



SENATE
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JULY 2024

MISSING RECORDS, MISSING CHILDREN

Interim report of the Standing Senate Committee
on Indigenous Peoples

The Honourable Brian Francis, Chair
The Honourable David M. Arnot, Deputy Chair



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CONTENT WARNING

This report contains information about violence related to the Indian residential school system which may be distressing to some readers.

The Government of Canada operates a National Indian Residential School Crisis Line for mental health and emotional support services for former residential school students who are experiencing distress.

Contact the Crisis Line at 1-866-925-4419 (toll-free) if you or someone you know is triggered while reading the content in this report.

There is also the Hope for Wellness Help Line at 1-855-242-3310 (toll-free) or the online chat at hopeforwellness.ca. Support services are safe, confidential, respectful and non-judgmental.

ACKNOWLEDGEMENTS

The committee is particularly grateful to have heard testimony from residential school Survivors and intergenerational Survivors who continually push to uncover the truth about what happened to Indigenous children at residential schools and other state-institutions and other associated sites.

The committee extends its appreciation to First Nations leaders such as Dr. Edmund Metatawabin, Evelyn Korkmaz, Mike Metatawabin, Chief Erica Beaudin, Cowessess First Nation, Treaty Commissioner Mary Musqua-Culbertson, Office of the Treaty Commissioner of Saskatchewan and Cadmus Delorme, Chairperson, Residential School Documents Advisory Committee for sharing the different Indigenous-led approaches they are undertaking to locate records, missing children and unmarked burials. Their work will also assist to complete the historical record.

Records related to residential schools are a matter of public interest and ensuring access to these records adds to the record of the history of Canada, which is key to truth and reconciliation. Additionally, Indigenous peoples have an individual and collective right to know the truth of what happened to them and their families. Importantly, Canada has a duty to remember this history.

It is hoped that this work may support Survivors and their families as they seek to uncover the truth about children who went missing or who died while in state care including residential schools.

Please note that Edward Sadowski's quote is used as the title for this report.

THE COMMITTEE MEMBERSHIP

The Honourable Brian Francis, *Chair*

The Honourable David M. Arnot, *Deputy Chair*

The Honourable Senators

The Honourable Mary Coyle

The Honourable Margo Greenwood

The Honourable Nancy J. Hartling

The Honourable Yonah Martin

The Honourable Donald Neil Plett

The Honourable Paul J. Prosper

The Honourable Karen Sorensen

The Honourable Scott Tannas

The Honourable Judy A. White

Ex-officio members of the committee:

The Honourable Marc Gold P.C. or the Honourable Patti LaBoucane-Benson

The Honourable Donald Neil Plett or the Honourable Yonah Martin

The Honourable Raymonde Saint-Germain or the Honourable Bernadette Clement

The Honourable Scott Tannas or the Honourable Rebecca Patterson

The Honourable Pierre J. Dalphond or the Honourable Judy A. White

Other Senators who have participated in the study:

The Honourable Michèle Audette

The Honourable Gwen Boniface

The Honourable Bev Busson

The Honourable Pierre J. Dalphond

The Honourable Pat Duncan

The Honourable Patti LaBoucane-Benson

The Honourable John M. McNair

The Honourable Ratna Omidvar

The Honourable Dennis Glen Patterson

Research and Education, Library of Parliament:

Sara Fryer, Analyst

Antoine Csuzdi-Vallée, Analyst

Allison Lowenger, Analyst

Joey Arseneault-Watters, Analyst

Senate Committees Directorate:

Andrea Mugny, Committee Clerk

Florence Blanchet, Administrative Assistant

Senate Communications Directorate:

Jérémie Spadafora, Communications Officer

ORDER OF REFERENCE

Extract from the *Journals of the Senate* of Thursday, March 3, 2022:

The Honourable Senator Francis moved, seconded by the Honourable Senator Cordy:

That the Standing Senate Committee on Aboriginal Peoples be authorized to examine and report on the federal government's constitutional, treaty, political and legal responsibilities to First Nations, Inuit and Métis peoples and any other subject concerning Indigenous Peoples;

That the documents received, evidence heard and business accomplished by the committee since the beginning of the First Session of the Forty-second Parliament be referred to the committee; and

That the committee submit its final report no later than December 31, 2023, and that the committee retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

The question being put on the motion, it was adopted.

Gérald Lafrenière

Interim Clerk of the Senate

Extract from the *Journals of the Senate* of Thursday, October 26, 2023:

Resuming debate on the motion of the Honourable Senator Francis, seconded by the Honourable Senator Gerba:

That, notwithstanding the order of the Senate adopted on Thursday, March 3, 2022, the date for the final report of the Standing Senate Committee on Indigenous Peoples in relation to its study on the federal government's constitutional, treaty, political and legal responsibilities to First Nations, Inuit and Métis peoples and any other subject concerning Indigenous Peoples be extended from December 31, 2023 to September 1, 2025; and

Missing Records, Missing Children

That the committee be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate its reports relating to this study, if the Senate is not then sitting, and that the reports be deemed to have been tabled in the Senate.

The question being put on the motion, it was adopted.

Gérald Lafrenière

Interim Clerk of the Senate

LIST OF RECOMMENDATIONS

Recommendation 1

That the Government of Canada compel Catholic entities to release records to the National Centre for Truth and Reconciliation.

Recommendation 2

That the Government of Canada support and fund Indigenous-led approaches to coordinate national and regional efforts to locating and retrieving records across multiple jurisdictions.

Recommendation 3

That the Government of Canada, in cooperation and collaboration with its provincial counterparts, provide funding to the Société historique de Saint-Boniface and the Royal BC Museum and Archives for the translation, description and digitization of the Oblate records.

Recommendation 4

That the Government of Canada provide the Residential Schools Documents Advisory Committee with adequate funding in the next two years in order to expedite its work of locating and transferring documents to the National Centre for Truth and Reconciliation; and

That each federal department and agency on the Residential Schools Documents Advisory Committee appoint a sufficient number of employees whose primary purpose is to coordinate the search and transfer the records.

Recommendation 5

That the Government of Canada increase funding to the National Centre for Truth and Reconciliation so it can properly manage the additional records to be transferred from the Government of Canada; and

That the Government of Canada provide further funding to the National Centre for Truth and Reconciliation to hire individuals for the translation, description and digitization of Oblate records.

Recommendation 6

That the Government of Canada in consultation with the Residential School Documents Advisory Committee should provide direction to Access to Information and Privacy offices across federal institutions of the common lexicon for terminology related to Indigenous peoples and residential schools, and the former federal policy of assimilation, once the work is complete.

Further, that the Government of Canada, in consultation with the Residential School Documents Advisory Committee, provide direction to departments and federal employees on records that must be provided to the public when requested through Access to Information and Privacy requests.

Recommendation 7

That Indigenous Services Canada fund the establishment of an Elder's institute in the Fort Albany First Nation's region to support healing and intergenerational learning.

Recommendation 8

That the Government of Canada adopt a formal policy to proactively disclose information pertaining to Indigenous peoples and residential schools and to prioritize negotiation and mediation to resolve conflicts rather than litigation.

Recommendation 9

That the Treasury Board of Canada, in consultation with Indigenous peoples, amend the *Access to Information Act* and the *Privacy Act* and produce a specific plan to align both acts to incorporate the rights as articulated in the United Nations Declaration on the Rights of Indigenous Peoples; and to provide broader discretionary powers under these Acts to federal institutions to disclose records when warranted by public interest.

Recommendation 10

That the Treasury Board of Canada amend the purpose clauses of the *Access to Information Act* and the *Privacy Act* to reflect reconciliation with Indigenous peoples.

That the Treasury Board of Canada, in consultation with Indigenous peoples, amend the *Privacy Act* to:

- **Enable broader disclosure of personal information to Indigenous governments and acknowledging the various legal regimes under which they operate;**
- **Proactively consult with the Office of the Privacy Commissioner making privacy impact assessments a legal obligation;**
- **Grant order-making powers to the Office of the Privacy Commissioner, similar to the powers of the Information Commissioner under the *Access to Information Act*; and**
- **Determine how best to recognize Indigenous peoples' individual and collective rights under the Act.**

Recommendation 11

That Library and Archives Canada review its holdings of death records from before 1967 to identify Indigenous children who may have died while at residential schools or in a federal hostel in the Northwest Territories.

EXECUTIVE SUMMARY

Despite progress on uncovering the truth surrounding residential schools, grey areas remain. The committee's recent work found that many questions remain unanswered regarding the transfer of records about residential schools to the National Centre for Truth and Reconciliation. As such, the committee decided to do a focused study to hear from federal, provincial, and territorial governments as well as from Catholic entities who have not yet fulfilled the requirements stipulated under the *Indian Residential School Settlement Agreement* to remit records.

Records are scattered across the country with no way of finding them other than traveling to a location and physically searching through dense linear feet of paper records. Indigenous families must conduct such searches to determine what happened to their children who went missing while attending the schools, or who went missing from health or social services institutions administered by provincial or territorial governments.

This report, entitled *Missing Children, Missing Records*, makes 11 recommendations to improve access to residential school records. The key message is that the Government of Canada needs to support Indigenous communities to locate and access residential school records. The committee believes the federal Documents Advisory Committee is an important initiative and recommends that its work be funded and supported by dedicated staff to ensure it can meet its mandate.

The report also highlights promising practices undertaken in Quebec, Ontario, Saskatchewan and the Northwest Territories to help Indigenous communities locate records. These practices include legislation unlocking state and religious records in Quebec, the establishment of a residential school death investigation team in Ontario, family liaison support in Saskatchewan and dedicated staff capacity to search for records in the Northwest Territories.

The committee held 10 meetings hearing from 39 witnesses. The committee takes note that several witnesses appearing before the committee located additional residential school records after receiving the committee's invitation, in some cases right before their appearance before the committee.

Missing Records, Missing Children

While most witnesses eventually accepted the committee's invitations to appear, others never responded or declined to appear, including the Provincial Archives of Alberta and vital statistics offices from Manitoba and Quebec. Unfortunately, the committee did not have the opportunity to learn about the work being done in these provinces.

CONTEXT: INDIAN RESIDENTIAL SCHOOLS

Genocide is not always necessarily a one-time event; it is, in the case of “Indians of Canada,” an attrition process happening over an extended time.

Dr. Edmund Metatawabin

Starting in the late 1800s, the Government of Canada, in partnership with Christian churches,¹ operated the “Indian”² residential school system. It is estimated that more than 150,000 Indigenous children were forcibly removed from their families and communities to attend residential schools. Not only did some Indigenous children attend multiple residential schools, but some siblings were sent to separate institutions which served to further sever the familial bonds. The residential school system operated at the same time as Indigenous peoples were forcibly displaced from their lands and complemented other severely harmful federal legislative and policy initiatives designed to form a cohesive system to assimilate and exert control over Indigenous peoples.

Children who attended the schools were forbidden from speaking their languages and practicing their cultures; they often suffered from widespread mental, emotional, physical and sexual abuse, along with malnutrition and starvation, exposure to disease and poor healthcare, among other harms. Many children ran away from the schools, disappeared, did not return home and others, died. Generations of Indigenous people were not told what happened to their children. The location of potential burials at the former Kamloops Indian Residential School was not a ‘discovery’ to Indigenous peoples; they carried these grim stories with them, passed down for generations.³

¹ The United Church of Canada, the Anglican Church entities, the Presbyterian Church entities and Catholic Entities.

² In this report, the term “Indian” is used specifically in reference to the legal identity of a First Nations individual registered under the *Indian Act*.

³ Standing Senate Committee on Indigenous Peoples [APPA], *Evidence*, Erica Beaudin, Chief, Cowessess First Nation, November 1, 2023.

The tragic consequences of the residential school system affects many Indigenous peoples today. Indigenous communities need to access historical records to identify missing children who may have died while attending residential schools and whose remains may be located in unmarked graves and burial sites across Canada. Families are working to determine what happened to their children who went missing while attending the schools, or who went missing from health or social services institutions administered by provincial or territorial governments.

In the committee's July 2023 report *Honouring the Children Who Never Came Home: Truth, Education and Reconciliation*, the committee agreed to hold additional hearings to understand the reasons why governments and some Oblates and other Catholic entities have not transferred all residential school records to the National Centre for Truth and Reconciliation (NCTR).⁴ While the residential school era is over, the destruction and withholding of records related to the schools presents an overwhelming challenge to Indigenous communities.

The committee held 10 meetings on this subject and heard from 39 witnesses. While the majority of witnesses accepted the committee's invitation to testify after some delays, despite numerous requests to appear from the committee, the committee is troubled to not have heard from the Provincial Archives of Alberta nor vital statistics offices from Manitoba and Quebec.

This report makes 11 recommendations to improve the accessibility of information about residential schools. The report discusses the context for Indian residential schools and the problems accessing Catholic and government records that may help Indigenous communities to identify children who went missing or may have died.

⁴ The Oblates are a Catholic religious order and operated most of the Catholic-run residential schools in Canada. Appendix A to this report lists the groups, organizations or governments the National Centre for Truth and Reconciliation identified as withholding records in 2023. It did not identify any other religious entities as withholding records.

Why Study Residential School Records?

Where records are located is excessively complicated: in coroner's offices held by different federal, provincial and territorial governments; offices of vital statistics; archives; museums; religious organizations; and individual churches. As Ryan Shackleton, Chief Executive Officer, Know History explained:

While Survivor memory and experience are the foremost record of this shameful history, there are many archival sources that contribute to our understanding of the past. Communities want more than a list of names of missing children; they want to know why this happened, what life was like for children at those institutions and, of course, where the missing children are buried. There is no single source that will provide all of this information. Instead, the evidence is found in many places — perhaps thousands of little pieces of data collected from dozens of archives across Canada and internationally.⁵

Survivors and their descendants need access to a suite of records held by governments and churches to substantiate the identity of Indigenous children who may have died and whose remains are in burial grounds associated with the schools and churches. The obligations to remit documents are set out in the settlement of a class action lawsuit brought by Survivors against Canada and the churches, the *Indian Residential School Settlement Agreement, 2006* (IRSSA). The parties had to “provide all relevant documents in their possession or control to and for the use of the TRC [Truth and Reconciliation Commission of Canada]” subject to privacy and information legislation.⁶

The IRSSA also directed the TRC to establish a permanent archive for statements, documents and other materials it would collect from residential school Survivors.⁷ This led to the creation of the NCTR at the University of Manitoba. The NCTR preserves records such as those collected by the TRC and other parties to the IRSSA including statements made by Survivors of residential schools and/or documents, death certificates, photos, or personnel records that may be held by governments or

⁵ APPA, *Evidence*, Ryan Shackleton, Chief Executive Officer, Know History, September 19, 2023.

⁶ *Indian Residential Schools Settlement Agreement, Schedule N: Mandate for the Truth and Reconciliation Commission*, 2006.

⁷ *Indian Residential Schools Settlement Agreement*, 2006.

religious entities. The NCTR makes records available to Indigenous peoples related to residential schools.

In [evidence](#) heard before the committee during its March 2023 hearing, representatives from the NCTR and the Office of the Special Interlocutor for Missing Children and Unmarked Graves and Burial Sites associated with Indian Residential Schools (Special Interlocutor)⁸ stated key records have not been remitted from federal and provincial governments, nor from various archives which are the repositories for certain Oblate records. The Oblates are a Catholic religious order, and operated many residential schools in Canada including Marieval Indian residential School, Kamloops Indian Residential School and St. Anne's Residential School.⁹ In a related [document](#) submitted to the committee in 2023, included as Appendix A, the NCTR gave the committee details of the records it identified as outstanding.

In this study, witnesses listed numerous barriers in locating, accessing and reviewing records, including:

- Little or no information on where records for a child, family or school are held;¹⁰
- Legal or policy barriers that restrict or contribute to long delays to access records, even to historical files over a 100 years old;¹¹
- Only being able to view records deemed “relevant” by government or religious employees who may have little knowledge of an Indigenous family’s history or the history of residential schools;¹²
- Records that may only be available in French and of poor quality rendering these illegible with no resources for translation, transcription or digitization;¹³

⁸ APPA, [Evidence](#), March 21, 2023.

⁹ National Centre for Truth and Reconciliation, *In a Moment of Reflection, Report on the Archivum Generale O.M.I. Romae (AG) – Oblate General Administration Archives, Rome*.

¹⁰ APPA, [Evidence](#), Erica Beaudin, Chief, Cowessess First Nation, November 1, 2023; APPA, [Evidence](#), Raymond Frogner, Head of Archives, National Centre for Truth and Reconciliation.

¹¹ APPA, [Evidence](#), Edward G. Sadowski, Researcher, as an individual, September 19, 2023.

¹² APPA, [Evidence](#), Ryan Shackleton, September 19, 2023.

¹³ APPA, [Evidence](#), Janet La France, Executive Director, Société historique de Saint-Boniface, September 20, 2023.

- Records are held in a myriad of locations across Canada and internationally with no regional coordination occurring to begin to map where records are and how to find them;¹⁴
- One witness noted she had to negotiate complex agreements simply to read records and many times, special research visits to specific parishes were canceled at the last minute;¹⁵ and
- Records are not organized or indexed so an individual may have to review linear feet of records to determine if there are any records relevant to their research.¹⁶

ACCESS TO CATHOLIC RECORDS

Catholic entities operated the majority of the 139 federal residential schools and among these, the Oblate entities ran more residential schools than any other Catholic entity.¹⁷ Catholic entities in Canada are decentralized, with no single organization overseeing archives. Witnesses described that records are scattered around the country, at times held in individual parishes, others sitting in archives, with potentially many records remaining to be discovered. Given the extent of the Oblates' involvement in operating residential schools, it follows that Indigenous peoples need access to these files.

The Oblates also hold personnel files of school employees that may shed light on the experiences of Indigenous children and may help families find out what happened to children who went missing while in residential school. Further, records held by different Oblate entities may contain pertinent information about children who attended residential schools or who were transferred to different institutions such as hospitals, orphanages, or mission schools, among others.

¹⁴ APPA, *Evidence*, Mary Musqua-Culbertson, Treaty Commissioner, Office of the Treaty Commissioner of Saskatchewan, October 25, 2023.

¹⁵ Ibid.

¹⁶ APPA, *Evidence*, Janet La France, September 20, 2023. All of these barriers were also identified in the Office of the Independent Special Interlocutor for Missing Children and Unmarked Graves and Burial Sites associated with Indian Residential Schools, *Sacred Responsibility: Searching for the Missing Children and Unmarked Burials, Interim Report*, June 2023 report.

¹⁷ Government of Canada, *Recognized Indian Residential Schools*.

Missing Records, Missing Children

Not only do the Oblates hold personnel records for the nuns and priests who operated the schools, Oblates' internal records could also reveal the schools at which staff worked throughout their careers and photographs could attest to daily life at the schools. Therefore, the committee asked representatives from OMI General Administration (Oblate General Archives), the Archdiocese of Keewatin-Le Pas, Sisters of Charity – Halifax, Deschâtelets-NDC Archives and OMI Lacombe Canada to explain why they have not remitted all records from the NCTR.

The discovery of potential burial grounds at Kamloops Indian Residential School in 2021 spurred some Oblate entities into action. All the Oblate entities reported that in 2021, they began to find additional records, beyond what was submitted to the TRC. OMI Lacombe Canada decided to release personnel files two years following the death of the nun or priest in question, rather than keeping the records confidential according to the former 50-year retention schedule.¹⁸ OMI Lacombe Canada noted it is negotiating an agreement with the NCTR to release additional Oblate personnel files. It also has agreements with four provincial archives to transfer records.¹⁹ Rather than centralize their records into one location, they decided to keep them “where the history happened” so that these records can be accessible locally to Indigenous Survivors and researchers. However, the committee observes that this practice likely contributes to a lack of coordination and awareness of who holds records for specific schools.

Deschâtelets-NDC Archives stated that privacy legislation prevents it from releasing any personnel records of living priests or nuns. It also noted it has provided access to records related to any criminal investigation or legal proceeding; however, it did not tell the committee to whom or for which investigation such disclosure was made. Two archivists are employed to locate and find residential school records and other records related to children “with a significant abuse component.”²⁰

¹⁸ APPA, *Evidence*, Ken Thorson, Father, Provincial, OMI Lacombe Canada, September 27, 2023.

¹⁹ These include the Deschâtelets-NDC Archives in Richelieu, the Centre du patrimoine in St. Boniface, the Provincial Archives of Alberta in Edmonton and the Royal BC Museum and Archives. APPA, *Evidence*, Ken Thorson, September 27, 2023.

²⁰ APPA, *Evidence*, Luc Tardif, Father, Provincial Superior, Deschâtelets-NDC Archives, September 27, 2023.

Murray Chatlain, Catholic Archbishop of the Archdiocese of Keewatin-Le Pas, said that the day prior to his appearance before the committee, the outstanding records were sent to the NCTR.²¹ Sacramental records such as birth, death records may also be transferred to the NCTR.

Velichor Abaranam Jerome, General Archivist OMI, Oblate General Archives in Rome, Italy, told the committee that in 2022, the NCTR's Archivist, Raymond Frogner, found photos and documents related to residential schools in their archive. Two years later, in February 2024, the NCTR reported that the Oblate General Archives in Rome had recently submitted over 1,000 photographs; however, the quality and metadata were poor.

The committee remains concerned that there may be Oblate records that remain outstanding and therefore recommends:

Recommendation 1

That the Government of Canada compel Catholic entities to release records to the National Centre for Truth and Reconciliation.

INDIGENOUS-LED APPROACHES

The committee heard from two First Nations leaders about their struggles to access residential school records to support ground penetrating radar searches in locations adjacent to former residential schools. Chief Erica Beaudin, Cowessess First Nation, explained that both First Nations and Métis children attended the Marieval Indian Residential School. Chief Beaudin stated:

In June 2021, Cowessess First Nation announced there were potentially 751 unmarked graves located in and near the cemetery. They were identified utilizing ground-penetrating radar. Since then, research has been ongoing with several interconnected goals, including gathering and documenting all relevant

²¹ APPA, *Evidence*, Murray Chatlain, Archbishop, Archdiocese of Keewatin-Le Pas, November 7, 2023.

information relating to the cemetery and grave sites; working with former students, Survivors, Elders, knowledge keepers and community members to identify graves; and doing all we can as a nation to help families find closure and healing.²²

Chief Beaudin explained that they established partnerships, including working with Saskatchewan-based post-secondary institutes who have expertise in ground-penetrating radar to identify peoples' remains. Many of the records about Marieval Indian Residential School are located out of the province, making research difficult. She noted that while Library and Archives Canada has sent records to the NCTR, many of these were redacted. To Chief Beaudin, records access must "acknowledge and respect the OCAP principles of ownership, control, access and possession that apply to First Nations."²³

Mary Musqua-Culbertson, Treaty Commissioner of Saskatchewan, developed a library and archive to help First Nations. The collection is governed by an Elders' Council. The Office of the Treaty Commissioner is helping First Nations to collect church and government records to support ground penetrating radar searches at four residential schools that operated in the Prince Albert Catholic Diocese: the Thunderchild Indian Residential School, St. Anthony's Indian Residential school, Beauval Indian Residential School and St. Michael's Indian Residential school.

Ms. Musqua-Culbertson explained that locating and accessing records belonging to different dioceses in Saskatchewan has been incredibly frustrating for her team of First Nations researchers and Survivors. She explained that access takes time and resources, exacerbated by changes in personnel or religious leadership and a lack of clarity about the location of records and criteria for access. Access to other Catholic records in the province has been a stressful "runaround."²⁴ She described a web of records, spread out over multiple provinces which makes simply locating the records incredibly difficult. She noted there is very little regional coordination taking place.

²² APPA, *Evidence*, Erica Beaudin, Chief, Cowessess First Nation, November 1, 2023.

²³ Ibid.

²⁴ APPA, *Evidence*, Mary Musqua-Culbertson, October 25, 2023.

Recommendation 2

That the Government of Canada support and fund Indigenous-led approaches to coordinate national and regional efforts to locating and retrieving records across multiple jurisdictions.

FACILITATING ACCESS TO REGIONAL ARCHIVES

Capacity and funding were common challenges raised by nearly every witness. Additional employees and funding are required to locate, digitize and, in some cases, translate records. For example, the committee heard from witnesses from the Royal BC Museum and Archives and the Société historique de Saint-Boniface who described their institutions' work to make significant amounts of Oblate records available to Indigenous peoples.

In April 2022, the Royal BC Museum and Archives signed an agreement with the NCTR to provide “copies of unrestricted surrogate digital Residential School records and accompanying metadata” prioritizing an initial digital transfer of the Oblates of Mary Immaculate and Sisters of St. Ann records.²⁵ Both Oblate entities were involved in running residential schools in British Columbia. Jodi Giesbrecht, Vice- President, Royal BC Museum and Archives, explained that this represents a massive amount of records, for example the Oblates of Mary Immaculate's records were comprised of 19 linear metres specific to residential schools. At the time of her appearance, about 36% of these files have been digitized. In 2023, the Museum acquired the Sisters of St. Ann's records which include 4 metres of records related to residential schools. In September 2023, about 13% had been digitized and the Museum was in the process of transferring the first set of records to the NCTR.

Janet La France, Executive Director, Société historique de Saint-Boniface explained that the archive has no formal connection to the Oblate orders nor does the archive own these records. The Société historique de Saint-Boniface explained that it manages a non-profit francophone community archive, the Centre du patrimoine

²⁵ APPA, *Evidence*, Jodi Giesbrecht, Vice President, Archives, Collections and Research, Royal BC Museum and Archives, September 20, 2023.

which stores records on behalf of the Oblates of Mary Immaculate and the Archdiocese of Keewatin-Le Pas:

In accepting these archives, we had understood that all relevant documents had been copied and provided to the [TRC] and then to the [NCTR], and that this task was ultimately the responsibility of the owner of the documents. This had been the case for all the other religious congregations that had kept their documents in our vaults. So it was a surprise to learn that some relevant Oblate files had not been transferred to the [NCTR], and that some of these documents may be in our custody.²⁶

Furthermore, the Centre “has devoted considerable time and resources to processing a collection of documents that do not belong to us, and we have done so because we believe that [S]urvivors deserve answers.”²⁷ Ms. La France reported they have “made a Herculean effort” to inventory the records, the majority of which are in French, which takes additional time and money for translation. While residential school records are found throughout the collection, they are not organized, so the Centre has to process the entire archive of 183 linear metres of records, with about 122 linear metres remaining to be translated, digitized and described.²⁸ According to Ms. La France this represents the “the length of a standard baseball field.”²⁹

Not only has the Centre devoted its small budget and employees to this important work, it has prioritized other projects focused on Indigenous communities and residential schools like glossaries, subject headings and descriptions of its holdings. The archive has seen a marked increase in the number of First Nations visitors and its holdings include records from Manitoba and Northwestern Ontario regions.

The committee recognizes that these witnesses are working diligently to transfer records to the NCTR, but given the enormity of the task and the sheer volume of records, this work is time consuming, requiring potentially longer timeframes given the limited human resources. The Oblates of Mary Immaculate has funded one

²⁶ APPA, *Evidence*, Janet La France, Executive Director, Société historique de Saint-Boniface, September 20, 2023.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

employee at the Centre du patrimoine to digitize Oblate records, but the committee finds this is woefully insufficient.

The committee expresses its gratitude to the Société historique de Saint-Boniface and to the Royal BC Museum and Archives for prioritizing the digitization and transfer of the holdings of the Oblates of Mary Immaculate and the Sisters of St. Ann to the NCTR. This represents a significant amount of work, particularly for a non-profit like Société historique de Saint-Boniface, which has limited capacity and funding. It is regrettable that the Oblate orders have not contributed the necessary funding to hire staff to speed up this process, so that Survivors and their families can better understand their histories and find out what happened to their loved ones. The committee strongly urges the Oblates and all other religious entities to urgently allocate funding and resources to expedite the identification and transfer of records to the NCTR.

Recommendation 3

That the Government of Canada, in cooperation and collaboration with its provincial counterparts, provide funding to the Société historique de Saint-Boniface and the Royal BC Museum and Archives for the translation, description and digitization of the Oblate records.

FEDERAL RESIDENTIAL SCHOOL RECORDS

The Government of Canada's access regime for all of its records have various conditions. Members of the public can request closed government records by making an Access to Information and Privacy (ATIP) request; restricted records are only available by applying to obtain the status of departmental researcher; and private records held by the government can be accessed in accordance with procedures established by a donor.

Restricted federal records are subject to the *Access to Information Act* and the *Privacy Act*, legislation that governs the disclosure of government-controlled information. Individuals can apply to obtain departmental researcher status by successfully obtaining a valid security clearance that matches the classification of

records. Gaining this security clearance can take time. Once an individual receives departmental research status, that person may be able to receive requested records within a few days. In contrast, requests for access to the same files by individuals without this status can take upwards of a year.

Survivors and their descendants have been waiting to access records for generations. Truth and reconciliation takes time and resources. Providing records to Indigenous peoples should not be further delayed. The ramifications of a lack of records are pressing: individuals may not understand what happened to their family members or their family's history. In addition, compensation awarded to settle litigation for harms caused by colonial policies may have been reduced where a lack of access to records to Survivors that documented abuse or deaths that may have occurred at particular institutions.

The committee was pleased to hear that the Government of Canada established a Residential School Documents Advisory Committee to identify and share all potential sources of information related to residential schools, including information regarding the disposition of lands after a residential school was closed. Survivors of residential school sit on the committee with representatives of the NCTR, the Special Interlocutor, representatives from national Indigenous organizations and officials from 13 federal departments and agencies.³⁰

Any information contained within the Government of Canada's records related to interactions with Indigenous families and their children is relevant to uncover the truth about what happened to Indigenous children. The committee is encouraged to hear that a whole of government approach is underway. Cadmus Delorme, Chair of the Residential School Documents Advisory Committee has an initial two-year mandate to develop a methodology to collect, manage and share Government of Canada-held records related to residential schools. Part of the work to identify federal government holdings includes arriving at common definitions to allow records to be located across 13 federal departments.³¹

³⁰ Government of Canada, [*Residential School Documents Advisory Committee confirms membership at inaugural meeting*](#), June 28, 2023.

³¹ APPA, [*Evidence*](#), Cadmus Delorme, Chairperson, Residential School Documents Advisory Committee, October 25, 2023.

In 2023, it was estimated the holdings could include 23 million records related to the 139 federally recognized residential schools. This total would exclude records about day schools and children transferred to other provincial or territorially operated institutions which are also important to consider. For example, Mr. Delorme reported that just one department, Public Services and Procurement Canada, has several warehouses of paper records that would need to be reviewed to see if there are relevant materials, demonstrating the enormity of this task.³²

The committee is of the view that the work of the Residential Schools Document Advisory Committee represents a meaningful, whole of government approach that will take many years to complete. The committee concurs with the statement that “Indigenous people have a right to see the records created about them — to see the records of what happened to their children after they were stolen from their homes.”³³

The committee believes that the Residential School Documents Advisory Committee should be properly supported to locate, translate, digitize and transfer records so that they are publicly accessible and therefore recommends:

Recommendation 4

That the Government of Canada provide the Residential Schools Documents Advisory Committee with adequate funding in the next two years in order to expedite its work of locating and transferring documents to the National Centre for Truth and Reconciliation; and

That each federal department and agency on the Residential Schools Documents Advisory Committee appoint a sufficient number of employees whose primary purpose is to coordinate the search and transfer the records.

³² APPA, *Evidence*, Cadmus Delorme, October 25, 2023.

³³ APPA, *Evidence*, Ryan Shackleton, September 19, 2023.

Recommendation 5

That the Government of Canada increase funding to the National Centre for Truth and Reconciliation so it can properly manage the additional records to be transferred from the Government of Canada; and

That the Government of Canada provide further funding to the National Centre for Truth and Reconciliation to hire individuals for the translation, description and digitization of Oblate records.

CHALLENGES WITH CANADA'S ACCESS TO INFORMATION AND PRIVACY REGIME

Witnesses called into question the effectiveness of the federal access to information and privacy regimes. The committee heard from Edward G. Sadowski, Researcher, and Ryan Shackleton, Chief Executive Officer, Know History, who work for Indigenous groups and residential school Survivor organizations. Both described lengthy wait times they experienced in seeking records held by Library and Archives Canada, Crown-Indigenous Relations and Northern Affairs Canada and Indigenous Services Canada. In one case, Crown-Indigenous Relations and Northern Affairs Canada officials advised the individual to submit an ATIP request to access records. As Ryan Shackleton explained,

10 months later, CIRNAC [Crown-Indigenous Relations and Northern Affairs Canada] responded and told us the request could not be fulfilled because it was not a part of an active claim. A year after our initial request, we have been advised that it will take at least three more months to process, but I suspect it will take longer. That is 15 months to look at documents.³⁴

In another case, a request for records was submitted to Library and Archives Canada and the information was received relatively quickly, within three months. However,

³⁴ APPA, *Evidence*, Ryan Shackleton, September 19, 2023.

“the information and names on it were all redacted...this is about looking for the names of missing children...[and] it was essentially useless to us.”³⁵

A promising practice related to accessing federal records was raised by a witness. The Qikiqtani Truth Commission and Library and Archives Canada developed a different more informal approach to finding records. The commission’s staff were granted “unfiltered access to all of the files” related to the commission’s work and determined which federal records were relevant to have access to. From that point, formal requests for those records were made through one ATIP process without the additional burden of submitting hundreds of ATIP requests.³⁶

Ms. Musqua-Culbertson noted that the First Nations research team also has problems accessing federal records. Those identified as being required include Library and Archives Canada’s “RG10 historical records,” that include correspondence and transcripts created by the federal government related to “all aspects of Indian administration.” She also noted that access to historical information held by Indigenous Services Canada’s Office of the Registrar such as Band membership lists, as well as Treaty, Annuity and Interest distribution pay lists is important.³⁷ Accessing pay lists may “correlate” children who attended different schools or as another witness suggested, determine the year when a child went missing.³⁸ She said that to residential school Survivors, record access rules and regulations are “triggering...which leads to increased stress and frustration.”³⁹ She explains:

Many of these research projects have been frustrated by access restrictions. These result in immense delays waiting for clearance, as in the case with Library and Archives Canada[’s] ... ATIP requests, or completely restricted access in the case of church records restricted by the diocese. ...

Research projects that have been frustrated by access issues: archival research to support ground penetrate radar, treaty annuity pay lists that could correlate

³⁵ APPA, *Evidence*, Ryan Shackleton, September 19, 2023.

³⁶ Ibid.

³⁷ APPA, *Evidence*, Mary Musqua-Culbertson, October 25, 2023. The Registrar refers to “the officer in the Department who is in charge of the Indian Register and the Band Lists maintained” by the Department of Indigenous Services.

³⁸ Ibid; APPA, *Evidence*, Edward G. Sadowski, September 19, 2023.

³⁹ APPA, *Evidence*, Mary Musqua-Culbertson, October 25, 2023.

two children at these schools. Pay lists after 1908 have been restricted by ATIP. We have been waiting for some requests for over two years. I am the Treaty Commissioner, and I cannot get treaty pay lists.⁴⁰

Edward Sadowski and Raymond Frogner explained that federal records were destroyed in the late 1930s to the late 1940s for recycling during the Great Depression until after the Second World War including those specific to residential school. This period was a part of a broader period of “administrative change”, whereby special committees of Parliament examined the work of the Indian Affairs Branch.⁴¹ During this period, Indian Affairs, according to Raymond Frogner did not:

have the resources to maintain a records management program on a national basis for all these schools... The level of disorganization within the system, the amount of loss and the amount of destruction of records, has created gaps in [the history of] every school.⁴²

According to the Special Interlocutor:

[Indigenous Services Canada] continue[s] to block access to the Indian Register itself. If any individual is indeed identified, then the Indian Register along with its Genealogical Data Base and other records would show if any family members were still alive.⁴³

In their appearance before the committee, officials from Indigenous Services Canada acknowledged the difficult task of requesting records from the federal government. Ms. Lori Doran, Director General, Individual Affairs, Indigenous Services Canada, explained that the Register was established in 1951 as a paper-based system and electronic records began in 1985. The Register includes personal information defined under the federal *Privacy Act*, R.S.C., 1985, c. P-21, such as the names of individuals,

⁴⁰ APPA, *Evidence*, Mary Musqua-Culbertson, October 25, 2023.

⁴¹ APPA, *Evidence*, Raymond Frogner, Head of Archives, National Centre for Truth and Reconciliation, October 25, 2023. For a detailed account of this period, see Bill Russell, “Probing a Dark Decade: Recordkeeping in the Indian Affairs Branch, 1937–1947,” *Archivaria*, Volume 96, Fall/Winter 2023, pp. 98-135.

⁴² APPA, *Evidence*, Raymond Frogner, October 25, 2023.

⁴³ Special Interlocutor for Missing Children and Unmarked Graves and Burial Sites associated with Indian Residential Schools, *Sacred Responsibility: Searching for the Missing Children and Unmarked Burials, Interim Report*, June 2023, p. 58.

their genders, birth dates, and band affiliations. The Register may also contain documents like birth or marriage certificates. These records can only be “released with the written consent of the individual concerned”.⁴⁴ Prior to 1951, federal records for First Nations included Treaty pay lists and census records. The Register does not include information pertaining to an individual’s residential school attendance or a cause of death.⁴⁵

How federal departments determine a document is “relevant” to an ATIP request was raised by witnesses. Mr. Sadowski circulated a 2021 report the Information Commissioner issued following a complaint he made about Justice Canada’s information disclosure pertaining to residential school narratives. How these narratives were used are explained in the next section of the report. His complaint alleged that the department did not conduct a reasonable search for records and the Information Commissioner found that the complaint was well founded. She recommended the department review thousands of pages of records as it had not provided any details about how it determined over 12,000 pages of records were not under the department’s control.

Different Indigenous peoples and governments may want to better understand their individual or family histories. This begs the question, would an individual be informed there are no records available based on inaccurate or inconsistent search terms conducted within a department’s ATIP Office or a lack of understanding about the nature of the policy of assimilation and/or residential schools?

The committee observes that there appears to be no common lexicon of historical terminology used to locate records about Indigenous children and residential schools across federal departments. The Residential School Documents Advisory Committee is working to determine what types of documents are relevant to be transferred to the NCTR and common lexicons of terminology will inform and support its search for records. The committee is of the view that the work of the Residential School Documents Advisory Committee should be widely disseminated across departments once complete, and the common lexicons of terminology should be used by ATIP Offices to provide Indigenous peoples with relevant records.

⁴⁴ APPA, *Evidence*, Lori Doran, Director General, Individual Affairs Indigenous Services Canada, November 29, 2023.

⁴⁵ Ibid.

Recommendation 6

That the Government of Canada in consultation with the Residential School Documents Advisory Committee should provide direction to Access to Information and Privacy offices across federal institutions of the common lexicon for terminology related to Indigenous peoples and residential schools, and the former federal policy of assimilation, once the work is complete.

Further, that the Government of Canada, in consultation with the Residential School Documents Advisory Committee, provide direction to departments and federal employees on records that must be provided to the public when requested through Access to Information and Privacy requests.

St. Anne's Residential School

The committee heard from three Survivors who attended St. Anne's Residential School, Dr. Edmund Metatawabin, Mike Metatawabin and Evelyn Korkmaz, who described the severe abuse and suffering they experienced as children by staff of the school. Not only were children separated from their families, Dr. Metatawabin described how these institutions were part of a larger system intended to:

[E]rase Native culture and language [with these] lost support systems, negative reinforcement and abuse become a way of life. Because of the [residential school] experiences, many First Nations students of residential schools, upon leaving the institutions, continued on to self-abuse. Many denied their background and many ran away to urban centres. Many died from the self-abuse. By the 1960s, control of the community by the religious personnel was complete, at least in Fort Albany.⁴⁶

For most of its existence, St. Anne's was funded by the Government of Canada and operated by the Roman Catholic Church through its affiliates, the Oblates of Mary Immaculate and the Grey Nuns of the Cross.⁴⁷ Due to the torture and abuse at the

⁴⁶ APPA, *Evidence*, Edmund Metatawabin, April 30, 2024.

⁴⁷ National Centre for Truth and Reconciliation, *St. Anne's (Fort Albany) Indian Residential School IAP School Narrative*.

school, the Ontario Provincial Police (OPP) began a criminal investigation in 1992 and the police interviewed 700 victims and witnesses and collected statements about physical and sexual assaults, suspicious deaths and other abuse.⁴⁸ In 2023, a nun was charged in connection with sexual assaults during her work at the school.⁴⁹ Prior to this, seven other school workers were charged for various offences, including sexual offences and assaults causing bodily harm.⁵⁰ Five were convicted.

Survivors shared their stories of abuse with the committee and recounted cases of Indigenous children who became pregnant; extreme sexual, physical and emotional abuse; Indigenous children being tortured by means of electrocution on an electric chair; and of having to eat their own vomit. These experiences are devastating and were also not included as a part of an “official” description of the conditions at the residential school, used to adjudicate compensation under the IRSSA.

The main concern identified by witnesses before the committee is that the Government of Canada deliberately altered the St. Anne’s Residential School narrative, which was relied on by Survivors to file claims for compensation and prove they experienced serious cases of sexual and physical abuse under the Independent Assessment Process (IAP) of the IRSSA. Under the terms of the IRSSA, the Government of Canada was obligated to provide all documentation needed to assess Survivors claims. Not only did Canada omit any reference to the OPP criminal investigation, as Dr. Metatawabin explained,

The incomplete narrative, which stated that “no sexual abuse was committed at St. Anne’s Residential School,” misrepresented and denied the serious nature of the abuse suffered by the children.⁵¹

The school narrative did not include any reference to the widespread sexual abuse children were subjected to. Survivors have had to pursue court action to have this injustice corrected. This has taken a lot of time, energy and resources. Only after the

⁴⁸ APPA, *Evidence*, Fay K. Brunning, Legal Counsel for St. Anne’s Indian Residential School Survivors, as an individual, April 30, 2024.

⁴⁹ Brett Forester, “[Former St. Anne’s nun 8th person charged for alleged abuses at that residential school.](#)” *CBC*, October 19, 2023.

⁵⁰ Jorge Barrera, “[The horrors of St. Anne’s.](#)” *CBC*, March 29, 2018; and National Centre for Truth and Reconciliation, [St. Anne’s \(Fort Albany\) Indian Residential School IAP School Narrative.](#)

⁵¹ APPA, *Evidence*, Edmund Metatawabin, April 30, 2024.

deadline for making applications under the IAP had passed did Survivors realize that the school narrative did not reflect the severe abuses they experienced. Additional litigation was required to obtain a court order for the Government of Canada to make these documents available to Survivors and IAP adjudicators. As Evelyn Korkmaz emphasized:

The Canadian government concealed evidence of child abuse, leading to unequal representation in the justice system by breaching and withholding important documents, including criminal transcripts, pleadings and investigation reports. Despite winning a court order in 2014, proving a breach of the settlement agreement, the government failed to remedy hundreds of child abuse claims already breached, including mine.⁵²

Of particular concern to the committee is how hard Survivors have had to work to correct the historic record to reflect the horrors of St. Anne's Residential School. They have had to tell their stories repeatedly, establishing advocacy organizations and retaining lawyers to fight for access to records. Not only do Survivors have the right to know the truth about what happened to them but they also need to be heard. Fay K. Brunning, legal counsel, stressed that federal officials need to be transparent about their actions that had negative consequences for Survivors, arguing that "[w]hat needs to happen is a proper inquiry and bring in the people who made these decisions, have them testify and be tested under oath."⁵³ The committee strongly agrees with Fay K. Brunning that the Government of Canada should engage in mediation rather than litigation with respect to residential school records.⁵⁴

While Survivors of residential school continue to do the hard work of reconciliation — of exposing truth and injustice — Dr. Metatawabin noted that to him, the way forward includes spending time with youth and connecting to his First Nations culture and language:

When we talk about what we need for the future of our young people, it's the ability to continue telling our story in a good way, to talk about this dark chapter that we're talking about today and to have it included in our story. We

⁵² APPA, *Evidence*, Evelyn Korkmaz, St. Anne's Residential School Survivor and Advocate, as an individual, April 30, 2024.

⁵³ APPA, *Evidence*, Fay K. Brunning, April 30, 2024.

⁵⁴ *Ibid.*

have a long story that we can tell of our people, a story that started long before the arrival of the settlers, a story that has been shared by our Elders who talk about the legends and what life was like long ago.⁵⁵

He recommended that an Elder's teaching house be established to provide Indigenous education using contemporary tools and resources. As he stated,

Language is an important component to proper socialization into one's society. If you can communicate with the senior members of your clan, then you possess rules and guidelines that help you to understand your culture. If you hear about your history and your heroes, mythical or real, and if you can name the creeks, river and lakes in your traditional area in their original form, you have found your home.⁵⁶

The committee agrees that Survivors of residential school require resources to support family cohesion, Elder-youth learning and recovery from trauma, as well as places to strengthen Indigenous cultures, skills and languages, particularly in areas where infrastructure is lacking. The Committee takes note of the excellent Indigenous-led approaches to education that take place under Indigenous Services Canada's First Nations and Inuit Cultural Education Centres Program that among other items, establishes curriculum and increases knowledge of First Nations languages, among other important work. The committee agrees with Dr. Metatawabin and therefore recommends:

⁵⁵ APPA, *Evidence*, Edmund Metatawabin, April 30, 2024.

⁵⁶ Ibid.

Recommendation 7

That Indigenous Services Canada fund the establishment of an Elder’s institute in the Fort Albany First Nation’s region to support healing and intergenerational learning.

The committee remains concerned about the status quo approach where Indigenous peoples spend a significant amount of time, effort and money to gain access to residential school records by litigation rather than finding solutions through negotiation and mediation. Therefore, the committee recommends:

Recommendation 8

That the Government of Canada adopt a formal policy to proactively disclose information pertaining to Indigenous peoples and residential schools and to prioritize negotiation and mediation to resolve conflicts rather than litigation.

IMPROVING ACCESS TO FEDERAL INFORMATION

The best legislation cannot work if the government does not believe in it.

Caroline Maynard, Information Commissioner of Canada

Privacy Regime

The committee heard from Caroline Maynard, Information Commissioner of Canada, and Philippe Dufresne, Privacy Commissioner of Canada, who are independent Officers of Parliament appointed under the *Access to Information Act* and the *Privacy Act*, respectively. The Treasury Board of Canada is the department which is ultimately charged with administering both Acts and determining the accessibility of federal records.

Mr. Dufresne explained that under the *Privacy Act*, federal departments and institutions can only disclose personal information with the individual's consent. Personal information can also be disclosed if an individual has been dead for more than 20 years. A specific provision of the Act provides that the head of an agency or department can disclose personal information if the public interest outweighs any invasion of privacy (section 8(2)m).⁵⁷ He also noted that section 8(2) of the *Privacy Act* contains several measures that enable federal institutions to disclose personal information related to Indigenous peoples "for the purpose of researching or validating Indigenous claims, disputes or grievances."⁵⁸ Under Section 8(2)(f), for example, federal institutions can disclose personal information to specific types of entities for the purpose of administering or enforcing a law or to undertake an investigation. The "governing entities of several First Nations are identified as potential recipients under that provision."⁵⁹

In his brief submitted to the committee, Mr. Dufresne made several recommendations to improve disclosure of information to Indigenous peoples under the *Privacy Act*. He noted that some of these recommendations reflect those made by Indigenous peoples in the 2022 Justice Canada report related to modernizing the *Privacy Act*.⁶⁰ He observed that the Act could be improved by:

- updating terminology for information disclosure related to the type of personal information that can be shared, with whom this information can be disclosed and the purpose of the disclosure, including enabling "broader disclosure of personal information to Indigenous governments and acknowledging the various legal regimes under which they operate;
- adding mechanisms to incentivize the release of information;
- proactively consulting with the Privacy Commissioner to develop Privacy Impact Assessments, and making these a legal obligation under the Act;
- providing the Privacy Commissioner with the appropriate order-making powers to foster compliance with the Act (similar to the powers of the Information Commissioner); and

⁵⁷ APPA, *Evidence*, Philippe Dufresne, Privacy Commissioner of Canada, February 27, 2024.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Justice Canada, *Privacy Act Modernization: Report on 2022 Engagement with Indigenous Partners*, 2022.

- adding a purpose clause to the Act that includes reconciliation with Indigenous peoples to guide interpretation of the legislation.⁶¹

Access to Information Regime

Broadly, there are several problems with the ATIP regime in Canada, including delays in receiving requests, difficulties in communicating with ATIP offices and an inconsistent application of exemptions. This committee believes there are also problems in how ATIP offices determine which records are relevant related to residential schools.

According to Caroline Maynard, Information Commissioner of Canada, the ATIP offices in federal institutions could respond to requests for information on an informal or voluntary basis. In order to do so, individuals need to have a sense of the volume of information the government has “so that people have confidence that what they’re receiving is the full sum or volume of information that they’re entitled to.”⁶²

The Government of Canada holds a significant amount of personal information about Indigenous peoples. Under the contemporary *Indian Act*, for example, Canada records First Nations births and marriages, it grants membership to First Nation bands, it collects historical family information and it oversees their elected governments.

The committee knows that Indigenous peoples have a right to understand their histories. Indigenous peoples’ records belong to them. The committee concurs with Ms. Caroline Maynard that, “An access to information request should be the last resort for obtaining information; the information should be provided to Canadians. It is Canadians’ information.”

The Information Commissioner recommended that the *Access to Information Act* be amended to contain a public interest provision that provides the discretion to

⁶¹ APPA, *Brief*, Philippe Dufresne, Privacy Commissioner of Canada, March 5, 2024. Government institutions, including Crown corporations and subsidiaries, in accordance with section 3 of the *Privacy Act*, must “assess the privacy implications of new or substantially modified programs and activities involving personal information”, resulting in a Privacy Impact Assessment. Government of Canada, *Directive on Privacy Impact Assessment*.

⁶² APPA, *Evidence*, Caroline Maynard, Information Commissioner of Canada, February 27, 2024.

disclose records. She further observed that the *United Nations Declaration on the Rights of Indigenous Peoples Act* requires that federal laws are consistent with the UN Declaration. She took note of the *United Nations Declaration on the Rights of Indigenous Peoples Act Action Plan, 2023* that outlines the federal governments' goals to be an open government that provides greater access to information.⁶³

The Committee agrees with the Privacy Commissioner and Information Commissioner that these two acts require modernization with respect to access to information by Indigenous peoples. In 2019, Parliament adopted amendments to the *Access to Information Act* and the *Privacy Act*, which represented the first legislative reforms in over 30 years. As a result of these amendments, the Information Commissioner was provided with the powers to order the disclosure of records under the *Access to Information Act* so long as the complaint regarding information is received on or after June 21, 2019. However, the Privacy Commissioner does not have the powers to order disclosure of information under the *Privacy Act*.

Recommendation 9

That the Treasury Board of Canada, in consultation with Indigenous peoples, amend the *Access to Information Act* and the *Privacy Act* and produce a specific plan to align both acts to incorporate the rights as articulated in the United Nations Declaration on the Rights of Indigenous Peoples; and to provide broader discretionary powers under these Acts to federal institutions to disclose records when warranted by public interest.

Recommendation 10

That the Treasury Board of Canada amend the purpose clauses of the *Access to Information Act* and the *Privacy Act* to reflect reconciliation with Indigenous peoples.

⁶³ APPA, *Brief*, Caroline Maynard, Information Commissioner of Canada, March 7, 2024.

That the Treasury Board of Canada, in consultation with Indigenous peoples, amend the *Privacy Act* to:

- **Enable broader disclosure of personal information to Indigenous governments and acknowledging the various legal regimes under which they operate;**
 - **Proactively consult with the Office of the Privacy Commissioner making privacy impact assessments a legal obligation;**
 - **Grant order-making powers to the Office of the Privacy Commissioner, similar to the powers of the Information Commissioner under the *Access to Information Act*; and**
 - **Determine how best to recognize Indigenous peoples' individual and collective rights under the Act.**
-

PROVINCIAL AND TERRITORIAL APPROACHES TO RETRIEVING RECORDS

Beyond residential school records, other materials may assist family members to piece together what happened to their relatives. Death records fall under provincial jurisdiction and may be held by several provincial departments, including, for example, Coroners' Offices in cases of violent deaths, Vital Statistics offices that record births and deaths, and provincial archives. The committee heard from officials representing different provincial departments which had disclosed records to Indigenous families, to the TRC and to the NCTR related to children who went missing and may have died while in residential school.

Importantly, the committee heard of some promising practices in locating records related to Indigenous children who may have died at residential school. In Quebec, legislation was established to grant access to records related to an Indigenous child who went missing from provincial institutions such as hospitals, body or religious congregation prior to 1992. In the Northwest Territories, the government recently

dedicated an employee to examine its records from 1925 to 1956 to find the death records of Indigenous children who died while attending residential school. The Saskatchewan Coroner's Service established a family liaison employee that supports families that are dealing with trauma. Lastly, The Office of the Coroner of Ontario established a residential school death investigation team, to review the deaths that may have occurred at the 18 Indian residential schools in the province.

Quebec

The committee wishes to highlight an important legislative initiative in Quebec that grants Indigenous families access to records across different provincial and religious organizations. Such a framework could be adopted by other governments in Canada.

During the National Inquiry into Missing and Murdered Indigenous Women and Girls hearings held in Quebec, Indigenous families testified that some Indigenous children were admitted to provincial institutions, such as hospitals. Often, their families never found out what happened to these children if they did not return home. In response, the National Inquiry called on the Government of Quebec to provide Indigenous families with "all the information it has about children" following their involvement with provincial institutions. As explained by a witness, "Parents didn't receive death certificates or even a medical opinion; they didn't see their dead child and didn't know where they were buried."⁶⁴

After hearing from Indigenous families, the Government of Quebec established an innovative legislative framework, in force as of September 2021, entitled, *An Act to authorize the communication of personal information to the families of Indigenous children who went missing or died after being admitted to an institution*. The legislation facilitates providing Indigenous families with access to information about any disappearance or death of an Indigenous child who was admitted to a state institution, body or religious congregation prior to 1992.

A key feature of the legislation is the balance between individual and collective Indigenous rights to information. The Act also incorporates a broad definition of

⁶⁴ APPA, *Brief*, Anne Panasuk, as an individual, October 25, 2023.

family, wider than the nuclear family, to include “any other significant person.”⁶⁵ Under the Act, the Minister Responsible for Relations with the First Nations and the Inuit retains the powers to “provide assistance to any person who requires it.” For example, an individual may request assistance from the minister in their search for records.⁶⁶ The Act also includes a reporting clause for cases where disclosure of records is refused: provincial institutions or religious organizations are required to indicate the provision of the Act upon which they have relied to refuse disclosure. Additionally, the Act provides the Minister with the power to conduct an investigation within a provincial or religious institution, to determine whether information exists regarding the circumstances surrounding the disappearance or death of an Indigenous child, where the information has not otherwise been able to be communicated to an individual under the Act.⁶⁷ Subject to certain rules and safeguards, the results of the investigation and any evidence collected are then communicated to the individual who made the request.

The legislation also gives the Minister the power to apply to the Quebec Superior Court for an order of exhumation. Further, there is a dispute resolution process set out in the Act that allows an individual to file a complaint with the Minister. Lastly, the Act establishes a monitoring committee to ensure services offered to Indigenous families are improved, and to resolve any complaints and the application process.⁶⁸ The legislation was accompanied by a framework that included supports for Indigenous families, as well as the establishment of a Special Advisor with a two-year mandate at the Direction de soutien aux familles at the Secrétariat aux affaires autochtones. From 2021 to 2023, Special Advisor Ms. Anne Panasuk was responsible for:

- coordinating the monitoring committee on the carrying out of the Act;
- maintaining relations between the Indigenous families and the Quebec government in the context of the administration of the Act;
- informing Indigenous families of the supports offered to them in their search for information;

⁶⁵ Quebec, *Act to authorize the communication of personal information to the families of Indigenous children who went missing or died after being admitted to an institution*, S.Q. 2021, c. 16, s. 5.

⁶⁶ *Ibid*, s. 4.

⁶⁷ *Ibid*, ss. 13 to 17.

⁶⁸ *Ibid*, ss. 13 to 25.

- supporting and advising the Direction de soutien aux familles in the administration of provisions in the Act, including those pertaining to the communication of personal information, the exercise of investigative powers as well as supports at the time of an exhumation; and
- and contributing to the generation of an annual report.

Ms. Panasuk explained that in Quebec, 174 Indigenous children had disappeared. She estimated there could be between 200 and 300 children, most of whom were sent away for care alone, directly from their community without their parents accompanying them. The Office of the Chief Coroner of Quebec reported to have recently exhumed two babies using its powers under the Act.⁶⁹ The Direction de soutien aux familles at the Secrétariat aux affaires autochtones was able to gain access to the civil registry and the Archives nationales du Québec, and provide evidence to support Indigenous families to petition the Superior Court of Quebec to authorize an exhumation.⁷⁰

The Office of the Chief Coroner of Quebec reported that the Act was required because of the different legal regimes in the province and the nature of provincial record keeping. Unfortunately, in Quebec, it remains difficult for the Coroner's Office to find records without the names of individuals or their dates of death.

The Northwest Territories

The Northwest Territories, Ontario and Saskatchewan Coroner's Offices proactively searched their death records and provided names to the TRC. In 2013, at the request of the TRC, the Office of the Chief Coroner, Government of the Northwest Territories, reviewed all deaths of children between 1955 to 1992; the territorial archive also conducted a review. The Chief Coroner, Garth Eggenberger, noted that 360 deaths of children were identified.⁷¹ Of these child deaths, five were identified as children who died at a residential school or children who were living in a federally operated school hostel. The Chief Coroner's office submitted these death records to the TRC and reported they received no further communication.

⁶⁹ APPA, *Evidence*, Andrée Kronström, Coroner, Bureau du coroner du Quebec, September 20, 2023.

⁷⁰ Ibid.

⁷¹ APPA, *Evidence*, Garth Eggenberger, Chief Coroner, Coroner's Office, Department of Justice, Government of the Northwest Territories, September 20, 2023.

In July 2023, the Chief Coroner reviewed the Memorial Register maintained by the NCTR to respond to the TRC Call to Action #72, related to the establishment of a National Residential School Student Death Register. Names were compared between the Memorial Register's information on federal hostels and residential schools in the territory with coroner case files. As a result, another child who died while attending a residential school was identified. In September 2023, the Office of the Chief Coroner began comparing the names on the Memorial Register to the territorial death register from 1967 to the present.

The committee heard from Kyla Kakfwi-Scott, Assistant Deputy Minister, Department of Health and Social Services from the Government of the Northwest Territories. She noted that the Government of the Northwest Territories had recently allocated staff to examine its records from 1925 to 1956 to find the death records of Indigenous children who died while attended residential school in the territory. These records only exist in hard copy and must undergo a manual search and be digitized into reports to be provided to the NCTR. Due to limited funding and capacity previously the Vital Statistics office was only able to respond to requests from families. At present, a plan is under development to prioritize locating records for all children on the Memorial Register of the NCTR and will work with the territorial archivist to find any additional information like the location of the school and the administrator of the school when the child died.⁷²

The Chief Coroner of the Northwest Territories further noted that his office does have problems accessing certain records, particularly those from prior to 1967, which are held by Library and Archives Canada. The committee takes note that some death records for different time periods are held in different places, such as in Quebec and the Northwest Territories.

⁷² APPA, *Evidence*, Kyla Kakfwi-Scott, Assistant Deputy Minister, Corporate Services and Cultural Safety, Department of Health and Social Services, Government of the Northwest Territories, February 7, 2024.

Recommendation 11

That Library and Archives Canada review its holdings of death records from before 1967 to identify Indigenous children who may have died while at residential schools or in a federal hostel in the Northwest Territories.

Ontario

In 2012, the Office of the Chief Coroner of Ontario explained that the Office proactively began to review deaths that occurred beginning in the early 1900s in which a child may have died “non-naturally from a violent situation — sudden and unexpected.”⁷³ Dr. Dirk Huyer, Chief Coroner for Ontario noted its office found approximately:

100 named individuals and many unidentified individuals who were brought forward because of the location of where the deceased were found. We still don't know who some of those people are. They weren't necessarily children. We were looking at everything possible.⁷⁴

The Office of the Chief Coroner of Ontario submitted a list of individuals who died of unnatural causes to the TRC. However, the Chief Coroner reported to the Committee that the Office had not followed up with the TRC to remit the individual case files. In the fall of 2023, the Office began to retrieve the case files related to 100 individuals identified as having died due to unnatural causes with the intention of submitting the records to the NCTR.

In 2022, the Office established a Residential School Death Investigation Team, comprised of three police officers and an analyst who are reviewing deaths that may have occurred at the 18 Indian residential schools that operated in Ontario. Reporting to the Chief Coroner, and on requests from Indigenous communities, the team is examining who died, where and when the death occurred, what was the medical cause of death and how the death occurred. Lastly the team is trying to

⁷³ APPA, *Evidence*, Dr. Dirk Huyer, Chief Coroner for Ontario, Office of the Chief Coroner for Ontario, September 20, 2023.

⁷⁴ Ibid.

locate where these deceased individuals may be buried. The Office cross referenced the students listed on the NCTR's Memorial Register with the list the Office has of individuals who died of natural causes and reported that to date:

Of the 433 [Indigenous children] who are listed by the NCTR, our team has found the answers, through evaluation of publicly available records, for 136 [individuals] If communities wish to reach out to us and ask us questions, we will share those records and that information to help answer questions of which children may have attended [certain schools] and which children may have died, and to help to understand where they may be buried so that it will be of assistance to them, we hope. We have also discovered approximately 79 additional deaths in Ontario residential schools of the 18 that were not listed by the NCTR.⁷⁵

Saskatchewan

Prior to 1976, Saskatchewan stored death records within its judicial districts or within the courthouse if an inquest was conducted; currently, all of these records are held by the Government of Saskatchewan. However, there are gaps in some records for certain years. The committee heard from an official from the Health Registries and Vital Statistics from the Government of Saskatchewan which noted that in response to a request from the TRC, in 2014 employees had conducted a search of its death records of all children in Saskatchewan between the period of 1898 to 1943.

According to the *Vital Statistics Act, 2009* the government can only release records 70 years following an individual's death. More recent records can only be released to certain individuals. As a result of legislative constraints, the Government of Saskatchewan was unable to provide to the TRC the cause of death for the records it found; the governing legislation also prevents eHealth from releasing all death records of children who died in the province as it "would not be in alignment with the principles of "need-to-know" and data minimization, and it could result in a privacy breach."⁷⁶

⁷⁵ APPA, *Evidence*, Dr. Dirk Huyer, Chief Coroner for Ontario, Office of the Chief Coroner for Ontario, September 20, 2023.

⁷⁶ APPA, *Evidence*, Lorri Thacyk, Vice-President, Communications and Public Relations, eHealth Saskatchewan, Government of Saskatchewan, February 27, 2024.

Missing Records, Missing Children

Lorri Thacyk, Vice-President, Communications and Public Relations, eHealth Saskatchewan noted that following the Chief Coroner of Saskatchewan's appearance at this committee, "eHealth Saskatchewan was made aware of the [Memorial Register] of student names by residential school that resides on the National Centre for Truth and Reconciliation website. We have started initial work to review those lists."⁷⁷ She further noted it can release genealogical records between 1944 to 1954 and noted Saskatchewan Vital Statistics is open to discussions pertaining to narrowing the search parameters in keeping with its privacy legislation to provide only the death records related to Indigenous children.

The Saskatchewan Coroners Service took a similar approach to finding the death records of Indigenous children as the Coroners Offices in the Northwest Territories and Ontario. Clive Weighill, Chief Coroner for Saskatchewan, Government of Saskatchewan explained:

[T]he TRC provided a list of 620 potential deaths of children at residential school, and the Coroners Service searched its records for information and in 2015 identified about 400 children who died and provided these records of potential residential school deaths of children to the TRC. In January 2023, the Coroners Service identified additional death records of Indigenous children who were on the TRC National Residential School Student Death Register and this information was provided to the Independent Special Interlocutor for Missing Children and Unmarked Graves and Burial Sites associated with Indian Residential Schools.⁷⁸

The Saskatchewan Coroners Service reported that the Provincial Archives of Saskatchewan have some birth, marriage and death registers from some churches in the province, which may help identify Indigenous children who died while at residential school. The Provincial Archives will approach the churches who own birth, marriage and death registers obtain church registers held in the Provincial Archives that could help in identifying deceased children and that the Archives would approach the churches who own these records to obtain them. Finally, the Chief Coroner reported that following a review of the Senate Standing Committee meeting

⁷⁷ APPA, *Evidence*, Lorri Thacyk, Vice-President, Communications and Public Relations, eHealth Saskatchewan, Government of Saskatchewan, February 27, 2024.

⁷⁸ APPA, *Evidence*, Clive Weighill, Chief Coroner for Saskatchewan, Government of Saskatchewan, February 7, 2024.

of September 20, 2023, it conducted further investigation and identified three Indigenous children who died and these records have been sent to the NCTR.⁷⁹

Manitoba

The Standing Senate Committee on Indigenous Peoples heard from Dr. John K. Younes, Chief Medical Examiner for Manitoba. The Office of the Chief Medical Examiner investigates deaths resulting from violence, accidents, suicide or homicides or those that occurred in an unexpected or unexplained manner, among others.

Dr. Young noted that the legislative regime changed in 1970 with the coming into force of the *Fatality Inquiries Act*. Prior to 1970, death investigations were handled by a coroner's system, and most of the investigative files prior to 1970 were destroyed. There are about 17 years of summary report cards related to the pre-1970 period that provide some of the circumstances of an individual's death, a cause of death, the individuals name and age.

There are better records in the post 1970 period, and the Office of the Chief Medical Examiner noted that there are hundreds of cubic feet of reports for the period. He noted he anticipates completing the following work by the end of the summer 2024:

There are literally hundreds of cubic feet of medical examiner reports in the archives for the 20 years that are relevant. We basically will have to go through those file by file and identify child deaths, typically between the ages of 5 and 18 years, which might be relevant and hope to find identifying information to allow us to conclude which deaths occurred in a residential school or to identify a child who was at a residential school.

That will be a challenging task. Not having the names of the children who are suspected to have died in the residential schools, we can't focus our search to identify these particular files quickly. It will basically entail a paper-by-paper search through a huge volume of information trying to find investigative files that relate to child deaths and go from there.

⁷⁹ APPA, *Evidence*, Clive Weighill, Chief Coroner for Saskatchewan, Government of Saskatchewan, February 7, 2024.

At the end of the process, I will say I have no restrictions or no qualms about releasing to next of kin or the NCTR the information we do find about any deaths in children in residential schools.⁸⁰

CONCLUSION

This report highlights the complex research Survivors, Indigenous leaders and regional archives are doing to locate and identify any Indigenous children who may have died at residential schools. The committee hopes that the recommendations made within this report helps Indigenous communities as they continue this sacred work.

⁸⁰ APPA, *Evidence*, Dr. John K. Younes, Chief Medical Examiner, Government of Manitoba, April 30, 2024.

APPENDIX A – List of Outstanding Records by the National Centre for Truth and Reconciliation, 2023

The following table summarizes a list of outstanding records produced by the National Centre for Truth and Reconciliation in 2023.

Institution	Outstanding Records
Library and Archives Canada	Day school records (not identified in the Indian Residential Schools Settlement Agreement (IRSSA)) and moving images and sound (required to fulfil obligations under the IRSSA).
Crown-Indigenous Relations and Northern Affairs Canada	A Document Advisory Committee has been created and work is underway to determine the volume of records across federal departments. Outstanding Records include items related to the IRSSA: Independent Assessment Process non-claim records (in accordance with a court order); and Common Experience Payment records which document the residential school experience.
Governments of the Northwest Territories, Manitoba, Quebec, Ontario and Saskatchewan	Outstanding records from these governments include vital statistics, coroners' reports and death certificates (from Manitoba, Northwest Territories, Saskatchewan and Quebec). Additional records are held at the Provincial Archives of Saskatchewan.
The following Oblate entities: <ul style="list-style-type: none"> • St. Boniface Historical Society; 	Outstanding records related to the history of the administration and operations of residential schools are required to fulfil obligations under the

Missing Records, Missing Children

<ul style="list-style-type: none">• The Roman Catholic Archdiocese of Keewatin–Le Pas;• OMI Lacombe Canada Records held by the Royal BC Museum and Archives;• OMI Lacombe Canada Records held by the Provincial Archives of Alberta;• Deschâtelets-NDC Archives;• Oblate’s General House Archive in Rome	IRSSA. The NCTR has only received a small number of records.
Sisters of Charity	Records related to the Shubenacadie Indian Residential School.
Sisters of St. Ann held by the Royal BC Museum and Archives	

APPENDIX B – Witnesses

Tuesday, September 19, 2023

Jasmine Bouchard, Assistant Deputy Minister, User Experience and Engagement Sector, Library and Archives Canada

Kristi Carin, Director General, Resolution and Partnerships, Crown-Indigenous Relations and Northern Affairs Canada

Garima Dwivedi, Assistant Deputy Minister, Resolution and Partnerships, Crown-Indigenous Relations and Northern Affairs Canada

Emily Gusba, Director General, Government Record Branch, Collections Sector, Library and Archives Canada

Edward G. Sadowski, Researcher

Ryan Shackleton, Chief Executive Officer, Know History

Wednesday, September 20, 2023

Garth Eggenberger, Chief Coroner, Coroner's Office, Department of Justice, Government of the Northwest Territories

Jodi Giesbrecht, Vice President, Archives, Collections and Research, Royal BC Museum

Dr. Dirk Huyer, Chief Coroner for Ontario, Office of the Chief Coroner for Ontario

Andrée Kronström, Coroner, Bureau du coroner

Janet La France, Executive Director, Société historique de Saint-Boniface

Julie Reid, Head Archivist, Société historique de Saint-Boniface

Emma Wright, Director of Archives, Royal BC Museum

Wednesday, September 27, 2023

Jordan Dosch, Director of Finance and Administration, Deschâtelets-NDC Archives

Robert Meilleur, Chief Administrative Officer, OMI Lacombe Canada

Luc Tardif, Father, Provincial Superior, Deschâtelets-NDC Archives

Ken Thorson, Father, Provincial, OMI Lacombe Canada

Wednesday, October 25, 2023

Cadmus Delorme, Chairperson, Residential School Documents Advisory Committee

Raymond Frogner, Head of Archives, National Centre for Truth and Reconciliation

Mary Musqua-Culbertson, Treaty Commissioner, Office of the Treaty Commissioner of Saskatchewan

Anne Panasuk, Former Special Family Support Advisor

Wednesday, November 1, 2023

Erica Beaudin, Chief, Cowessess First Nation

Gertie Neacappo, Member, Cree Nation of Chisasibi

Tuesday, November 7, 2023

Warren Brown, Representative of the OMI General Administration, Oblate General Archives

Murray Chatlain, Archbishop, Archdiocese of Keewatin-Le Pas

Velichor Abaranam Jerome, General Archivist OMI, Oblate General Archives

Wednesday, November 29, 2023

Lori Doran, Director General, Individual Affairs, Indigenous Services Canada

John Gordon, Indian Registrar, Individual Affairs, Indigenous Services Canada

Tuesday, December 12, 2023

Mary Flynn, Congregational Archivist, Sisters of Charity – Halifax

Donna Geernaert, Sister, Former Congregational Leader, Sisters of Charity – Halifax

Wednesday, February 7, 2024

Kyla Kakfwi-Scott, Assistant Deputy Minister, Corporate Services and Cultural Safety, Department of Health and Social Services, Government of the Northwest Territories

Clive Weighill, Chief Coroner for Saskatchewan, Government of Saskatchewan

Tuesday, February 27, 2024

Philippe Dufresne, Privacy Commissioner of Canada, Office of the Privacy Commissioner of Canada

Missing Records, Missing Children

Caroline Maynard, Information Commissioner of Canada, Office of the Information Commissioner of Canada

Lorri Thacyk, Vice-President, Communications and Public Relations, eHealth Saskatchewan, Government of Saskatchewan

Tuesday, April 30, 2024

Anna Betty Achneepineskum, Deputy Grand Chief, Nishnawbe Aski Nation

Fay K. Brunning, Legal Counsel for St. Anne's Indian Residential School Survivors

Evelyn Korkmaz, St. Anne's Residential School Survivor and Advocate

Mike Metatawabin, St. Anne's Residential School Survivor and Project Lead, Nee Kee Wa Nan

Dr. Edmund Metatawabin, Coordinator, Peetabeck Keway Keykaywin Association

Dr. John K. Younes, Chief Medical Examiner, Government of Manitoba



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