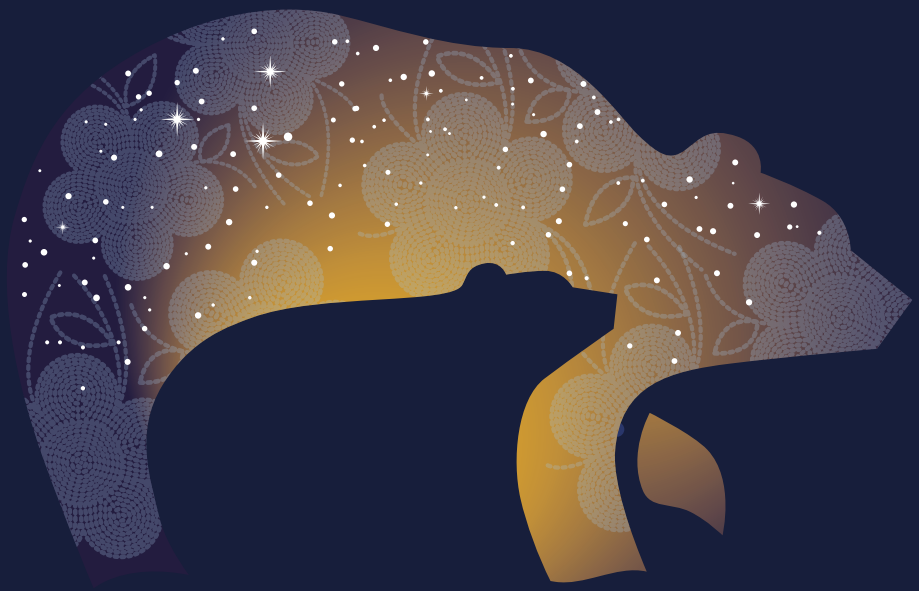

Moving from Our Heads to Our Hearts to Our Hands

Summary Report of the *National Gathering on Unmarked Burials: Supporting the Search and Recovery of Missing Children*

September 12-14, 2022
Treaty 6 Territory
Edmonton, Alberta

Office of the Independent Special Interlocutor
for Missing Children and Unmarked Graves and Burial Sites associated with Indian Residential Schools

Bureau de l'interlocutrice spéciale indépendante
pour les enfants disparus et les tombes et les sépultures anonymes en lien avec les pensionnats indiens

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Message from Kimberly Murray, the Independent Special Interlocutor for Missing Children and Unmarked Graves and Burial Sites Associated with Indian Residential Schools

I want to begin by acknowledging the strength of Indigenous Survivors, families and communities across Turtle Island who are leading the Sacred work of recovering the missing children. I want to especially acknowledge the Survivors, who have shared their truths and testimonies for decades about the unmarked burials of children who died while being forced to attend Indian Residential Schools. Survivors have spoken about the unmarked burials that are associated with every former Indian Residential School, but for far too long their truths have been dismissed or ignored.

Within Indigenous communities, these truths are well-known; they have been shared over the years in whispers and hushes, in tears, and in ceremonies. Survivors, Indigenous families and communities have taken action on these truths and many started searching for the missing children long ago. There have been many confirmations over the years of unmarked burials of children who were never returned home from Indian Residential School dating back as early as the 1970s.

Despite these public confirmations of unmarked burials and the fact that the Truth and Reconciliation Commission of Canada (TRC) published an entire Volume about the Missing Children in 2015, it was not until the confirmation of unmarked burials of children by Tk'emlúps te Secwépemc in May 2021 that the country awakened. This was a turning point in the vital and difficult work of truth-telling and healing for Survivors, families, their communities and the country.

My role as the Independent Special Interlocutor is to work closely and collaboratively with Survivors, Indigenous leaders, communities, families and experts to identify needed measures and recommend a new legal framework to ensure the respectful and culturally appropriate treatment and protection of unmarked graves and burial sites of children who died while in the care of the state and churches at Indian Residential Schools.

A key priority for me is to meet directly with those doing this work - to listen, to learn, and where I can, to remove obstacles placed in their way by colonial systems, structures and laws. The Office of the Independent Special Interlocutor (OSI) also works to break down barriers that Survivors, Indigenous families and communities leading this work may encounter during their searches and investigations. One way of doing this is to create spaces for those doing the work to share and exchange knowledge with one another.

The first National Gathering, held in Treaty 6 Territory and the homelands of the Métis Nation in September 2022, was an important beginning to support knowledge sharing amongst Indigenous communities and organizations leading this recovery work. I am so grateful to all those who were able to attend the inaugural National Gathering on Unmarked Burials in Edmonton. As the work progresses, I will continue to learn from Survivors, Elders, Knowledge Holders, experts and youth who are leading us towards truth and healing. The work we do together is Sacred work, and I am humbled to have been asked to support you along the way.

Northern Cree Drum Group at the Welcome Reception

The children were heard to be saying: 'they are finally hearing us, they are finally seeing us.'

- Dr. Chief Wilton Littlechild, Survivor, Lawyer,
Former Commissioner of the TRC

A. Overview & Purpose of the First National Gathering

From September 12-14, 2022, over 300 people gathered in Treaty 6 Territory in the City of Edmonton for the first National Gathering on Unmarked Burials. In addition, over 120 people joined online to watch the livestream of the Gathering. The Gathering brought together Survivors, Indigenous families, communities, and Leadership from many provinces and territories, including Alberta, Ontario, Manitoba, Saskatchewan, British Columbia, Quebec, Nunavut, Northwest Territories, and Yukon. As well, experts in search technologies, international law, forensic anthropology and archeology provided presentations on key topics relating to the search and recovery of missing children and unmarked burials. Government and church representatives also attended to listen, learn and reflect on the presentations and knowledge shared at the Gathering, and to make commitments about how they will support communities in their efforts to find the missing children and unmarked burials. To see the full Program, visit the OSI website at **www.osi-bis.ca** and click on Past Events.

The purpose of the first National Gathering was to bring people together to support their searches for missing children and unmarked burials. Specifically, the Gathering was aimed at:

- creating a supportive forum of knowledge sharing among Survivors, Indigenous families and communities leading the Sacred work to search for unmarked burials and recover the missing children;
- hearing from experts and technicians as they shared their knowledge and experiences so that Survivors, Indigenous families and communities can learn from others and determine their best way forward; and
- providing a way for the Independent Special Interlocutor to receive input from Survivors, Indigenous families and communities and others to inform recommendations for a new federal legal framework to ensure the respectful and culturally appropriate treatment and protection of unmarked graves and burial sites.

The first National Gathering drew together many who are involved in doing this work, but the voices of Survivors, Indigenous families and communities were prioritized so that others might listen with care, respect and humility and then take action to support all those working to find the missing children.

Honouring the Missing Children

The atmosphere was somber throughout the Gathering, reflecting the heavy weight of responsibility that Survivors, Indigenous families and communities carry in searching for the missing children. This somber feeling was punctuated with healing moments - through ceremonies and medicines, through the humour that presenters and Survivors brought when the discussions were getting almost too heavy to bear, and through cultural sharings by Indigenous drummers, dancers, and singers.

Some participants expressed a feeling of relief; they were relieved that they could come to the Gathering and share their experiences and knowledge in a space where others were committed to the same Sacred work. Others noted that the Gathering created a much-needed space for community-centered reflection and knowledge sharing following the formal Pope's Apology Visit, which had occurred just weeks before in Alberta.

We all know why we are here – for the children – to honour the children who were never returned home from Indian Residential Schools and to recover every single missing child. It has been said that the Spirits of these little ones have woken the Nation. We are gathered here together to honour these children and ensure their bodies and Spirits are provided with the respect, honour, and dignity that they deserve.

Kimberly Murray,
Independent Special Interlocutor,
providing Opening Remarks
at the Gathering

Using our Heads, our Hearts and our Hands

One of the opening Keynote presentations provided a powerful message to participants. Dr. Alika Lafontaine spoke about the importance of moving from our head to our heart, and then from our heart to our hands. Dr. Lafontaine spoke of the need for government, church and health organizations to take action to support Indigenous communities as they address the emotional and psychological work of bearing witness to the trauma and loss caused by the Indian Residential School System, including the search for missing children and unmarked burials.

While participants know that these searches will take years, this first National Gathering provided an important opportunity to gather, to listen to each other, to identify challenges and obstacles in the work that Survivors, Indigenous families and communities are leading and share strategies to support and overcome these challenges together.

Dr. Alika Lafontaine, first Indigenous physician to serve as President of the Canadian Medical Association

Participants at the National Gathering on Unmarked Burials

B. Introduction to the Summary Report

As Survivors, Indigenous families and communities lead the difficult work of searching for the missing children and unmarked burials, it is important to create spaces for knowledge sharing, so that communities just starting their search and recovery work can learn from those who are further along. Coming together also provides an important forum for Survivors, Indigenous families and communities to support each other. The practice of pausing in the work to convene in community and in ceremony, to learn from each other and to share the practical, emotional and technical difficulties that surround this work is consistent with Indigenous ways of being.

The knowledge shared at the Gathering emphasized both the importance and complexity of search and recovery work: ceremonial and healing practices were interwoven with technical learning. This integrated approach and the choice to not privilege one aspect over another is consistent with Indigenous processes and protocols and is necessary to ensure that this work is conducted with balance.

In this same way, this Summary Report attempts to convey the richness of the National Gathering in an integrated and holistic way, recognizing that a Report can only provide a snapshot of the incredible knowledge shared and complexity of this Sacred work of search and recovery.

> *It is disturbing information for sure. It is important to prepare yourself ahead of what you will see and how you will feel. I ask myself 'How could they have done that to little girls? How could they have done that to little boys? He was only 7 years-old.' I had a good cry at our team briefing about what happened to our children, I couldn't believe it.*
>
> *- Charlene Belleau, Survivor of St. Joseph's Mission, Member of Williams Lake First Nation's Investigation Team*

Participants at the National Gathering on Unmarked Burials

Grand Chief George Arcand Jr. providing a Welcome to the Territory

C. Protocols for the National Gathering

The work of the first National Gathering on Unmarked Burials included Indigenous ceremonies and protocols. Permission was first sought to gather in the Territory and Grand Chief George Arcand Jr. opened the Gathering by providing a Welcome to the Territory.

Elder Wilson Bearhead provided guidance before, during and after the Gathering to ensure that local protocols were followed.

Elder Wilson Bearhead, Wabumun Lake First Nation, and Elder Joe Ground, Enoch Cree Nation, setting up the Teepee for the Sunrise and Pipe Ceremonies

In accordance with Elder Bearhead's guidance, the Office of the Independent Special Interlocutor (OSI) ensured that a number of additional ceremonial practices and protocols were included throughout the Gathering as follows:

Sunrise and Pipe Ceremonies: Each morning at the Gathering, Elders led a Sunrise and Pipe Ceremony to acknowledge creation and invite the Spirits to join and guide our conversations before, during and after the National Gathering.

Honouring the Tears: It is important to acknowledge the weight of this work, and the pain of those who carry the burden. Grief and trauma cannot be separated from the Sacred work of searching for and recovering the missing children and unmarked burials. In recognition of the Sacredness of this grief, participants were invited to gather any tissues that their tears were shed on. These tissues were then burned in the Sacred Fire. The tissues represent the prayers of, and for, Indigenous families, communities and the children as we complete this very important work.

The Sacred Fire: On the first morning of the National Gathering, a Sacred Fire was lit and cared for by local Fire Keepers throughout the duration of the Gathering. The Sacred Fire connects us to the Spirit World, and participants were given the opportunity to make offerings for their families, loved ones and the Spirits of the missing children. Ashes from this Sacred Fire in Edmonton were gathered and placed in an urn to be taken and added to the Sacred Fire at the next National Gathering.

Lighting the Qulliq: The Qulliq is the traditional oil lamp used by the people of the Arctic. The Qulliq is made of stone and uses the oil from blubber of seals or whales for fuel. Arctic cotton is used as the wick. It provides light, warmth

Jenna Broomfield lighting the Qulliq

and heat. It gives life. Inuit women carry the responsibility to tend the flame. In Inuit culture, it is a custom to light the Qulliq before ceremonial events.

The Empty Chair: At the Gathering, a ceremony was held to respect and honour the missing children. During this ceremony, a blanket and medicines were placed on an Empty Chair. The Empty Chair was present for the duration of the Gathering to represent the missing children witnessing all that is being done to find them and to help their Spirits journey home.

In his remarks, Dr. Chief Wilton Littlechild spoke about two purposes for calling in the Spirits of the children:

1. To listen to the truths shared about the missing children and unmarked burials; and
2. To give those gathered the strength to do this hard work together.

Sacred Medicines: Throughout the Gathering, speakers and participants had access to the four Sacred Medicines and were able to smudge and rebalance themselves. This was particularly important as Survivors, Indigenous families, communities and Leadership shared the weight of their pain and often stepped back into their own trauma to discuss the recovery of missing children and unmarked burials.

From left to right: Survivors Jacquie Bouvier, Lillian Elias, and Dr. Chief Wilton Littlechild

D. Foundational Questions

Although the search and recovery work at each site requires a unique approach, Survivors, Indigenous families and communities shared why this work is important to them and identified several common barriers and concerns.

> *I know my two baby sisters are buried at the grave site in the Beauval Mission School area, English River, up on a hill. [My mother] took me there and pointed where they were. So I'm going to work hard to go and have closure, at least put up some plaques there for my mum and for all of us.*
>
> *- Jacquie Bouvier, Survivor of Beauval Indian Residential School*

Who is at the center of this work?

> *This is something we have to do for those Survivors and those children to come home. It is time for the country to hear them. We are here for those Survivors and it is time for those children to come home.*
>
> - Darren Montour, Chief of Six Nations Police Service

There are many personal and complex reasons to search for the missing children and unmarked burials. Participants shared that they carry a responsibility to find their missing loved ones who were never returned home from Indian Residential Schools. Some shared that they have been looking for the burials of their loved ones for decades. In some cases, the searches are intergenerational; some were asked by their parents or grandparents to continue searching until their missing loved ones are found.

Importantly, participants also articulated a shared purpose and emphasized the significance of focusing on:

- ***The Children:*** First and foremost, participants spoke of the importance of doing this work for the children - the missing children who were never returned home and who are waiting to be found.
- ***The Survivors:*** Participants made it clear that Survivors must be honoured for sharing the truths about missing children and unmarked burials. Survivors are reliving their own trauma to raise Canada's collective awareness of these atrocities. Many of the Survivors have since gone on to be with the ancestors. We must honour them all.
- ***The Youth:*** Young people want to be part of this work. They are part of this work. When communities and families had their children taken away, generations have been impacted by the trauma. Today's youth must be part of the healing and can carry this Sacred work forward.

The approach taken by Tk'emlúps te Secwépemc is grounded in Secwèpemc language, culture, traditions and protocols. They refer to the missing children as Le Estcwicwéy (the Missing).

The story of the Owl is central to their search and recovery of Le Estcwicwéy. The Owl is the messenger to the community and brings the children home to their families.

Logo for Le Estcwicwéy by Gabe Archie, Canim Lake First Nations, Multimedia Specialist for the Tk'emlúps te Secwèpemc Language and Culture Department

Why do we do this work?

These searches are about finding the truth, finding out what happened, who was responsible, and how we can get justice – if we can get justice. It's about bringing communities together – these schools were divisive and isolating. We need to come together to collaborate to bring these children home. It's about honouring the Survivors and their stories, and honouring the Spirits of those who did not make it home.

Benjamin Kucher, Métis Youth who is supporting Indigenous communities with ground searches

Participants shared many reasons for doing this work. Not every community has the same goals or objectives when they begin to search for the missing children and unmarked burials. Different community or family needs may lead to different processes in the way the searches are implemented. These differences are important to explore, understand and respect.

There were, however, some common themes that emerged throughout the Gathering:

- ***Truth-seeking:*** Survivors have spoken about the children who are buried on or around former Indian Residential School sites. The searches are part of the unfinished truth-seeking of the TRC, and carrying this work forward is an important part of healing.
- ***Advancing Justice & Accountability***: While not every Survivor, family member or community wishes to engage with the criminal justice system, the process of searching for and recovering missing children is, for many, its own form of justice. Regardless of which direction a community or family chooses, this work is essential to creating a pathway for justice and accountability.
- ***Dignity:*** All participants shared an understanding that the search for missing children and unmarked burials is Sacred work. Search plans and processes must ensure the utmost dignity and respect for each and every one of those missing.

Regina Indian Industrial School Cemetery

At the Gathering, Sarah Longman shared the decade long journey of work done to identify the children who were never returned home from the Regina Indian Industrial School. The Industrial School operated from 1891 to 1910 and was run by the Presbyterian Church of Canada. The former site of the Industrial School spans 329 acres in the southwest corner of what is now Regina. At least 39 different Indigenous communities had children taken to the Regina Indian Industrial School.

Sarah Longman, Board Chair of the Regina Indian Industrial School Commemorative Association working to search for and recover unmarked burials and missing children

In 2012, GPR results identified over 32 possible unmarked burials at the site of the school cemetery. A subsequent search identified the unmarked burials of six more children outside the fence line of the cemetery. Provincial heritage designation was sought and granted for the site to protect it from development. In 2019, the land was transferred by the federal government to the Regina Indian Industrial School Commemorative Association. The 38 burials located have been protected and commemorated.

In her presentation, Sarah Longman recognized that each search is necessarily unique. She also recognized the importance and weight of this work:

> *I'm hoping that part of this journey is that we understand that there's no right way, there's no wrong way to do this work. There's no linear way. There's no solid framework. You're going to go in circles. You're going to hit a lot of emotional walls. It's hard work and you're going to feel it. It's going to tug at your heart. You are going to have trouble sleeping. But that means you are doing the right thing.*

The hard work continues as they plan how to expand their search efforts to find more of the missing children.

How must we do this work?

We always remember – the work we do is for the children, past, present and future.

Vicki Manuel, Tk'emlúps te Secwépemc

Arising from the numerous presentations, three themes emerged about how the work must proceed. It must be:

- ***Survivor-Led:*** Survivors have always known the truths about missing children and unmarked burials, and they have lived with the pain of being ignored, silenced and of having their experiences at the Indian Residential Schools dismissed. The way forward must begin with affirming the truths that Survivors have always spoken of. Survivors are the witnesses and are the best source of knowledge. We must hear them, at their pace, and acknowledge the burden they carry in leading this Sacred work.
- ***Trauma-Informed:*** This work is difficult and emotional. The path forward is not an easy one. Searches must proceed with care and attentiveness to the impact of the re-traumatization of Survivors, Indigenous families whose children were never returned home, and those who live with the pain of intergenerational trauma. Sustained and adequately funded wellness supports are required so that appropriate care can be provided by and within communities.
- ***Guided by Indigenous Laws, Cultures and Protocols:*** Participants stressed the importance of ensuring Indigenous laws, cultures, and protocols guide this Sacred work forward.

What are the timelines for doing this work?

Throughout the Gathering Survivors, Indigenous families and communities leading search and recovery efforts across Canada emphasized the tension between the urgency of this work and the length of time that it will take to search every site. As Sarah Longman noted:

> *This work can't happen fast enough and yet we need to take our time. We have community members passing away and they don't yet have the answers. Yet we know it may take generations to do this work.*

We're still in this process of truth-telling... our communities are also still learning that truth, and it's not just Canada having to realize that. This is just one truth of many that will come to light in my lifetime.

Taylor Behn-Tsakoza, Member of Assembly of First Nations Youth Council

Others emphasized the importance of thinking carefully about the implications of decisions made in the context of search and recovery work. As Katherine Nicholls shared:

> *While we have made a lot of progress, there is still a lot of work to do. All of these things take time and it's important to give people the time to be able to sit, think, and contemplate the implications. This is not just a question about how long will this project take, but is there support and funding for this work forever? The work is far from over and we want to acknowledge the children whose graves have not been recovered and whom remain missing.*

Each step in the search and recovery process can take years - from gathering Survivors' truths, obtaining and reviewing many records, gaining access to sites, creating and carrying out robust search plans, to analyzing the results. Participants were clear: they are committed to doing this work until they locate all of the unmarked burials and identify the children.

Martha Malliki, Community Researcher from Igloolik living in Iqaluit, who supports Inuit families locate the burials of their loved ones

George E. Pachano, Survivor of St. Phillip's Indian Residential School in Fort George, Quebec, who is currently leading search and recovery work at two Indian Residential Schools that operated in Chisasibi, Quebec

Jeannette Starlight, T'suut'ina Nation, worked to locate and memorialize children who died while in the care of the Dunbow Industrial School (St. Joseph's), Alberta

E. Challenges and Barriers Identified by Participants

1. Securing Access to Records

> *We shouldn't have to ask the Indian Agent for permission to access our own records.*
>
> - Participant

Although participants identified some successes in creatively, persistently and sometimes collaboratively locating and securing access to records, the issue of access remains a source of frustration and challenge for many.

It is clear that barriers exist for those leading searches in accessing relevant records in federal, provincial, municipal, and church archives. This raises important questions about:

- Where are all the records held?
- How can they be accessed?
- Who should own, control, access and possess the records and information about missing children and unmarked burials?
- Why should the current record holders be the ones to determine which records are relevant and should be disclosed to Indigenous communities leading searches?
- How can barriers be removed so that Indigenous communities can access records about where unmarked burials may be located and that can assist in identifying the missing children?

Several presenters from Indigenous communities leading search and recovery work noted the complexity and importance of accessing records in relation to investigating sites for unmarked burials. Nancy Sandy from Williams Lake First Nation noted three significant barriers in their search and recovery work of St. Joseph's Mission: the school name changed several times over the years; there are multiple properties with multiple buildings that need to be searched; and students were sent to other Institutions from the Mission. Each of these realities leads to different paths for accessing records that may shed light on the location of unmarked burials and the identities of the missing children.

Participants at the National Gathering on Unmarked Burials

Elected Chief Mark Hill, Six Nations of the Grand River

Chief Mark Hill spoke about the length of time it has taken to put agreements in place to access records from various archives and record holders, as well as the complexity of trying to access church records that are held outside Canada:

> *Identified deaths related to the Mohawk Institute have doubled based on research and records we now have. Some of the challenges that we've gone through include putting the agreements and the MOU's in place with the National Centre for Truth and Reconciliation. We are looking at ways we can have more accessibility to the records that we need.*

Chief Hill indicated that the documents are with the federal and provincial governments, the Anglican Church of Canada, and the New England Company, which is located overseas. He identified a need to establish ways to access all of these related documents and records.

Barbara Lavallee from Cowessess First Nation noted that "you never know which document may be helpful." When Cowessess was able to secure access to the church records from St. Boniface, they found certain documents very helpful, including the nominal rolls, church bulletins, and building and surrounding property blueprints. She indicated that the blueprints led to a further search area because they learned that one of the barns used to have a dirt floor before concrete was poured over it. As a result of this new information, they included a search of that area in their future planning.

> *Always take all documents!*
> *Even those you don't think are important.*
> *You never know.*
>
> *We had to go back because we didn't take everything.*
>
> *- Barbara Lavallee*

Barbara Lavallee, Cowessess First Nation, Survivor and Lead Researcher for unmarked burials and missing children who were never returned home from Marieval Indian Residential School

Participants at the National Gathering on Unmarked Burials

Charlene Belleau, Survivor and member of the Esk'etemc First Nation, working with Williams Lake First Nation on the search and recovery of children who were never returned home from St. Joseph's Mission Indian Residential School

Charlene Belleau emphasized the importance of having full access to records. She indicated that the Williams Lake Investigation Team, who are leading the recovery of missing children and unmarked burials in relation to the St. Joseph Mission, has been able to build on the truths and testimonies shared by Survivors. Charlene Belleau stated:

> *We were able to find blueprints which we were then able to match with the stories shared by Survivors and former students. For example, the Survivors told us: 'They did this at the lake, there may be children there.' Then we go to the archives and it's all there, in black and white, examples of a cabin or barn at that lake.*

Several participants noted that many records and documents have been destroyed.

What has become clear, is that the processes for accessing records about Indigenous people and communities are not within the control of Indigenous people. As a result, the Independent Special Interlocutor has identified Indigenous data sovereignty and community control over knowledge and information as an area for future in-depth community discussion and a possible area in need of legislative or policy reform. The January 16-18, 2023 National Gathering in Vancouver, BC will explore the issue of Indigenous data sovereignty and the five questions noted above, in greater depth.

Collaborative Approaches to Accessing Records

Acimowin Opaspiw Society's Reconciliation Partnership with the Diocese

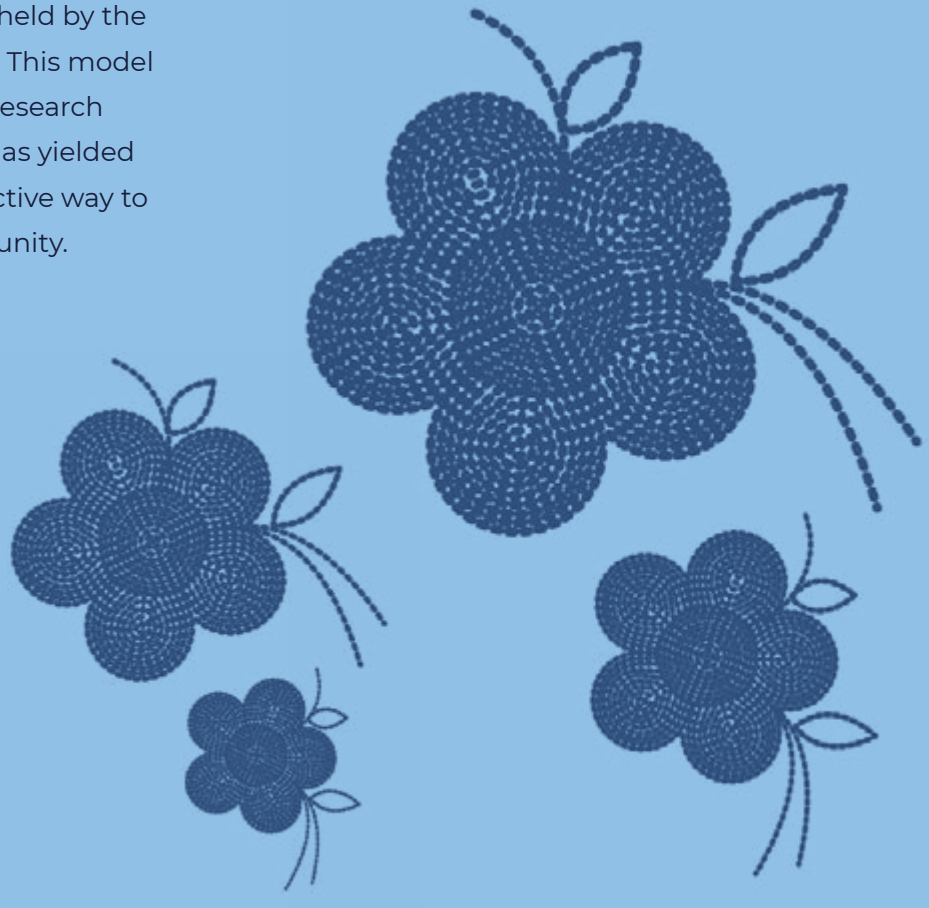
Leah Redcrow described the careful work that was done in her community to create a formal Reconciliation Partnership between the Diocese of St. Paul and the Acimowin Opaspiw Society. This Reconciliation Partnership is an agreement between legal entities to share responsibility for achieving the common goal of searching for missing children and unmarked burials based on a foundation of friendship and the overarching intent to restore harmony between them.

The Reconciliation Partnership addresses both the relational and technical research needs for the community to gain access to the records. It required emotional investment, trust and healing, as well as an agreed upon process to ensure that the records that were held by the Diocese could be properly shared. This model required a high level of technical, research and emotional "investment", but has yielded very good results, and was an effective way to advance the search for this community.

Williams Lake First Nation's Agreements to Access Records

The Williams Lake First Nation has established a Memorandum of Understanding (MOU) with the RCMP to access records. Although Charlene Belleau noted that it was difficult to put the MOU in place, it was important so that all the records can be brought straight to the Williams Lake First Nations Investigation Team.

Williams Lake First Nation also has agreements in place that provide unfettered access to records and documents at both the National Centre for Truth and Reconciliation and the Royal BC Museum. Through this access, the Investigation Team has been able to find documents which have helped them understand the testimonial accounts shared by Survivors.



2. Protecting and Accessing the Sites

There are significant legal gaps to protecting sites where unmarked burials are believed to be until searches and investigations can be completed. Legal barriers also exist once unmarked burials are located depending on the ownership of those lands; for example, where unmarked burials have been identified on privately or corporately owned lands, Indigenous Peoples may be blocked from accessing those sites to do further work or erect fences to protect the sites. In some cases, available legal tools need to be utilized and in others, new laws need to be put in place to provide appropriate legal protection for the sites.

> *There is an urgent need to center Indigenous protocols and laws to protect and care for these lands.*
> - Participant

Legal Gaps in Canadian Law

Katherine Nicholls talked about the serious gaps that have left unmarked burials on former Indian Residential School sites unprotected and prevent proper and respectful burials and ceremonies. She indicated that in Manitoba there is outdated legislation that fails to protect cemeteries and unmarked burials and fails to provide access so that communities can search sites that are now privately owned.

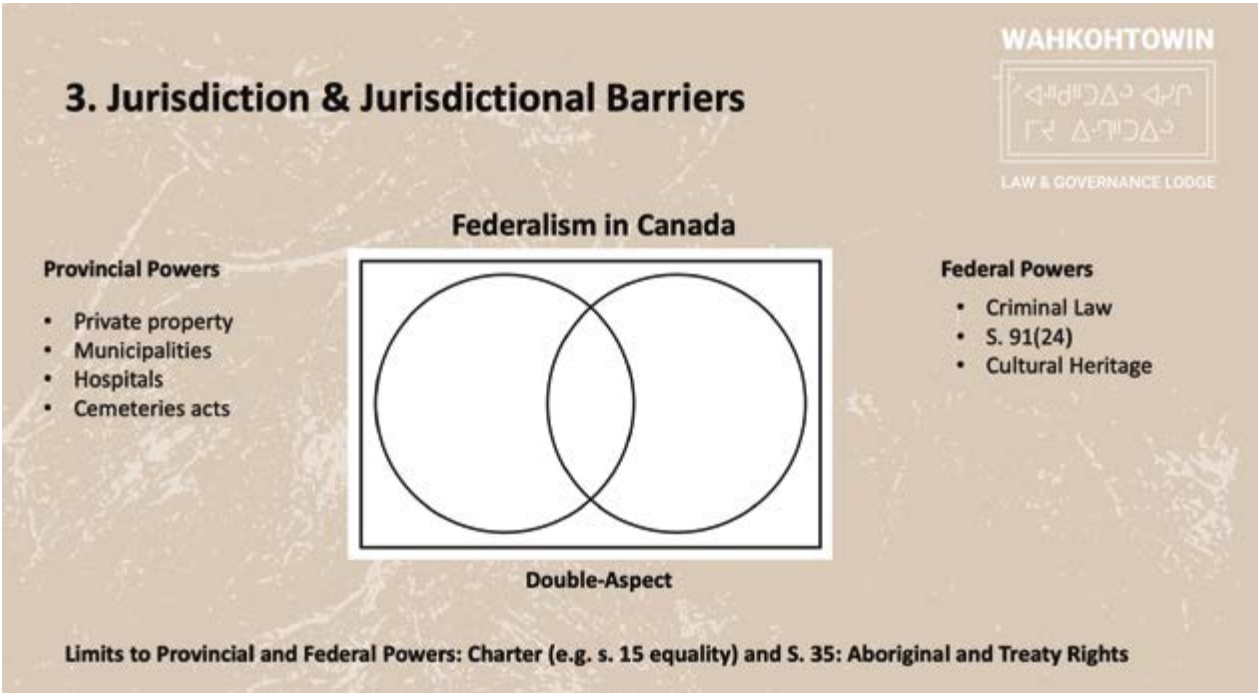
Katherine Nicholls, working with Sioux Valley Dakota Nation on search and recovery work relating to children who were never returned home from the Brandon Indian Residential School

Participants at the National Gathering on Unmarked Burials

Dr. Hadley Friedland, Academic Director and Co-Founder of the Wahkohtowin Indigenous Law and Governance Lodge at the University of Alberta, Faculty of Law, provided a helpful overview of the jurisdictional barriers that exist for protecting and accessing sites. She identified the complexity of the legal landscape and how the laws that apply depend on the location of the lands. Sites may be subject to different types of ownership and federal, provincial, and/or municipal laws may apply. There are also overlapping areas of jurisdiction where both provincial and federal laws apply and where the Charter and section 35 of the Constitution Act, 1982 may limit those laws.

The impact of this is what the National Inquiry into Missing and Murdered Indigenous Women and Girls called "interjurisdictional neglect", where fighting between provincial and federal governments creates legal vacuums for Indigenous Peoples, with resulting gaps in legal protections. Further, Dr. Friedland indicated that none of the existing legal frameworks appropriately take account of Indigenous jurisdiction and laws. She noted that caring for those who have died is central to all societies and is part of Indigenous inherent jurisdiction. She advocated for an approach based on:

1. Recentering the exercise of inherent Indigenous jurisdiction, laws and protocols;
2. Enacting federal legislation recognizing and affirming Indigenous jurisdiction as a section 35 right, in keeping with the UN Declaration on the Rights of Indigenous Peoples;
3. Negotiating Indigenous, Provincial and Federal Coordination Agreements that defer to Indigenous laws and jurisdiction to facilitate the search and recovery and protection of sites;
4. Providing sufficient and sustained resources for the long-term to support this work; and
5. Creating accountability and justice mechanisms that are Indigenous-led, as well as accountability mechanisms for federal and provincial governments (she referred to this as "triple aspect").



Slide illustrating jurisdictional barriers from Dr. Hadley Friedland's presentation

Legal Gaps in United States Law

Representative Tamara St. John, Tribal Cultural Preservation Office with the Sisseton Wahpeton Oyate and Representative in the South Dakota State Legislature, shared knowledge about the legal barriers that exist in her community's work to repatriate a number of children who died while in the care of the Carlisle Pennsylvania Industrial School for Indians. She shared how they worked to have 9 children repatriated home and reburied. She also spoke about her frustration in trying to have two other Sisseton Wahpeton Dakota children, Amos LaFromboise and Edward Upright, returned home. She reflected: "these were the next generation of leaders. We lost this generation of leaders, their parents had invested so much in them. I have read descriptions about them – these were the best and brightest, they were amazing young men."

Representative Tamara St. John, Tribal Cultural Presentation Officer, Sisseton Wahpeton Oyate, Member of the South Dakota House of Representatives

The two boys are buried in a military cemetery. Representative St. John talked about the barriers that exist relating to the military's narrow interpretation of the *Native American Graves Protection and Repatriation Act*. The military has characterized the boys as "service men" and are enforcing military policy on those cemeteries. She indicated that this characterization is linked to funding requirements for the military to repatriate the two boys back home.

As she continues this search and recovery process, Representative St. John shared that she has spent the last six years holding the Spirits of the missing children close to her:

> *I have a chair for Amos that sits by me – it sits in my office. It has been there for six years now. There have been times I have said to him 'you are not alone, you are my boy now.'*

Representative St. John also discussed the lack of cooperation by the catholic church in relation to unmarked burials at the orphanage and boarding school within Sisseton Wahpeton Territory. She shared: "we have relatives that talk about the burials that were there... burials are often outside the church fence line, and that presents a problem when we don't have access to that land. The need to find cooperation of private landowners in that instance is really very important."

> *Sometimes we feel like we are going through these things alone but as I listened here, I realized we are all going through this together.*
>
> - Representative Tamara St. John

Collaborative work to map Indian Residential School sites

The federal government representatives from Indigenous Services Canada (ISC) and Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) indicated that they are working in partnership with the National Centre for Truth and Reconciliation (NCTR) to gather information relating to current ownership, jurisdiction and condition of former Indian Residential School sites and buildings. This collaborative work includes an environmental scan of 174 locations of 140 former Indian Residential Schools. The federal government made a commitment that the results of this work will be open and publicly accessible when completed.

3. Understanding the Impact of Trauma

Leah Redcrow, Executive Director of the Acimowin Opaspiw Society and member of the Saddle Lake Cree Nation, who is supporting Survivors of Blue Quills in the search and recovery work at three former Blue Quills Indian Residential School sites

> *You have to be ready for what you might find – it is difficult to uncover...difficult to hear. You really have to prepare yourself as a lead investigator as you might find information about family members – things you may have not known. Take care of yourself. The information you will find is distressing.*
>
> - Leah Redcrow

The Survivors, families and community members who have knowledge about the unmarked burials of missing children have been carrying enormous pain for a long time. Recalling and sharing this information is incredibly difficult and can be deeply re-traumatizing. Where Survivors are willing to provide further testimony to assist in the search for missing children and unmarked burials, proper supports and statement gathering protocols must be implemented. During the TRC hearing process tools were developed which should be shared and understood to minimize any further harm.

The trauma can lead to an understandable reluctance to actively engage in search and recovery work. George E. Pachano shared his struggle to overcome resistance within his community as the Residential School Response Coordinator in Chisasibi (Quebec), where he coordinates the search for missing children who attended two Indian Residential Schools that operated in Fort George. George shared that the work is in the very early stages and highlighted the importance of pre-work to address any resistance that may prevent people from speaking about what they know.

Survivor Lillian Elias shared her own deeply personal account of her husband, and the pain of the "black tunnel" that he would enter when he was confronted with his own memories of Indian Residential School. Lillian gave voice to the common experience that many who hold answers about what happened at Indian Residential Schools are still hesitant or unable to safely share what they know.

The Moderator of the United Church of Canada, Rt. Rev. Dr. Carmen Lansdowne, Kwisa'lakw, member of the Heiltsuk First Nation, shared the story of her grandfather, who attended St. Michael's Indian Residential School in Alert Bay, BC, from age 5-17, without ever going home. Rt. Rev. Dr. Lansdowne said that after her grandfather testified at the TRC about his experiences at St. Michael's, he then went into a coma for 3 months from re-living the trauma.

Participants recognized the heavy toll that trauma has for community members who are part of the search and investigation teams. Nancy Sandy shared that all members of the Williams Lake First Nations Investigation Team engage in ceremony for their own safety and well-being, and to repair, where possible, the harm that arises in re-living the trauma of their experiences. Many participants and presenters recognized that this is an area where more tools and resources are needed.

Participants consistently identified the need for proper health and wellness supports. It was further noted by participants that health and wellness providers outside Indigenous communities must also work to implement a trauma informed approach to ensure that their participation (even when it is well-intentioned) does not cause further harm.

Williams Lake First Nation's Approach to Gathering Survivors' Truths and Testimonies

Williams Lake First Nation (WLFN) has developed a trauma-informed process governed by Secwépemc sovereignty and legal principles to gather Survivors' truths and testimonies to support search and recovery work at the St. Joseph's Mission Indian Residential School. The St. Joseph's Mission was operated by the Catholic Oblates as an Indian Residential School between 1886 and 1981 and was funded by the federal government.

The Williams Lake First Nation's Interview Process provides an opportunity for Survivors to share their truths and testimonies and also has processes for non-Indigenous people, such as former staff of the school or ranch workers to participate in an interview process. The Williams Lake First Nation prioritizes Interviewees whose age is more advanced or with deteriorating health, arranges Indigenous language translation as needed, and ensures health supports are available to interviewees before, during and after the interview takes place.

Importantly, the search and recovery process is based on Williams Lake First Nations inherent jurisdiction. The following eight Secwépemc Legal Principles guide the Interview Process and acknowledge the interviewees' truths:

1. The way things are or were in your memory (Tsílem).
2. Remembering the actions around you (Cwecwelpúsem).
3. Understanding that there were places you could not go to or boundaries you could not cross (Lleḏméntes ell ta7ulécw).
4. Telling your story as you remember it (Lexeyém).
5. Recognizing that you listened to what occurred, and you are acting upon what you have seen and heard (Ḱelélnem).
6. Recognizing the respect one must hold for one another (Xyemstwecw).
7. Recognizing that sharing is to be kind-hearted and generous (Xqwenqwnélltse).
8. Recognizing the medicine used in telling your story is powerful (Q̓ix te Melámen).

Nancy Sandy, Williams Lake First Nation, working on search and recovery efforts in relation to St. Joseph's Mission

4. The Need for Sufficient, Long-Term Funding

It shouldn't cost anything for a family to grieve.

Joanasie Akumalik, Project Manager of the Nanilavut Initiative, Nunavut Tungavik Incorporated

The process of searching for and recovering unmarked burials and missing children requires sufficient long-term funding. It requires dedicated staff in many areas, including to:

- Gather Survivor truths and testimonies;
- Gather information and liaise with affected families;
- Create and implement engagement plans within the lead community and with other affected communities;
- Access records;
- Conduct research in archival records;
- Create a community database for information gathered;
- Hire technical teams and work to map sites and create a search plan;
- Organize commemorative and memorialization events; and
- Manage and respond to media inquiries.

Vicki Manuel from Tk'emlúps te Secwẻpemc noted that community members cannot be doing search and recovery work off the corner of their desks. Instead, they need sufficient funding for staff positions to carry out this responsibility and to implement the strategies, frameworks and processes to move it forward over the longer-term.

Participants also noted the need for dedicated, long-term funding to pay for the many costs associated with search and recovery efforts, including to pay for health supports, researchers, databases, search technicians, lawyers, forensic specialists, testing, costs associated with exhumation and repatriation, where desired, commemoration and any other necessary costs that may arise.

Similarly, Chief Mark Hill identified the need for sufficient, long-term funding to support search and recovery work:

> *We're searching through waters, we're searching through concrete. We're searching through buildings. The list goes on. So we're going to need the expertise and the dollars in order to do this properly.*

Several participants expressed concerns about the restrictions on federal government funding, including restrictions on using it for DNA testing to identify the missing children. They also noted that annual funding is too constrained; rather what is needed is long-term, sustainable funding in recognition that this work is likely to span decades.

F. Current Insights and Approaches: What We Know So Far

Elder Howard Mustus, Alexis Nakota Sioux Nation

1. Ceremony is Essential

As Natan Obed, President of the Inuit Tapiriit Kanatami, shared in his remarks, colonial society can be dehumanizing. Dealing with the atrocities that Indigenous people faced (and are still facing) can strip away humanity if people do not remain grounded in culture, in traditions and in medicine.

Many participants and presenters reflected on the fact that this is Sacred work, and the medicines and ceremony are needed to connect Indigenous people to the work and to safeguard mental health and wellness in communities.

Jeannette Starlight shared the experience of when a man found remains of children on the banks of the river near the Dunbow Industrial School. Indigenous protocols were followed. Using what they could, they made an offering of tea, sandwiches and tobacco to recognize the importance of this discovery and to surround the site with the dignity of ceremony. Jeannette highlighted the importance of ceremony, medicines and protocol. Even without a plan in place, those who were there knew what to do. They had the teachings. The experience of finding this unmarked burial site led the community to develop a written protocol for human remains based in tradition and ceremonies.

Nancy Sandy shared that, in August 2021, the Williams Lake First Nation Investigation Team invited all Indigenous Nations who may have had their children taken to the St. Joseph's Mission to perform their ceremonies alongside the Williams Lake First Nation. Several communities attended: some brought empty baby baskets to bring the Spirits of the babies home; and others attended and did ceremonies on the grounds to call the Spirits of the people back to their homelands with them.

> *I want to know, did anyone pray for these children when they were buried?*
> - Participant

2. We Must Value and Uphold Indigenous Ways of Knowing

Kanai Elder Wilton Goodstriker

Indigenous ways of knowing must be upheld and form the basis of search, investigation and recovery processes. The approach developed by Tk'emlúps te Secwépemc begins with gathering Oral Tellings – traditional ways of teaching and learning. This approach carries the truths of the missing ones through history to the present moment.

Dr. Alika LaFontaine, an experienced Indigenous physician and health care leader, spoke of the importance of Etuaptmumk - Two-Eyed Seeing. Dr. LaFontaine drew on the teachings of Mi'kmaw Elder Albert Marshall to describe the practice of learning to see from one eye with the strengths of Indigenous teachings and ways of knowing, and from the other eye, with the strengths of Western knowledge and approaches. By learning to see with both eyes, all benefit.

Building on this approach of bringing together colonial and Indigenous ways of knowing, Donald Worme challenged participants to re-imagine what investigations could be in this context: to decolonize this work, and consider non-Eurocentric ways of investigating and pursuing justice and accountability. Communities can find ways to build a process to obtain justice outside existing paradigms.

Barbara Lavallee, from Cowessess First Nation, shared that when they were told science could not take them any further, they turned to ceremonies to find a path forward. She recounted:

> *We were told: 'science has its limitations and that this is as far as we go.' I did not accept that as an answer and we carried on. So my husband and I went to a Sun Dance and really prayed that the help we needed was on the way. When we left, I fell asleep and the answers came. When I woke up, I told my husband: 'we needed to use dogs, they will help us.' So, that is what the Cowessess team did.*

In her closing remarks, the Independent Special Interlocutor asked:

> *Why can't we have an Indigenous-led investigation process here...something more holistic, something that includes Indigenous protocols and laws and follows the necessary forensic investigative techniques required by any court system?*

She pointed to Fredy Peccerelli's presentation as an example and questioned whether this could be a model that Indigenous people build here in Canada.

Fredy Peccerelli, Executive Director,
Forensic Anthropology Foundation of Guatemala

How Forensic Investigations Can Respectfully Incorporate Indigenous Families, Communities, Laws, Ceremonies and Protocols

The Gathering had the benefit of a Keynote Presentation by Fredy Peccerelli from the Forensic Anthropology Foundation of Guatemala (FAFG) about work in Guatemala to find loved ones who were disappeared during an armed conflict that spanned more than three decades (1960-1996). Guatemala's population is approximately 50% Mayan, and is blessed with very rich Indigenous traditions and culture, which are very much alive today.

Fredy Peccerelli described how FAFG has developed a multi-disciplinary approach to conduct forensic analyses of unidentified persons recovered in mass, unmarked graves that is respectful of and incorporates Mayan laws, protocols, families and communities.

Importantly, he noted that FAFG is an organization that is completely independent of government.

Fredy Peccerelli highlighted that the community is deeply and directly involved in every aspect of the search for the disappeared. He emphasized that the searches for the disappeared begin and end with community engagement, traditional protocols and ceremony. Children are around and involved in the work of searching and retrieving the disappeared because it is their history as well. They have grown up with the legacy of these losses, and it is seen as very important that they also be part of the searches. Children are at the heart of what they do.

He emphasized that the integrity of the search and forensic investigations process is always maintained. FAFG's forensic work has been recognized around the world and there have been criminal prosecutions in both state and international courts arising from FAFG's work.

FAFG's approach demonstrates that cultural and forensic integrity are compatible:

> *When you think of a crime scene usually you think of a 'do not cross' tape. But here, families first need to perform a ceremony; they need to act with a lot of ceremony and reverence when we are disturbing Mother Earth.*
>
> *The ceremonies are a permanent part of everything we do. Normally, as a scientist and archaeologist, you look where you have evidence - satellite images or soil removed.... But sometimes a loved one will come to a family in a dream and the family will say 'they told me they are buried over there by this tree.' So it's important for the family to know that we work for them – so we will look by the tree, we look there. We will look everywhere. So they know that we are not going to leave anyone behind.*

Throughout his presentation, Fredy Peccerelli emphasized the importance of creating a dignifying process for the families of those who have been disappeared:

> *In the search, one of the biggest things we find is the truth. And that's what we mean when we say the search is dignifying. We uncover the truth of the trauma: we can see how people died by their skeletons; we can see if they were with anyone else; we can see where and how they were buried.*

FAFG keeps families up to date and reports back to them in a way that is respectful:

> *We notify families directly - we don't do it with any intermediaries. The same way they trusted us, we trust them and give them the information back right away.*
>
> *We will accompany them in the process [of reburial of their loved one] if they ask us to. And they have pretty much asked us in every single case. You can see what this means to the families.*

FAFG has been asked to support forensic investigation work in many other countries, including Sri Lanka, Mexico and Colombia. FAFG also runs 'forensic academies" where they train people, including family members, to provide them with enough information to begin a search for their loved ones. Fredy kindly offered to share FAFG's knowledge to support Survivors, Indigenous families and communities in their search and recovery work:

> *We do workshops with family members all the time. I can include Canada. I was in Kamloops. I was at the site of the 215 children and I am here to tell you that if there is anything we can do to support in any way, in whatever decisions have to be made... if we can support your efforts in any way, I told the Special Interlocutor, count us in, and count the families in.*

3. Searching Each Site is Unique and Requires a Tailored Search Plan and Process

Dr. Sarah Beaulieu, GPR Specialist and Assistant Professor at University of the Fraser Valley, who works with several Indigenous communities in their search for unmarked burials associated with former Indian Residential Schools

There was a lot of information shared with participants about tools and resources available to support searches. Much of this information was highly technical, and it is important for those leading searches and investigations to learn about these approaches, and to obtain the technical assistance they need to support their work.

Experts in search technologies, Dr. Kisha Supernant, Dr. Sarah Beaulieu and Paul Bauman provided presentations on the uses and limitations of various search technologies. They emphasized the need for a tailored search plan that is specific to each site being searched. Many variables affect the use and effectiveness of the search technologies as set out below.

Participants were encouraged to consider how communities might layer the use of the many tools and search techniques available to narrow down the areas to be searched and to ensure the most effective process. The expert presenters on search technologies indicated that first person truths and testimonies about the sites and location of potential burials are critically important to creating an effective search plan. Of all the technologies set out below it is recommended that multiple sources be used to ensure the accuracy of results and increased confidence in burial identification.

Mapping the Sites

Paul Bauman, Geophysicist who has worked with several First Nations and Métis communities to map burials

Many participants spoke about the need to create reliable maps of former Indian Residential School sites and possible burial grounds, building on the wisdom of Survivors and community knowledge. This work can be challenging due to the geography and changing land use over time, especially where the Indian Residential School buildings were moved to multiple locations.

Several participants noted the valuable work of the Working Group on Unmarked Graves of the Canadian Archaeological Association. This Working Group created a guideline document called **Recommended Pathway for Locating Unmarked Graves Around Residential Schools** ("Pathways Framework"), which highlights that the investigations of lands where missing children might be buried is complicated by physical and social geography and by shifting land use. Many areas have changed over time, so information about the history of land use, geology, and development is needed. The Pathways Framework notes the following important considerations for those leading or supporting Indigenous communities in conducting searches:

- Identify geological conditions that influence the location of missing children and can impact remote sensing methods. Some remote sensing technology works best for some environments while others do not.
- Note impacts such as construction, prior archaeological work, and other landscape modifications.
- Create a detailed surface topographic base map of the landscape, using UAV (drone) LiDAR as a valuable method to create a digital elevation model (DEM) of the current landscape. Burial locations can include surface contour patterns that are visible in high resolution DEMs.
- Conduct a walkover survey with the entire search team, including Survivors if they are able, to approach the land in a culturally respectful manner, gain familiarity with the physical landscape and the former layout of buildings and other features, and work with communities to select priority locations for remote sensing.
- Prepare the area by removing obstacles and clearing vegetation in areas identified for remote sensing investigation, being careful to not remove evidence of old grave markers that might remain hidden.

This Pathways Framework also provides important guidance on respecting Indigenous protocols and ceremonies, seeking appropriate permissions, working respectfully with Indigenous communities and Survivors, as well as emphasizing the need for health and wellness supports for Survivors and community members.

Dr. Kisha Supernant, Director of Institute of Prairie and Indigenous Archaeology, University of Alberta

In her closing remarks, Dr. Kisha Supernant made several recommendations to support search and recovery work:

- Coordination is needed between the federal government, provincial/territorial governments and Indigenous Nations;
- Communities need a single-entry point to begin search and recovery work;
- Ground searching is not the first step in finding the missing children, nor the last;
- Any geophysical work, including GPR, should be done following best practices;
- All data collected must belong to the community;
- Training of Indigenous community members should be considered at every step, wherever possible;
- Search and recovery work must be Indigenous-led;
- Every site is unique and needs a tailored approach to searching;
- Ceremony before, during and after searching is important; and
- Subject matter experts need to be available to provide guidance when requested.

Search Technologies

The Gathering heard from many speakers about different technology that can be used in the search for the missing children and unmarked burials. Some of the search technologies that were discussed include the following:

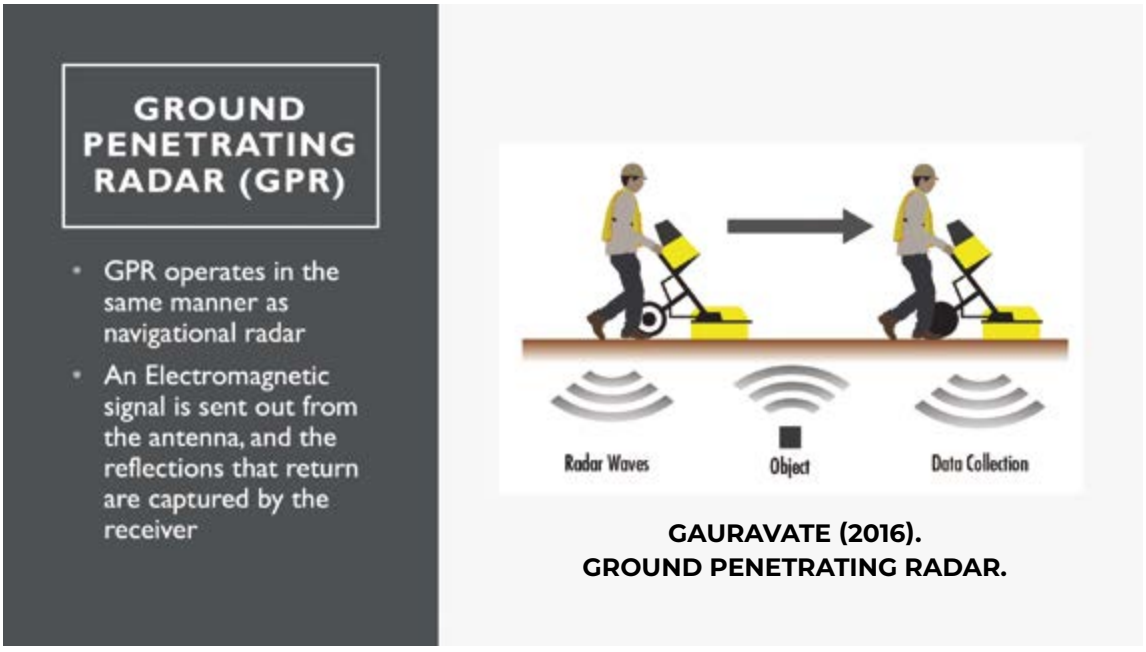
Aerial Based Remote Sensing involves satellite imagery, and can be useful for looking at patterns by mounting cameras and sensors on drones or planes that can include Lidar (described below) and multi-spectral imagery which shows vegetation patterns. Plants grow differently based on the composition of the soil and may help indicate the location of graves.

Lidar is utilized by mounting a sensor onto a drone or plane and sending a laser beam down to the ground. This process excludes vegetation such as forests or bush areas and allows the searcher to map the ground. Lidar does not search below the ground surface. Aerial methods are often quicker and generate large amounts of data that must then be processed and interpreted by experienced individuals.

Ground-based Geophysics looks for physical differences on or below the ground surface by using technology along the ground surface such as Ground Penetrating Radar. Electrical currents can be used to find things beneath the ground.

Ground Penetrating Radar (GPR) works well when there are organized burial grounds such as existing cemeteries. It is used in situations where Survivor testimonies have identified areas where possible unmarked burials may exist. Radio waves are sent from the GPR, which bounce back when they encounter any different type of material within the ground. The data shows patterns to help provide confidence in finding a grave. It can be a very slow process, with one quarter acre being covered each day. GPR only detects reflections or anomalies in the ground and requires expertise in data interpretation. This method is not useful:

- in areas where soil holds moisture such as clay rich soils or areas with a high-water table;
- in areas where soil has high salinity (high salt content);



GAURAVATE (2016).
GROUND PENETRATING RADAR.

Slide from Dr. Sarah Beaulieu's presentation

- during rain or deep snow;
- in areas where there are structures or obstacles on the surface; or
- in rough terrain, such as trees, brush, large stones / boulders, and in areas of animal tunneling.

Dr. Sarah Beaulieu emphasized that burials outside a formal cemetery are more complex to find using GPR for several reasons:

- Non-burial features can hold similar characteristics to unmarked burials;
- Background geology can be more varied; and
- Grave shafts are less structured in terms of size, shape, regularity, pattern and quality.

When GPR is not a useful method to use, other non-invasive methods are available.

Electrical Resistivity/Conductivity is a very slow process. This is done by using a large battery and electrical probes, which are inserted into the ground. A current is then run between the two electrodes and the resistivity is measured to determine what objects/features may be below the surface. This approach maps known graves and can supplement and explore areas where GPR is difficult to use, such as clay rich areas or those with a high-water table.

Magnetometry is used to measure differences between the magnetic fields of the earth and those below the ground. Magnetometry can be used where there is a grave with metal in it or a building foundation. It will be able to detect magnetic field variations; this can be seen when there is a hole, such as a grave shaft, which has been filled with soil. Magnetometry can detect the magnetic field differences from soil that was used to fill a space versus existing soil. This can be used where a GPR is not feasible. The speed with which it collects data is much quicker than the other methods. This technology does not work well in areas that are developed or have been disturbed.

Historic Human Remains Detection Dogs (HHRDD) can be used to aid searches. These service dogs are trained to detect the smell of human decomposition in older remains. Some HHRDD can also be trained to detect cremains, or cremated remains, which is helpful in situations where a physical body may not be present. These search dogs can locate burial areas but not individual graves, so they are utilized to help confirm GPR findings or narrow down areas for GPR work to continue.

eDNA is used to test the soil for human DNA which may indicate that a burial is present in the area. eDNA is the presence of environmental DNA. Tests can determine the species of DNA but not individual genetic profile. This means that human DNA can be detected but a single individual cannot. This tool is expensive and resources to support this use of DNA searches have not been readily available in many communities.

4. Existing Legislative and Legal Tools May be Useful

Although there is not a complete legal framework to support search and recovery work currently in place, there are some existing legal mechanisms that may be useful for Survivors, Indigenous families and communities leading searches and investigations.

First Nations Police Investigations

Some First Nations are policed by their own police services which are governed by their Nations. Chief Mark Hill of Six Nations of the Grand River encouraged participants to consider the possibility of drawing on the skills of these investigators in order to pursue death investigations, where appropriate.

Six Nations Chief of Police, Darren Montour, described the Six Nations Police investigation into deaths at the Mohawk Institute. He recounted:

> *This police investigation really started on July 1, 2021 at the Mohawk Institute, at the front steps where all the little shoes were placed.*

The investigation was initiated with a complaint letter signed by seven Survivors, who called on the Six Nations Police to investigate the death of the children and provided information about where the children were buried.

A Multijurisdictional Police Task Force was created that includes the Six Nations Police, the Ontario Provincial Police and the City of Brantford Police. Task Force members were required to undergo rigorous cultural competency and trauma training. He shared:

> *We started out with training for all the investigation team members - cultural training, trauma-informed training about how to gather information from all those Survivors... it's not about going in and asking what happened. We emphasized the need to develop rapport with the Survivors.*

This Multijurisdictional Police Task Force approach is not without its challenges: there is the need for the police to build and maintain trust with Six Nations community members and there are constraints because the Task Force's approach is firmly located within Canadian law. As Chief of Police Darren Montour noted:

> *The justice system I deal with is a colonial system. It's all we have right now – for right now – this criminal investigation that we're undertaking, we have to use the systems that are in place in this country. With that, there are rules that we have to abide by.*

Working with police may lead to formal criminal justice proceedings, but it also may impact the ability of Indigenous communities to affect decision-making in the context of the investigations. Both the opportunities and constraints should be understood and considered by Indigenous communities when evaluating this option.

Coroners Investigations

In Canada, death investigations generally fall within provincial or territorial responsibility. While the laws vary somewhat across the country, the general scope and mandate of those who do this work (i.e. coroners or medical examiners) is similar.

Legislation defines the work of coroners and medical examiners and provides them with powerful legal tools. Their authority can be a valuable asset for the recovery work when and if communities request their assistance. For example, the *Coroners Act* in Ontario gives authority to seize items, records, and other materials to help illuminate the circumstances of a death.

Coroners and medical examiners are mandated to determine the circumstances of a death, in various situations. Although it is not their role to assign fault, the findings from a coroner's investigation could be brought forward in a criminal investigation. These death investigations adopt the formal forensic protocols which meet the standards required in Canadian criminal investigations. If appropriate, the coroner will hand a case over to the criminal justice system.

Dr. Dirk Huyer, Chief Coroner for Ontario, shared that his office is very aware that although they are independent from government, they are seen by many in the community as being a colonial institution. In fact, historically (and sometimes to this day) that perception has been the reality. Despite this, Dr. Huyer offered participants his commitment that his office would support the work of searching for missing children and unmarked burials in a way that acknowledges and supports community leadership.

> *We can bring that forward to a co-developed process. We know we are a government organization and that we need to earn trust. I understand the distrust... This is something that will be community-led, Survivor-led, if we are asked.*

Dr. Huyer emphasized that the Office of the Chief Coroner for Ontario is ready to assist, in a way that is respectful of the Survivors, Indigenous families and communities leading these searches, if they are asked.

Participants at the National Gathering on Unmarked Burials

Community-led Investigations

Throughout the Gathering, participants noted the importance of Indigenous communities leading this Sacred work of recovering the children. Donald Worme emphasized the importance of Indigenous communities gathering knowledge and developing expertise to conduct community-led investigations that are forensically rigorous. He said:

> *We need to train members from our communities to do this Sacred work and we need to do this in a way that will pass forensic scrutiny.*

In her presentation, Nancy Sandy also emphasized the need for Indigenous community-led investigations based on inherent jurisdiction.

She indicated that the Williams Lake First Nation investigation team is the lead in a community-based inquiry process that purposely gives voice and encourages those most affected to share their experiences in the context of cultural safety, with the aim of promoting respect and enabling healing. She indicated that they will continue to lead until they appoint a special investigative unit that includes a Special Prosecutor and a trauma-informed Coroner.

It is true that so many in this country are facing something that has never been dealt with...there was an actual genocide inflicted upon our precious children. Communities are facing a difficult decision about what happens once those children are found: should they be exhumed? What happens after that? Is there a potential for criminal action?

Donald Worme, Cree Lawyer from Kawacatoose First Nation, former Lead Commission Counsel for the Truth and Reconciliation Commission of Canada

Rapporteurs

Tanya Talaga,
Journalist,
Fort William First Nation

Brandi Morin,
Journalist,
Stony Plain First Nation

Koren Lightning-Earle,
Legal Director,
Wahkohtowin Law and
Governance Lodge,
University of Alberta

Janice Makokis,
Lawyer and Consultant,
Saddle Lake First Nation

Four influential Indigenous women, Tanya Talaga, Brandi Morin, Koren Lightning-Earle and Janice Makokis, agreed to be Rapporteurs during the first National Gathering. They witnessed the important discussions that took place in the breakout sessions on the following topics:

- Records and Archives: What records are out there, where are they, and how do you get them?
- Search Technology: What technology exists, what does it do and not do?
- Investigations: Differences between Community, Coroner and Police Processes
- Protecting and Accessing Indian Residential Schools and other Sites

The Rapporteurs provided detailed report backs of the presentations and discussions in these four breakouts sessions to all participants at the Gathering. In addition, detailed written summaries were provided to the Independent Special Interlocutor, which were relied on to draft this Summary Report. To view the Rapporteurs' Summaries, please visit the OSI website.

As each of the Rapporteurs reported back on the key messages and themes they heard, they shared the impact that the unmarked burials and missing children had on them personally. Several shared that they have a missing relative who was never returned home from an Indian Residential School. Each of them expressed the heavy weight that they carry in their hearts for the missing children buried in unmarked graves.

International Legal Instruments

(i) The International Criminal Court: Participants heard directly from Dr. Chile Eboe-Osuji, former President of the International Criminal Court, about the possibility of prosecutions before that Court. While some participants were hopeful about this potential avenue for justice and accountability, Dr. Eboe-Osuji highlighted the challenges about the prospect of seeking justice at the International Criminal Court. While the definition of genocide articulated in the Rome Statute (which is the source of the Court's jurisdiction) would almost certainly encompass the architects of the Indian Residential School system, the Court's jurisdiction is limited to events that occurred after 2002.

Dr. Eboe-Osuji acknowledged the difficult relationship between law and justice and noted with regret that sometimes the law itself can be an injustice.

(ii) International human rights tools: Due to the limits of the Rome Statute and the International Criminal Court as an avenue for accountability, some participants wondered about other international human rights regimes, and whether any other avenues may exist in the international realm for those who want to look beyond the Canadian legal system for accountability.

The inability of the International Criminal Court to provide redress brings us to several difficult dilemmas in the relation between law and justice. The law is not justice, often the law allows injustice to linger or the law itself can BE the source of injustice, as in the system that allowed Indian Residential Schools to operate. But that doesn't stop us from continuing to look for justice - the spirit of the children will continue to guide us on that path.

Dr. Chile Eboe-Osuji, former President of the International Criminal Court and Distinguished International Law Jurist at the Lincoln Alexander School of Law

Dr. Chief Wilton Littlechild spoke about the Organization of American States as a potentially meaningful source of justice or accountability. This may be an area for further research and exploration for the Independent Special Interlocutor as she considers possible avenues and legal tools.

Dr. Chief Wilton Littlechild, Lawyer, former Commissioner of the TRC, delivering Keynote Address; President Natan Obed, Inuit Tapiriit Kanatami, seated in the background

(iii) UN Declaration on the Rights of Indigenous Peoples: Dr. Chief Wilton Littlechild provided a Keynote Address on the application of the United Nations Declaration on the Rights of Indigenous Peoples. He is uniquely positioned to provide this insight, having served three terms as the North American Representative to the UN Permanent Forum on Indigenous Issues and working for decades alongside Indigenous representatives from around the world to have the UN Declaration adopted. The Declaration itself contains several important provisions that can contribute to this work:

Article 7:

(1) Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

(2) Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

Article 8:

(1) Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

(2) States shall provide effective mechanisms for prevention of, and redress for:

(a) any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;

(b) any action which has the aim or effect of dispossessing them of their lands, territories or resources;

(c) any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;

(d) any form of forced assimilation or integration;

(e) any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Article 11:

(1) Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, ceremonies, technologies and visual and performing arts and literature.

(2) States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with Indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12:

(1) Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

(2) States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with Indigenous peoples concerned.

While more needs to be done to operationalize these rights, work has begun in Canada to implement the Declaration. Legislation was passed adopting the Declaration, and a process is underway to develop an Action Plan at the federal level.

They told us this would be heavy. They told us that it was not going to be easy to have these conversations... I want to bring forward language of 'crimes against humanity'. Other world crimes are called crimes against humanity: certain acts committed by a state or on behalf of a state as part of a widespread policy typically directed against civilians in times of war or peace. The violent nature of such acts is typically considered a severe breach of human rights... We talk about truth and reconciliation, but we still haven't talked about all the truth. [T]his government - needs to be held accountable for crimes against humanity.

- Participant

G. Participant Feedback for Future Gatherings

As participants at the first National Gathering are aware, we are learning how to do this work, and how the Office of the Independent Special Interlocutor (OSI) can best support those working in community. As we walk this path together, the Independent Special Interlocutor has pledged to listen to what participants and communities need, and to respond and adapt wherever and however possible to meet those needs.

This approach is fundamental and also informs how the OSI will facilitate its work, including future National Gatherings.

Some of the feedback that we received from participants at this first National Gathering highlighted some areas for improvement, including:

1. Participants want more time to ask questions and engage in meaningful dialogue with each other and with the speakers, experts and service providers.
2. There is so much wisdom within the lived experience of the participants, and so many diverse historical, geographical and practical contexts in which the work is being done. Participants want more time to share from their own contexts and to learn from each other.
3. Participants acknowledged that there was an incredible volume of information and content shared at this Gathering. Some participants articulated a sense of pressure to take it all in and felt that more opportunities and space were needed to process, absorb and reflect on what was being shared.
4. This work is so incredibly difficult and heavy. It can be technical and extremely intense. It is essential that more time be created for ceremonies, medicines and protocols.

These reflections are received with gratitude, and as the Independent Special Interlocutor stated in her closing remarks, the OSI is committed to listening, learning and adapting as we walk this path.

Participants at the National Gathering on Unmarked Burials














Our ancestors here saw that this time was
going to happen where all of this
would be revealed
and there would be a need for aftercare
and a healing process.
We need the medicines here before us
as we discuss children, death and our loved
ones who departed.
We have special songs and ceremony.
We have special smudge that is used
and we need to make time
for a holistic space so we acknowledge the
spirit in this work.

- Participant

H. Conclusion

In the 20s and 30s a lot of incidents happened [at the Marieval Indian Residential School] that were passed down through our oral history: who did what, who was where, who got murdered, who went for a walk and never came back. There were stories of murder within the School, stories of nuns throwing babies into furnaces, stories of priests coming to get the older boys to come and dig graves under the cover of darkness. So we know that there is more to this than meets the eye right now.

E. Dutch Lerat, Vice-Chief of the Federation of Sovereign Indigenous Nations, Survivor of Marieval Indian Residential School, Cowessess First Nation

As participants returned home to continue the important and Sacred work of searching for missing children and unmarked burials, it remains clear that there is a long road ahead and a lot of work to do. Donald Worme reminded participants that "[w]e are at the very beginning...We don't know what kind of road there is... but we're not going to quit."

The mandate of the Independent Special Interlocutor continues until June 2024, when a Final Report will be provided to identify measures and recommend a new legal framework to ensure the respectful and culturally appropriate treatment and protection of unmarked graves and burials of children who were never returned home from former Indian Residential Schools. In order to develop these recommendations, it is essential that the Independent Special Interlocutor remains connected to the work being done in community. To this end, the OSI will continue to be present in community wherever and whenever possible, and as requested. As the Independent Special Interlocutor shared in her closing remarks at the National Gathering: "I am here and I am ready to meet with everyone."

Even as the work of the Independent Special Interlocutor continues to evolve, it is clear at this early stage that communities need more and better access to funding and resources.

The Independent Special Interlocutor will continue to facilitate greater knowledge sharing between communities by holding further Gatherings. Several areas of concern will be discussed at these future Gatherings, including:

Addressing Trauma and Community Well-being
November 2022

Affirming Indigenous Data Sovereignty
January 2023

Upholding Indigenous Law
March 2023

More information about these upcoming Gatherings can be found at the **OSI website**.

Left to Right: Emmerson Samson with Elder Phyllis Mustus and Elder Sharon Morin

Acknowledgments

Thank you Elder Wilson Bearhead (pictured here with Raine O'Cheese Family Dancers) for supporting the OSI to ensure appropriate cultural protocols were in place.

Thank you to Dr. Allen Benson for kindly agreeing to chair the Gathering.

Thank you to Roots of Resilience and Native Counselling Services of Alberta for supporting the OSI with planning the first National Gathering.

ROOTS of RESILIENCE

EST. 1970
NCSA
Native Counselling Services of Alberta

Thank you to the Survivors, Elders and Knowledge Keepers who attended.

Thank you to all the participants and those leading searches.

Thank you to the volunteers and health support workers.

Thank you to the following sponsors and partners:

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WESTERN VARIETIES WHOLESALE

Appendix A

Resources for Further Information

Anglican Healing Fund
https://www.anglican.ca/healingfund/

The Anglican Healing Fund has financially supported local, community-led healing projects. As a response to the on-going legacy of the residential school system, grants from the healing fund are made to encourage and initiate programs that help healing of language loss, cultural abuse and other forms of hurt and oppression.

Bringing the Children Home (United Church of Canada)
https://united-church.ca/social-action/justice-initiatives/reconciliation-and-indigenous-justice/bringing-children-home

The Bringing the Children Home initiative has three main components:

(1) Should they wish it, making funds available to Indigenous communities to support the work of identifying unmarked graves, knowledge gathering, commemoration, and ceremony to honour the children who did not return home from these residential institutions.

(2) Should they wish it, direct provision of all United Church archival records related to residential institutions to these communities.

(3) Archival and oral history work to create a document index and narrative of all the information we have related to students deaths and burials.

For any inquiries regarding unmarked burials, funding from the Bringing the Children Home initiative, and access to archival material, please email: BringingChildrenHome@united-church.ca

Indian Residential School History and Dialogue Centre, UBC
https://irshdc.ubc.ca/

The Indian Residential School History and Dialogue Centre at UBC opened in 2018 with the purpose of addressing the colonial history and ongoing legacies of Indian residential schools and other related colonial systems imposed by the Canadian government on Indigenous peoples in Canada, and ensuring that this history is acknowledged, examined, and understood. With an approach that is Survivor-centred and trauma-informed, the Centre provides a safe, respectful, and culturally grounded space for Survivors, intergenerational Survivors and communities to gather, access records, and research histories related to the residential and day school systems and related resources.

Know History

https://www.knowhistory.ca/

At Know History, we research, document, and share stories that need to be told. We are experts at locating and accessing historical records in archives and institutions across the country, and work closely with Survivors and their communities to gather evidence that help identify missing children and shed light on the residential school experience. In addition to naming students, archival research can support communities' efforts to set the historical record straight.

Library and Archives Canada

https://library-archives.canada.ca/eng

The mandate of Library and Archives Canada is to preserve the documentary heritage of Canada for the benefit of present and future generations, and to be a source of enduring knowledge accessible to all, thereby contributing to the cultural, social and economic advancement of Canada. Library and Archives Canada also facilitates co-operation among communities involved in the acquisition, preservation and diffusion of knowledge, and serves as the continuing memory of the Government of Canada and its institutions.

National Centre for Truth and Reconciliation

https://nctr.ca/

The National Centre for Truth and Reconciliation (NCTR) is a place of learning and dialogue where the truths of the residential school experience are honoured and safeguarded for future generations. The Centre provides Survivors, their families, educators, researchers, and the public the ability to access residential school history, experiences, and impacts, share it with others, dive deeper into the mysteries that still exist, and help foster healing and reconciliation to ensure this history is never forgotten or repeated.

NIB Trust Fund

https://www.nibtrust.ca/

The NIB Trust Fund supports education programs aimed at healing, reconciliation, and knowledge building. Funds and grants are available to organizations and individuals to address the long-lasting impacts of the Indian Residential Schools.

Pathways Framework (Canadian Archeology Association)

https://canadianarchaeology.com/caa/sites/default/files/page/caa_remote_sensing_pathways_v1.pdf

Building on Calls to Action 71-76 of the TRC (vol. 4), the Canadian Archeology Association has compiled an approach to the work of searching for unmarked graves. This guide can support the development of a Scope of Work that focuses on the application of remote sensing to locate unmarked graves associated with Indian Residential Schools (IRS) and at related institutions. It provides recommendations to consider, focusing on remote sensing, including ground penetrating radar (GPR).

Representing strength, family and healing, bears are the primary element in the Office of the Independent Special Interlocutor's logo. The larger bear represents the parent, family, and community, while the smaller bear symbolizes the children who were stolen and never returned.

The Northern Lights in the night sky are the Spirits of our ancestors dancing. The dancing guides the children to reunite with their ancestors.

The stars depict the connection between the children taken from their communities and the parents left behind, who would stare at the same stars longing to be reunited.

The flowers in the larger bear signify life and the resilience of Indigenous Peoples.

The changing colours in the dotted path illustrate the on-going search for truth, justice and healing.

The three pairs of moccasins honour and acknowledge all First Nations, Inuit and Métis children.

At the first National Gathering on Unmarked Burials in Treaty 6 territory, Regional Chief Gerald Antoine observed that on the back of the larger bear, there is a clear outline of a child's face looking up at the sky. Although this was not intentionally part of the design, it has shown us yet another way that the children's Spirits are speaking to us all.

"For the child taken,
For the parent left behind."

TRC Final Report, 2012

Office of the Independent Special Interlocutor
for Missing Children and Unmarked Graves and Burial Sites associated with Indian Residential Schools

Bureau de l'interlocutrice spéciale indépendante
pour les enfants disparus et les tombes et les sépultures anonymes en lien avec les pensionnats indiens

osi-bis.ca