



USET

SOVEREIGNTY PROTECTION FUND

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Shannon Estenox
Assistant Secretary for Fish and Wildlife and Parks
Department of the Interior
1849 C Street NW
Washington, DC 20240

Bryan Newland
Assistant Secretary for Indian Affairs
Department of the Interior
1849 C Street NW
Washington, DC 2024

Dear Assistant Secretary Estenox and Assistant Secretary Newland:

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we submit these comments in support of the Department of the Interior's (DOI) initiative to document first-person survivor narratives of the federal Indian boarding school system. Acknowledging, learning, and then teaching the true history of the United States' relationship with Tribal Nations and Native people is a prerequisite for creating real change. There is power in truth-telling.

USET SPF is a non-profit, inter-tribal organization advocating on behalf of thirty-three (33) federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico.¹ USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations and in assisting its membership in dealing effectively with public policy issues.

Need for Truthful Portrayal and U.S. Ownership of Indian Boarding School Era

The federal government has oscillated in its treatment of Tribal Nations and Native people throughout history. The one constant through the various eras of federal Indian law and policy is that the United States has always failed to live up to its trust and treaty obligations. In its worst moments, such as the assimilation and termination eras, the United States set out to kill our cultures and ways of life and to rid itself of its obligations to us. These failures on the part of the United States have caused tremendous harm to Tribal Nations and Native people that remains evident today in all indicators of social, economic, and public well-being.²

¹ USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Catawba Indian Nation (SC), Cayuga Nation (NY), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe—Eastern Division (VA), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mi'kmaq Nation (ME), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Monacan Indian Nation (VA), Nansemond Indian Nation (VA), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Rappahannock Tribe (VA), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), Upper Mattaponi Indian Tribe (VA), and Wampanoag Tribe of Gay Head (Aquinnah) (MA).

² U.S. COMM'N ON CIV. RIGHTS, BROKEN PROMISES: CONTINUING FEDERAL FUNDING SHORTFALL FOR NATIVE AMERICANS (2018), <https://www.usccr.gov/files/pubs/2018/12-20-Broken-Promises.pdf>; U.S. COMM'N ON CIV. RIGHTS, A QUIET CRISIS: FEDERAL FUNDING AND UNMET NEEDS IN INDIAN COUNTRY (2003), <https://www.usccr.gov/files/pubs/na0703/na0204.pdf>.

Because there is Strength in Unity

During the assimilation era of federal Indian law and policy, the federal government's objective was infamously stated by U.S. General Richard Pratt as, "kill the Indian and save the man." Our children, as young as 3 years old, were forcibly removed from our families, homes, and cultures, and placed into Indian boarding schools. While at these boarding schools, our children were forbidden to speak our language or practice our cultural and religious beliefs, and they were subjected to horrendous abuse and treatment. By 1926, it was estimated that 83 percent of Native children were enrolled in these schools. While the era of Indian boarding schools has ended, the effects remain and persist in our communities, and the survivors who returned home brought with them memories of unspeakable acts and teachings. The historical trauma of these memories is imprinted on our people and passes down through each generation, further exacerbated by the failures of the United States to take full ownership of and accountability for its actions and their subsequent consequences.

Despite this painful history, and the United States' placement atop it, public perception of Tribal Nations and Native people remains biased, inaccurate, and harmful to our progress. To many, we are a relic of the past, a people who can no longer be harmed by demeaning mascots or the display of our Ancestors in a museum. American children do not learn in school about our continued and vibrant existence today. United States' celebrations of its history do not reflect our lived experiences at the hands of the United States. Because of these deeply-held misperceptions, Native experiences and voices are largely invisible or fundamentally misrepresented in public discourse. We are a forgotten people in our homelands. These misconceptions are rooted in a failure of the United States to confront its own shameful history. It is time for this country to learn, acknowledge, and reconcile the complete and truthful story of our relationship.

DOI's attempt at reconciling the harmful effects of the Indian boarding school era is just one step forward in addressing the historic and ongoing traumas these policies have had on our people. At the direction of Secretary Haaland, the Indian boarding school effort is being done in coordination with DOI's National Park Service (NPS) and the National Native American Boarding School Healing Coalition. USET SPF fully supports their efforts to collect narratives to form a permanent oral history collection to ensure first-hand experiences from Indian boarding school survivors can be preserved and heard by current and future generations. USET SPF commends and supports DOI's continued efforts to acknowledge this awful period of history and document the first-hand experiences of survivors of the Indian boarding school system as a means of preserving truth and reconciling the past.

We expect DOI, and the whole of the federal government, to address the findings of the [Volume 1: Federal Indian Boarding School Initiative Investigative Report](#) published in May 2022. As aptly stated by Assistant Secretary – Indian Affairs Newland in an associated Press Release, *"[t]his report presents the opportunity for us to reorient federal policies to support the revitalization of Tribal languages and cultural practices to counteract nearly two centuries of federal policies aimed at their destruction."* Importantly and necessarily, through truth-telling and reconciliation, we can also broaden this focus to all areas to support Tribal sovereignty and delivery on trust and treaty obligations in order to usher in the next era of federal Indian law and policy. Further, it is through these efforts that we can educate federal employees, as well as the public, about the atrocities that occurred within the Indian boarding school system, as well as the overall deplorable federal policies against Native people, and pave a path forward in effectuating positive change in U.S.-Tribal relations.

Return Our Ancestors and Protect our Gravesites

We also call on DOI to mandate a process whereby our children who are buried on the grounds of the former Indian boarding schools can be located, identified, and returned home—when their Tribal Nations feel their relocation is culturally appropriate. The Native American Graves Protection and Repatriation Act

(NAGPRA) and other federal laws and obligations require all federal agencies return our children to us. As recognized in NAGPRA, ownership of human remains and cultural items discovered on or excavated from federal or Tribal lands rests with Tribal Nations, 25 U.S.C. § 3002, and additionally human remains and cultural items in the possession or control of federal agencies or museums must be repatriated to Tribal Nations, 25 U.S.C. § 3005. Any federal agency's argument that a graveyard of Native children present on land the agency controls is not subject to these NAGPRA requirements is morally and legally indefensible. Further, incorrect or incomplete documentation regarding our children's exact burial locations does not absolve the United States of its obligations to return them home, especially when the United States is often responsible for these documentation deficiencies.

In addition, since NPS has stated its intentions to identify Indian boarding school sites within the NPS directory, we strongly urge that consultation be conducted with the appropriate Tribal Nations prior to the development of educational materials or the listing of these sites for the public to see, including online. This is especially important if an Indian boarding school site also contains a cemetery. The Tribal Nations of the children interred at an Indian boarding school site on NPS or other federal lands must have the primary authority over the handling of this information and be able to ensure the information is protected from public dissemination. DOI must also identify legal mechanisms to protect this information and exempt it from Freedom of Information Act (FOIA) disclosure, as well as inform Tribal Nations of those interred at an Indian boarding school site when DOI receives a FOIA request. Indeed, if Tribal Nations are not confident this information will be protected from public dissemination, they will not share it with DOI, and DOI's attempt to create a comprehensive record will be thwarted.

Next Steps for Healing and Reconciliation

There must be closure, atonement, and a formal apology issued by the United States for our children and families that continue to experience intergenerational trauma from Indian boarding school policies. As part of this healing process, and to address the harms endured by our children, a comprehensive record is needed on the deplorable history of Indian boarding schools and how they continue to contribute to intergenerational trauma within our communities.

And it remains important that DOI coordinate with HHS and other federal partners to provide mental and behavioral health assistance and services to Tribal citizens that have been affected by Indian boarding school policies. DOI should also work with Indian Country and its federal partners to advocate for increased funding from Congress for initiatives focused on addressing the intergenerational trauma experienced by Tribal Nations and our citizens. These efforts should occur in consultation with Tribal Nations.

American youth must learn the true history of the United States' relationship with Tribal Nations and Native people—including the Indian boarding school era and all other eras of federal Indian law and policy. They must also learn that we were here first and maintain our cultural lifeways and inherent sovereignty as self-governing nations. It is imperative they understand that we walk among them today, proud and resilient, carrying the stories and memories of the past as we forge forward in rebuilding our Tribal Nations.

Further, DOI has recently announced the next steps for conducting a cost analysis to determine the historical amount actually spent on implementation of the federal Indian boarding school policy. If this amount is accurately calculated, it can shine a light on just how far the federal government was willing to go via financial investment to assimilate Native people through implementing a policy such as the Indian boarding school system. Of course, in addition to determining the actual funding figure that was dedicated to implementing the federal Indian boarding school policy, there is a cost component that is beyond financial calculation in terms of the damage resulting from the Indian boarding school experience.

Understanding how much the federal government was willing to dedicate in funds to implement this harmful federal Indian policy will provide a figure that stands in juxtaposition to the historic and ongoing failure of the federal government to fully fund its trust and treaty obligations. This opening can give DOI the opportunity to quantify the resources and personnel needed to fully address the policy failures of the federal government to uphold its trust and treaty obligations on a broader level. This effort can also serve as a primer in educating youth and the public in a much more comprehensive way on the unique, Nation-to-Nation diplomatic relationship that exists between the United States and Tribal Nations, the troubled history of that relationship, and how we move forward into the next era of federal Indian law and policy.

Conclusion

The time is long overdue for the federal government and the American people to engage in honest truth-telling with the past and acknowledgment of the intergenerational trauma we continue to experience today. Truthful acknowledgement and reconciliation will allow us all to move forward as citizens of a more just and honorable United States. Further, we believe that this initiative and its resulting work should be an impetus for the federal government to reevaluate federal Indian law and policy in its entirety. In reconciling this dark era, we are provided an opportunity to reorient and reshape federal laws and policies in a manner that supports our inherent sovereignty and the fulfillment of trust and treaty obligations. President Biden has already displayed his willingness to reevaluate how the federal government acknowledges and upholds its Nation-to-Nation relationship with Tribal Nations through the issuance of numerous Executive Orders and Presidential Memoranda, especially the recently signed Executive Order 14112 to usher in a new era of Tribal self-determination in federal funding. It is through these efforts that we can move toward a more diplomatic relationship where the United States upholds its trust and treaty obligations and acknowledges our inherent sovereignty as Tribal Nations.

We commend DOI for its truth-telling efforts, and we look forward to our continued work with you to reconcile this horrible past and reshape federal Indian law and policy in a manner that advances Tribal sovereignty and self-determination. Should you have any questions or require further information, please contact Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at lmalerba@usetinc.org, or Katie Klass, USET/USET SPF General Counsel, at kklass@usetinc.com.

Sincerely,



Chief Kirk Francis
President



Kitcki A. Carroll
Executive Director