series of expert panels on topics relevant to the Commission. There will be an opportunity for public comment on August 26 during the last panel.

Register Today

Please register for each day's proceedings with the links below. Once registered, you will receive information on how to participate virtually and in-person.

- **August 25**, 9:00 a.m.–5:30 p.m.
https://kearnswest.zoom.us/meeting/register/tZMuc-2sqTMtH90b63I1ipwXe4Cp1Ng-_8A9
- **August 26**, 9:00 a.m.–12:15 p.m.
<https://kearnswest.zoom.us/meeting/register/tZlqf-6spjwqGdcBYD09gWuQB6kxFMtkgAZZ>

Location

California Tribal College, Building 800, Community Room
2300 E. Gibson Road, Woodland, CA 95776

COVID-19 Considerations

CDC guidance related to COVID-19 will be encouraged and followed. All hearings will be a hybrid (in-person and virtually) however, the Commission may decide to move to virtual-only for hearings and events depending on COVID-19 related developments and participants will be notified in advance.



Item 2: Background and Context for Boarding School Report and Truth and Healing efforts: The Canadian Example

There are many similarities in the historical colonial policies and treatment of indigenous peoples in the United States and Canada. Both based their legal claims to dispossess indigenous peoples from their lands and territories on the [Doctrine of Discovery](#) and British Colonial law and policy. Both used Boarding Schools as a tool of assimilation to remove Indian children from their families and strip them of their culture and indigenous identity. Both are grappling with how to redress the wrongs done to indigenous peoples and the continuing impacts of those harms.

In Canada class action litigation against the Canadian government over the treatment of children in Indian Residential Schools resulted in a settlement agreement in 2007. One of the elements of that settlement agreement was the establishment of a [Truth and Reconciliation Commission](#). Between 2007 and 2015 the Commission travelled to all parts of Canada and heard from more than 6,500 witnesses. It issued its final reports in 2015 (available here: <https://nctr.ca/records/reports/#trc-reports>) The reports concluded that the impacts of the residential school experience continue to impact and devastate indigenous communities to this day. These impacts included over representation of indigenous people in the legal system including the child welfare system and the criminal justice system. Further the report highlighted how the legal system itself had been implicated in the residential school system and failed to provide an adequate way for indigenous people's to obtain redress for the wrongs done to them through the residential school system and other areas.

The Canadian Truth and Reconciliation Commission issued close to 100 "[Calls to Action](#)" Calls to action 25 through 42 (attached) relate specifically to the justice system.

More recently the discovery of unmarked graves at residential schools throughout Canada has sparked added concern. Recently Pope Francis apologized for the Catholic Church's role in what he acknowledged was "cultural genocide":

[A burial site for Indigenous children was found in Canada. Could it happen in the United States? | America Magazine](#)

[Pope Francis apologizes to Indigenous community in Canada over church's role in boarding school abuse - ABC News \(go.com\)](#)

The Canadian Courts and legal system have responded to the calls to action and other issues related to justice for indigenous people in a number of ways.

- **Adapt and apply court rules and practices to better accommodate indigenous claims** - The Federal Court of Canada issued [Practice Guidelines for Aboriginal Law Proceedings](#) that address some of the issues that arise in cases involving indigenous rights, including the need for flexibility on issues such as oral history and testimony from Indigenous Elders and generally the need for flexibility in various procedures.
- **Address impacts of historical trauma in criminal sentencing** - To help address disproportionality in the criminal justice system identified first in the [Gladue](#) case from the Supreme Court of Canada which acknowledged that "... colonialism creates challenges for many Indigenous people, and they are more likely to be sent to jail. The criminal justice system failed Indigenous

people. Gladue principles try to address these failures and make sure judges don't repeat the same mistakes that add to discrimination." The Canadian criminal justice system has developed unique processes and factors that must be considered when sentencing aboriginal defendants. These are known as the [Gladue principles](#). The Gladue principles are embodied in section 718.2 of the Criminal Code of Canada:

A court that imposes a sentence shall also take into consideration the following principles: (a) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and, without limiting the generality of the foregoing, (i) evidence that the offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor, (ii) evidence that the offender, in committing the offence, abused the offenders spouse or common-law partner, (ii.1) evidence that the offender, in committing the offence, abused a person under the age of eighteen years, (iii) evidence that the offender, in committing the offence, abused a position of trust or authority in relation to the victim, (iii.1) evidence that the offence had a significant impact on the victim, considering their age and other personal circumstances, including their health and financial situation, (iv) evidence that the offence was committed for the benefit of, at the direction of or in association with a criminal organization, or (v) evidence that the offence was a terrorism offence shall be deemed to be aggravating circumstances; (b) a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances; (c) where consecutive sentences are imposed, the combined sentence should not be unduly long or harsh; (d) an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances; and (e) all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders.

- **Collaborate with First Nations/Indigenous courts in criminal sentencing:** [First Nations/Indigenous Courts](#) are criminal sentencing courts that use restorative justice and traditional ways to reach balance and healing. BC's First Nations/Indigenous Courts are often called [Gladue](#) courts. First Nations/Indigenous Courts focus on balancing rehabilitation, accountability, and healing. The judge, your lawyer, Crown counsel, Elders and your community, and your family work with you to create a healing plan to help restore your mental, physical, spiritual, and emotional health.
- **Require lawyers to have training on Indigenous issues:** [Law Society of British Columbia Truth and Reconciliation Initiative](#) - Indigenous intercultural competency and lawyer competence. The Benchers determined that Indigenous intercultural competency is necessary as part of lawyer competence, and they approved the creation of an online course that is available to practicing lawyers at no cost to meet this requirement. Lawyers in BC are required to take the Indigenous course, which provides them with knowledge on the history of Aboriginal-Crown relations, the history and legacy of residential schools and how legislation regarding Indigenous peoples

created the issues that reconciliation seeks to address. The Law Society began piloting its Indigenous course in September 2021 and it went live on January 26, 2022. The course takes six hours, to be completed at your own pace over two years. Lawyers will be able to claim CPD credit for the time taking the course. For more information and FAQs about the course, go to [Indigenous intercultural course](#).

American Constitution [Society Initiative supporting truth, racial healing, and transformation \(TRHT\) in the United States](#).



Truth and
Reconciliation
Commission of Canada

Truth and Reconciliation Commission of Canada: Calls to Action



between Aboriginal and non-Aboriginal communities, and to publish annual progress reports and assess long-term trends. Such efforts would focus on indicators such as: infant mortality, maternal health, suicide, mental health, addictions, life expectancy, birth rates, infant and child health issues, chronic diseases, illness and injury incidence, and the availability of appropriate health services.

20. In order to address the jurisdictional disputes concerning Aboriginal people who do not reside on reserves, we call upon the federal government to recognize, respect, and address the distinct health needs of the Métis, Inuit, and off-reserve Aboriginal peoples.
21. We call upon the federal government to provide sustainable funding for existing and new Aboriginal healing centres to address the physical, mental, emotional, and spiritual harms caused by residential schools, and to ensure that the funding of healing centres in Nunavut and the Northwest Territories is a priority.
22. We call upon those who can effect change within the Canadian health-care system to recognize the value of Aboriginal healing practices and use them in the treatment of Aboriginal patients in collaboration with Aboriginal healers and Elders where requested by Aboriginal patients.
23. We call upon all levels of government to:
 - i. Increase the number of Aboriginal professionals working in the health-care field.
 - ii. Ensure the retention of Aboriginal health-care providers in Aboriginal communities.
 - iii. Provide cultural competency training for all health-care professionals.
24. We call upon medical and nursing schools in Canada to require all students to take a course dealing with Aboriginal health issues, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, and Indigenous teachings and practices. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

JUSTICE

25. We call upon the federal government to establish a written policy that reaffirms the independence of the

Royal Canadian Mounted Police to investigate crimes in which the government has its own interest as a potential or real party in civil litigation.

26. We call upon the federal, provincial, and territorial governments to review and amend their respective statutes of limitations to ensure that they conform to the principle that governments and other entities cannot rely on limitation defences to defend legal actions of historical abuse brought by Aboriginal people.
27. We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.
28. We call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.
29. We call upon the parties and, in particular, the federal government, to work collaboratively with plaintiffs not included in the Indian Residential Schools Settlement Agreement to have disputed legal issues determined expeditiously on an agreed set of facts.
30. We call upon federal, provincial, and territorial governments to commit to eliminating the overrepresentation of Aboriginal people in custody over the next decade, and to issue detailed annual reports that monitor and evaluate progress in doing so.
31. We call upon the federal, provincial, and territorial governments to provide sufficient and stable funding to implement and evaluate community sanctions that will provide realistic alternatives to imprisonment for Aboriginal offenders and respond to the underlying causes of offending.
32. We call upon the federal government to amend the Criminal Code to allow trial judges, upon giving reasons, to depart from mandatory minimum sentences and restrictions on the use of conditional sentences.

33. We call upon the federal, provincial, and territorial governments to recognize as a high priority the need to address and prevent Fetal Alcohol Spectrum Disorder (FASD), and to develop, in collaboration with Aboriginal people, FASD preventive programs that can be delivered in a culturally appropriate manner.
34. We call upon the governments of Canada, the provinces, and territories to undertake reforms to the criminal justice system to better address the needs of offenders with Fetal Alcohol Spectrum Disorder (FASD), including:
 - i. Providing increased community resources and powers for courts to ensure that FASD is properly diagnosed, and that appropriate community supports are in place for those with FASD.
 - ii. Enacting statutory exemptions from mandatory minimum sentences of imprisonment for offenders affected by FASD.
 - iii. Providing community, correctional, and parole resources to maximize the ability of people with FASD to live in the community.
 - iv. Adopting appropriate evaluation mechanisms to measure the effectiveness of such programs and ensure community safety.
35. We call upon the federal government to eliminate barriers to the creation of additional Aboriginal healing lodges within the federal correctional system.
36. We call upon the federal, provincial, and territorial governments to work with Aboriginal communities to provide culturally relevant services to inmates on issues such as substance abuse, family and domestic violence, and overcoming the experience of having been sexually abused.
37. We call upon the federal government to provide more supports for Aboriginal programming in halfway houses and parole services.
38. We call upon the federal, provincial, territorial, and Aboriginal governments to commit to eliminating the overrepresentation of Aboriginal youth in custody over the next decade.
39. We call upon the federal government to develop a national plan to collect and publish data on the criminal victimization of Aboriginal people, including data related to homicide and family violence victimization.
40. We call on all levels of government, in collaboration with Aboriginal people, to create adequately funded and accessible Aboriginal-specific victim programs and services with appropriate evaluation mechanisms.
41. We call upon the federal government, in consultation with Aboriginal organizations, to appoint a public inquiry into the causes of, and remedies for, the disproportionate victimization of Aboriginal women and girls. The inquiry's mandate would include:
 - i. Investigation into missing and murdered Aboriginal women and girls.
 - ii. Links to the intergenerational legacy of residential schools.
42. We call upon the federal, provincial, and territorial governments to commit to the recognition and implementation of Aboriginal justice systems in a manner consistent with the Treaty and Aboriginal rights of Aboriginal peoples, the *Constitution Act, 1982*, and the *United Nations Declaration on the Rights of Indigenous Peoples*, endorsed by Canada in November 2012.

Reconciliation

CANADIAN GOVERNMENTS AND THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLE

43. We call upon federal, provincial, territorial, and municipal governments to fully adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.
44. We call upon the Government of Canada to develop a national action plan, strategies, and other concrete measures to achieve the goals of the *United Nations Declaration on the Rights of Indigenous Peoples*.

ROYAL PROCLAMATION AND COVENANT OF RECONCILIATION

45. We call upon the Government of Canada, on behalf of all Canadians, to jointly develop with Aboriginal peoples a Royal Proclamation of Reconciliation to be issued by the Crown. The proclamation would build on the Royal Proclamation of 1763 and the Treaty of Niagara of 1764, and reaffirm the nation-to-nation relationship between Aboriginal peoples and the Crown. The proclamation would include, but not be limited to, the following commitments:

Item 3: [Federal Indian Boarding School Initiative](#)

In June of 2021, Secretary of the Interior Deb Haaland [announced the Federal Indian Boarding School Initiative](#), a comprehensive effort to recognize the troubled legacy of federal Indian boarding school policies with the goal of addressing their intergenerational impact and to shed light on the traumas of the past.

The Initial investigative report was released on May 11, 2022. The full report is available at: https://www.bia.gov/sites/default/files/dup/inline-files/bsi_investigative_report_may_2022_508.pdf

Resources:

- [Secretarial Memo](#) launching the Federal Indian Boarding School Initiative
- [Secretary Haaland op-ed\(link is external\)](#): My grandparents were stolen from their families as children. We must learn about this history.
- Department of the Interior and National Native American Boarding School Healing Coalition [Memorandum of Understanding](#)
- [Department of the Interior Releases Investigative Report, Outlines Next Steps in Federal Indian Boarding School Initiative](#)

There is proposed legislation to create a federal Truth and Healing Commission on Indian Boarding School Policies in the United States ([S.2907](#)) that would establish a commission similar to the Canadian Truth and Healing Commission.



Federal Indian Boarding School Initiative Investigative Report

May 2022

**Assistant Secretary – Indian Affairs
Bryan Newland**



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United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

APR - 1 2022

The Honorable Deb Haaland
Secretary of the Interior
Washington, DC 20240

Dear Madam Secretary:

On June 22, 2021, you issued a memorandum directing Department of the Interior (Department) agencies to coordinate an investigation into the Federal Indian boarding school system to examine the scope of the system, with a focus on the location of schools, burial sites, and identification of children who attended the schools. You also directed that I submit a report of our investigation by April 1, 2022.

In accordance with your direction, I am submitting to you the first Federal Indian Boarding School Initiative Investigative Report.

This report shows for the first time that between 1819 and 1969, the United States operated or supported 408 boarding schools across 37 states (or then-territories), including 21 schools in Alaska and 7 schools in Hawaii. This report identifies each of those schools by name and location, some of which operated across multiple sites.

This report confirms that the United States directly targeted American Indian, Alaska Native, and Native Hawaiian children in the pursuit of a policy of cultural assimilation that coincided with Indian territorial dispossession. It identifies the Federal Indian boarding schools that were used as a means for these ends, along with at least 53 burial sites for children across this system—with more site discoveries and data expected as we continue our research.

The report highlights some of the conditions these children endured at these schools and raises important questions about the short-term and long-term consequences of the Federal Indian boarding school system on Indian Tribes, Alaska Natives, and the Native Hawaiian Community. I am recommending further investigation to examine those consequences.

This report places the Federal Indian boarding school system in its historical context, explaining that the United States established this system as part of a broader objective to dispossess Indian Tribes, Alaska Native Villages, and the Native Hawaiian

Community of their territories to support the expansion of the United States. The Federal Indian boarding school policy was intentionally targeted at American Indian, Alaska Native, and Native Hawaiian children to assimilate them and, consequently, take their territories. I believe that this historical context is important to understanding the intent and scale of the Federal Indian boarding school system, and why it persisted for 150 years.

The ongoing COVID-19 pandemic and its resulting closures of Federal facilities hampered our ability to obtain and review a number of documents needed to answer all of the questions you posed to us in your June 22, 2021, memorandum. Our work was also made more difficult by the fact that the Department was operating under a continuing resolution for much of the past year, which limited the funds available to examine some issues. For those reasons, I am recommending further research under the appropriation authority Congress has granted under the fiscal year (FY) 2022 Consolidated Appropriations Act (P.L. 117-103).

This report, as I see it, is only a first step to acknowledge the experiences of Federal Indian boarding school children. It notes a desire from people across Indian Country and the Native Hawaiian Community to share their individual and family experiences within the Federal Indian boarding school system and the resulting impacts today. This report also presents an opportunity for us to reorient our Federal policies to support the revitalization of Tribal languages and cultural practices. This reorientation of Federal policy is necessary to counteract nearly two centuries of Federal policies aimed at the destruction of Tribal languages and cultures. In turn, we can help begin a healing process for Indian Country and the Native Hawaiian Community, and the United States, from the Alaskan tundra to the Florida everglades, and everywhere in between.

Thank you, Madam Secretary, for your leadership to look at the legacy of Federal Indian boarding schools and to all who are working hard to complete this needed work.

Sincerely,



Bryan Newland
Assistant Secretary – Indian Affairs

In 1886, the Apache Wars ended when Chiricahua Apache leader Goyaałé (Geronimo) and his band surrendered to the United States.¹ Critical for westward expansion, the U.S. Senate passed the following resolution thereafter: “Resolved, That the Secretary of War be directed to communicate to the Senate all dispatches of General Miles referring to the surrender of Geronimo, and all instructions given to and correspondence with General Miles in reference to the same.”² Although neither Geronimo nor others in his band were charged with or tried for crimes under U.S. courts, President Cleveland ordered for Geronimo and his band to be removed from present-day Arizona and held captive indefinitely in Florida as U.S. prisoners of war.³ Under U.S. military control, surviving Apache children were forcibly removed from their families and shipped by train to the Carlisle Indian Industrial School in Pennsylvania.⁴ Some children were later returned to their families as confinement of the Chiricahua Apache band extended across U.S. military installations.⁵ Demonstrating that all Indians, including Indian children, hold a distinct political status in the United States,⁶ some Apache children never returned—comprising one-fourth of Carlisle gravesites.⁷

¹ Annual Report to the Secretary of the Interior XLI (1886), Commissioner of Indian Affairs, [hereinafter ARCIA for [year]].

² S. Exec. Doc. No. 49-117 at 1 (1887).

³ ARCIA for 1886, at XLI.

⁴ Letter from the Secretary of the Interior (Feb. 2, 1887), in S. Ex. Doc. No. 49-73, at 1 (1887); ARCIA for 1887, at XVII, 260 (detailing that the Apaches “now confined at Fort Marion, Saint Augustine, Fla.,’ are in the custody of the military branch of the Government”).

⁵ Act of Feb. 18, 1904, 33 Stat. 26; Act of June 28, 1902, 32 Stat. 467; Act of Mar. 16, 1896, 29 Stat. 64; Act of Feb. 12, 1895, 28 Stat. 658; Act of Aug. 6, 1894, 28 Stat. 238.

⁶ *Morton v. Mancari*, 417 U.S. 535, 553 n.24 (1974).

⁷ Jacqueline Fear-Segal & Susan B. Rose, *Carlisle Indian Industrial School*, 152–185 (2016).



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⁸ *Ciricahua Apaches at the Carlisle Indian School, Penna., 188-?: as they looked upon arrival at the School.* [Photograph]. (1885 or 1886). Library of Congress Prints and Photographs Division Washington, D.C..



1. Federal Indian Boarding School Initiative

On June 22, 2021, the 54th Secretary of the Interior, Deb Haaland, announced the Federal Indian Boarding School Initiative, directing the Department of the Interior (Department) by Secretarial Memorandum, to undertake an investigation of the loss of human life and lasting consequences of the Federal Indian boarding school system.⁹ For nearly two centuries, the Federal Government was responsible for operating or overseeing Indian boarding schools across the United States and its territories. Today, the Department is therefore uniquely positioned to assist in the effort to recover the histories of these institutions.

As described further below, the United States has unique treaty and trust responsibilities to Indian Tribes, Alaska Native Villages, Alaska Native Corporations, and the Native Hawaiian Community, including to protect Indian treaty rights and land and other assets. To support these political and legal obligations, the Department protects and stores critical archival records and other information relating to Indian Affairs. Important goals of the Federal Indian Boarding School Initiative include:

- Identifying Federal Indian boarding school facilities and sites;
- Identifying names and Tribal identities of Indian children who were placed in Federal Indian boarding schools;
- Identifying locations of marked and unmarked burial sites of remains of Indian children located at or near school facilities; and
- Incorporating Tribal and individual viewpoints, including those of descendants, on the experiences in, and impacts of, the Federal Indian boarding school system.

⁹ See, e.g., ARCIA for 1931, at 4 (noting that in Indian education “one kind of a philosophy and one kind of a system have been established a long time”); ARCIA for 1916, at 9, 10 (noting “require[ment] [for] “a system of schools,” “a practical system of schools,” “uniform course of study for all Indian schools marks a forward step in the educational system,” “system of education”); ARCIA for 1899, at 437 (describing “The Development of the Indian School System”); ARCIA for 1886, at LX (documenting “control [of] the Indian school system,” “supervision of the Indian school system,” “history and development of the Indian school system,” and “divisions and operation of the system”); Commissioner of Indian Affairs, Annual Report to the Secretary of War 61 (1846) (documenting the “system of education”); Commissioner of Indian Affairs, Annual Report to the Secretary of War 516 (1839) (noting “manual-labor system”); Report on Indian Affairs to the Secretary of War 61 (1828) (providing a statement showing the “number of Indian schools, where established, by whom, the number of Teachers, &c., the number of Pupils, and the amount annually allowed and paid to each by the Government,” that is, documenting a system).

The Department conducted the initial investigative work in several phases. The first phase included the identification and collection of records and information related to the Department's oversight and implementation of the Federal Indian boarding school system. The Assistant Secretary – Indian Affairs Bryan Newland sought input from Tribal leaders on determining the nature and scope of any proposed sitework, addressing cultural concerns and the potential dissemination of sensitive information generated from the existing records or from future sitework activities, and for the future protection of burial sites and potential repatriation or disinterment of remains of children under Federal law, including the Native American Graves Protection and Repatriation Act (NAGPRA), and in coordination with other Federal agencies. Assistant Secretary Newland held formal consultations with Indian Tribes, Alaska Native Villages, Alaska Native Corporations, and the Native Hawaiian Community on November 17, 18, and 23, 2021. Under the supervision of Assistant Secretary Newland, the Department prepared this report on the initial investigation of the Federal Indian boarding school system.



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¹⁰ *Santa Fe Indian School children on burros* [Photograph]. (ca. 1900). Shades of L.A. Collection, TESSA Digital Collections of the Los Angeles Public Library.



2. Executive Summary



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Pursuant to the Secretarial Memorandum issued on June 22, 2021, Assistant Secretary Newland is leading the Department's first investigation of the Federal Indian boarding school system. Federal records affirm that the United States targeted Indian and Native Hawaiian children as part of U.S.-Indian relations and U.S.-Native Hawaiian relations to enter the Federal Indian boarding school system, coinciding with Indian and Native Hawaiian territorial dispossession.

In analyzing records under its control, the Department developed an official list of Federal Indian boarding schools for the first time. The National Native American Boarding School Healing Coalition (NABS), in partnership via a Memorandum of Understanding with the Department, was instrumental in the sharing of information and records pertinent to Federal development of the list.¹² The Department has also started to identify locations

¹¹ *Very early class of young boys with flags at the Albuquerque Indian School* [Photograph]. Department of the Interior, Bureau of Indian Affairs, Albuquerque Indian School, 1947-ca. 1964 (most recent creator). (ca. 1895). National Archives (292873).

¹² Memorandum of Understanding Between the U.S. Department of the Interior and National Native American Boarding School Healing Coalition, Dec 7, 2021.

Item 4: [California Truth and Healing Council](#)

The California Truth and Healing Council was established pursuant Governor Newsom's [Executive Order N-15-19](#) issued on June 18, 2019.

About the California Truth & Healing Council



The California Truth & Healing Council, created by Governor Newsom via [Executive Order N-15-19](#), bears witness to, records, examines existing documentation of, and receives California Native American narratives regarding the historical relationship between the State of California and California Native Americans in order to clarify the historical record of such relationship in the spirit of truth and healing. The Council is led and convened by the Governor’s Tribal Advisor and governed by a Governing Council of California Native American leaders, and may include additional non-voting representatives from California Native American tribes, relevant state and local agencies, and other relevant non-governmental stakeholders.

The Council works with California Native American tribes to shape the overarching focus and develop the work of the Council and will endeavor to accurately represent the diversity of experience of all California Native Americans within the State of California through ongoing communication and consultation.

The Council will submit a final written report of findings to the Governor’s Office by 2025.



- The final report should reflect a holistic understanding of the historical relationship between California Native Americans and the State.
- The final report may also make recommendations aimed at reparation and restoration and consider how to prevent similar depredations and/or policies in the future.

To learn more about the Council, please visit the [Frequently Asked Questions](#) page.



GOVERNING COUNCIL

CENTRAL REGION

	
Chairman Kenneth Kahn (Chumash)	Kouslaa Kessler-Mata (Chumash)
Alternate: Councilmember Alexis Manzano (Serrano)	

EASTERN REGION



Anthony Burris (Miwok)

Vice Chairman Neil Peyron (Yokut)

Alternate: Chairman Anthony Roberts (Patwin)

NORTHERN REGION



Chairman Isaac Bojorquez (Ohlone)

Councilmember Joan Harper (Pomo/Coast Miwok)

Alternate: Councilmember Joseph Giovannetti (Tolowa)

SOUTHERN REGION



Chairwoman Angela Elliott-Santos (Kumeyaay)

Vice Chairwoman Tishmall Turner (Luiseño)

Alternate: Robert Phelps (Kumeyaay)

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

EXECUTIVE ORDER N-15-19

WHEREAS, in the early decades of California's statehood, the relationship between the State of California and California Native Americans was fraught with violence, exploitation, dispossession and the attempted destruction of tribal communities, as summed up by California's first Governor, Peter Burnett, in his 1851 address to the Legislature: "[t]hat a war of extermination will continue to be waged between the two races until the Indian race becomes extinct must be expected"; and

WHEREAS, the State of California's laws and policies discriminating against Native Americans and denying the existence of tribal government powers persisted well into the twentieth century; and

WHEREAS, despite these wrongs, California Native Americans resisted, survived and carried on cultural and linguistic traditions defying all odds; and

WHEREAS, the State of California and California Native Americans have never jointly formally examined or documented their relationship for the express purpose of acknowledging and accounting for historical wrongs committed by the State of California toward California Native Americans; and

WHEREAS, the State of California has never formally apologized for historical wrongs tolerated, encouraged, subsidized and committed by State actors against California Native Americans; and

WHEREAS, the State of California seeks to more closely explore the historical relationship between the State of California and California Native Americans in the spirit of truth and healing through the establishment of a Truth and Healing Council; and

WHEREAS, the State of California intends that the work of the Truth and Healing Council be done respectfully and in collaboration and consultation with California Native American tribes pursuant to this Executive Order and Executive Order B-10-11.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the Constitution and statutes of the State of California, do hereby issue the following order to become effective immediately.

IT IS HEREBY ORDERED THAT:

1. The State of California hereby:
 - a. recognizes that the State historically sanctioned over a century of depredations and prejudicial policies against California Native Americans;
 - b. commends and honors California Native Americans for persisting, carrying on cultural and linguistic traditions, and stewarding and protecting this land that we now share;
 - c. apologizes on behalf of the citizens of the State of California to all California Native Americans for the many instances of violence, maltreatment and neglect California inflicted on tribes; and

- d. reaffirms and incorporates by reference the principles outlined in [Executive Order B-10-11](#), which requires the Governor's Tribal Advisor and the Administration to engage in government-to-government consultation with California Native American tribes regarding policies that may affect tribal communities.
2. The Governor's Tribal Advisor shall establish the Truth and Healing Council to bear witness to, record, examine existing documentation of, and receive California Native American narratives regarding the historical relationship between the State of California and California Native Americans in order to clarify the historical record of this relationship in the spirit of truth and healing. The Truth and Healing Council shall be led and convened by the Governor's Tribal Advisor and shall include representatives or delegates from California Native American tribes, and may include relevant state and local agencies, as well other relevant non-governmental stakeholders.
3. The Truth and Healing Council shall consult with California Native American tribes to shape the overarching focus and develop the work of the Council and shall endeavor to accurately represent the diversity of experience of California Native Americans within the State of California.
4. The Truth and Healing Council shall: (i) report draft findings to the Governor's Tribal Advisor on an annual basis beginning January 1, 2020 and (ii) produce a final written report of findings regarding the historical relationship between the State of California and California Native Americans on or before January 1, 2025.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order shall be filed with the Office of the Secretary of State and that widespread publicity and notice shall be given to this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 18th day of June 2019.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State