

MISSING CHILDREN & UNMARKED BURIALS: RESEARCH RECOMMENDATIONS

This paper was prepared by a Working Group of multi-party representatives under the direction of the Interim Executive Director of the TRC. Its primary objective was to explore options and make recommendations to the TRC Commissioners on undertaking research into the issue of Missing Children and Unmarked Burials.

ISSUE:

As part of its examination into the history of Indian Residential Schools (IRS), it is recommended that the Truth and Reconciliation Commission undertake specific research into the history of children who died or went missing while in the care of IRS officials.

OBJECTIVE:

As part of its five year mandate, the TRC is required to prepare a report on the history and legacy of the IRS experience. One significant aspect of this history should include an examination of student deaths in, and disappearances from, the residential schools. Recent media reports describing the extent of the issue and the ongoing suffering it causes survivors and their families demonstrates the need for a thorough examination of what has come to be called the “Missing Children” issue. Research into Missing Children will work within the TRC’s broader research plans and objectives, while still providing Canadians with a timely response to this highly sensitive issue.

SCOPE:

Research into Missing Children will consider four fundamental questions:

1. Who and how many IRS students died?
2. What did IRS students die from?
3. Where are they buried? and
4. Who went missing?

While the first three questions are fairly narrow in their conceptual scope, the fourth question is understood more broadly to include those children who entered an IRS but did not return home to their families.

Similar to other historical research that will be undertaken by the TRC, research into the Missing Children issue will cover the entire period of IRS operations. The research must consider all relevant documentation currently housed in federal government, church and parish holdings. Where possible, research will consider relevant supplemental material that may be found in the archival holdings of non-signatory parties such as provincial and municipal governments, community and private archives.

In addition to the text based documentation, Missing Children research will include the collection of oral history and will explore the possibility of cross-referencing oral information with archival documentation in the hope of providing further detail into particular incidents of death or disappearance.

MANDATE:

- The TRC Mandate (Schedule “N” of the Indian Residential Schools Settlement Agreement) offers the following provisions for undertaking historical research:
 1. The TRC will “identify sources and create as complete an historical record as possible of the IRS system and legacy.” [Section 1(e)];
 2. The TRC shall “employ interdisciplinary, social sciences, historical, oral traditional and archival methodologies for statement-taking, historical fact-finding and analysis, report-writing, knowledge management and archiving.” [Section 3(a)];
 3. The TRC will present a “report on historic findings and recommendations within two years of the launch of the Commission with the possibility of a six month extension.” [Section 8(b):Two-Year Timeline];
 4. “The Commission shall conduct such research, receive and take such statements and consider such documents as it deems necessary for the purpose of achieving its goals.” [Section 9];
 5. “Canada and the churches will provide all relevant documents in their possession or control to and for the use of the TRC... subject to and in compliance with applicable privacy and access to information legislations, and except for those documents for which solicitor-client privilege applies and is asserted.” [Section 11];
 6. “Canada and the churches are required... to provide access to their archives.” [Section 11].
 7. “A research centre shall be established, in a manner and to the extent that the Commission’s budget makes possible. It shall be accessible to former students, their families and communities, the general public, researchers and educators who wish to include this historic material in curricula” subject to applicable privacy legislation. [Section 8(b): Five Year Timeline; Section 12];

- While the TRC Mandate offers considerable scope for undertaking historical research, it’s ability to undertake formal investigations is limited. The Mandate specifically states that the TRC:
 1. Shall not hold formal hearings, nor act as a public inquiry, nor conduct a formal legal process [Section 2(b)];
 2. Does not possess subpoena powers [Section 2(c)];
 3. Cannot compel participation in any of its activities [Section 2(c)];
 4. Cannot identify a person without their express consent [Section 2(j)];

5. Cannot make findings or express conclusions regarding the misconduct of any person unless such findings or information has already been established through legal proceedings, by admission or by public disclosure [Section 2(f)];
6. Cannot make any reference in any of its activities, report or recommendations of possible civil or criminal liability of any person or organization unless such findings or information has already been established through legal proceedings, by admission or by public disclosure [Section 2(f)].

ANALYSIS:

Overview:

- Questions into incidents of death and disappearance in the residential schools were raised publically in early 2007, although survivors and their supporters have been concerned with these issues for many years.
- In response to questions tabled in the House of Commons, Minister Jim Prentice (former Minister to the Office of Indian Residential Schools Resolution Canada, IRSRC) asked Mr. Bob Watts, Interim Executive Director for the TRC, to form a Working Group to examine the issue and explore options for further research.
- The Working Group is comprised of representatives from major national Aboriginal organizations, a national organization representing former students of Indian Residential Schools, the churches, and the federal government.
- The Working Group also engaged the expertise of Professor John Milloy who was the Chief researcher for the Royal Commission on Aboriginal Peoples on issues pertaining to the history of the Indian Residential Schools. He is also the author of *A National Crime: Canadian Government and the Residential School System, 1876-1986*, (Winnipeg, 1999).
- The Working Group met on a regular basis throughout the summer/fall of 2007 and the winter of 2008.
- During the course of its discussions, the Working Group identified the key questions and priorities which should govern research into the Missing Children issue. It emphasized the need for research to be comprehensive, professional, timely, and sensitive to the needs and concerns of survivors and their families.
- Members of the Working Group stressed that research on Missing Children must go beyond a statistical study of deaths in the schools; it should include all students who entered the IRS system but never returned home. This would include students who ran away or who were transferred from an IRS to a different school, hospital, foster home, adoptive home or any other form of institutional care without their parent's knowledge. It was recommended that

researchers might also explore how the absence of children during the school year had an impact on both families and communities as well as instances where children were so transformed by their IRS experience that their true spirit was forever lost.

- In considering the multiple meanings of “missing”, it became clear that a comprehensive examination of this issue should include a thorough review of available historical records and information obtained through statement taking regarding deaths and disappearances.

Key Considerations:

Any approach to historical research conducted by or on behalf of the TRC must take into account the following key considerations:

1. Independence:

- Although it is a government body, the TRC will operate as an independent entity separate from the parties to the Settlement Agreement.
- The integrity of the TRC’s research process will be defined in part by the ability of the TRC to maintain its independence from Canada and the churches.

2. Timelines:

- The TRC is required to submit its report on the history and legacy of the IRS system two years after the official launch of the TRC.
- This does not preclude the possibility of further research being undertaken throughout the duration of the TRC’s five year mandate.

3. TRC Mandate:

- The TRC’s research methodology must respect the Principles and terms of the TRC Mandate while ensuring the highest ideals of scholarly integrity and cultural sensitivity.

4. Legislative Requirements:

- The federal Privacy Act defines how federal departments collect, use, disclose and store personal information.
- Many historical documents and all oral testimony contain information of a personal nature. Consequently, the TRC will need to establish appropriate safeguards to ensure the security of the documentation it collects.

5. Statement Taking:

- All members of the Working Group have stressed the critical importance of meeting with survivors and listening to their accounts of children who died or disappeared while attending an IRS.

- All TRC statement taking initiatives must provide appropriate health supports to all those who volunteer to disclose personal information.
6. Historical Documents:
- Canada and the churches have committed to providing the TRC with access to their archives along with all relevant documents in their possession or control subject to applicable privacy legislation.
 - Researchers engaged in the Missing Children project will require access to the archives of Canada and the churches.
 - Protocols for undertaking archival research will be established by the TRC in consultation with Canada and the churches.
7. Access to Information:
- During the course of its mandate, all information collected by or on behalf of the TRC will be accessible to the public in accordance with the Access to Information and Privacy Acts.
 - With the establishment of the TRC's National Research Centre, material created or received by the TRC mandate will be available to former students, their families and communities, the general public, researchers and educators, subject to applicable privacy legislation and any recommendations by the Commission concerning the continued confidentiality of the records.

RECOMMENDATIONS:

- Research into Missing Children and Unmarked Burials (to be known as the Missing Children Research project) comprises three distinct components:
 1. Information Collection
 2. Information Storage
 3. Information Analysis
 - It is recommended that the TRC appoint one dedicated staff member to oversee the Missing Children research project, coordinate the activities of research consultants, and facilitate consultations as needed with key stakeholders and partner organizations.
 - Additional staff and consultants will be brought on to the project as outlined below.
1. **Information Collection:**
- Research into Missing Children and Unmarked burials will rely on two primary sources of information:
 - a) Historical Documents:
 - The TRC will work with the signatory parties to identify and collect relevant historical documents found in the archives of Canada and the churches.
 - Operational requirements for document collection will be addressed by the TRC's Document Collection plan.

b) Personal Statements:

- The TRC will undertake to collect personal statements from former IRS students, staff, church and departmental officials and anyone else who volunteers to disclose their direct or indirect knowledge of IRS operations, incidents and events.
- Advisors to the Missing Children research project will develop questions pertaining to deaths and disappearances of IRS students to be included in the standard list of interview questions.
- In addition to individual statement taking, it is recommended that the TRC highlight the issue of missing children and unmarked burials at one or more of its national events in order to raise awareness of this issue and encourage individuals to come forward with information.
- It is further recommended that the TRC develop questionnaires to elicit information regarding Missing Children and unmarked burials from participants at TRC sponsored events. Such questionnaires should only be distributed where there are appropriate health supports.
- Following the interview, TRC statement takers will flag testimony relating to Missing Children and unmarked burials.
- Operational requirements for Missing Children statement taking will be addressed within TRC statement taking and national event planning.

2. Information Storage:

- Information collected via historical documents and personal statements will be recorded in a master database which will be made available to TRC researchers and research consultants. Hardcopy reproductions will be stored in the TRC record office in accordance with appropriate information management protocols.
- Information of special relevance to the research of Missing Children and unmarked burials will be specifically identified within the database for easy access.
- The research database will be developed by the TRC Research manager in consultation with an information management and technology specialist.
- Operational requirements for information storage will be addressed within TRC document storage planning; however, requirements relating specifically to Missing children and unmarked burials include:
 - One information and management and technology specialist to ensure that the TRC's master database will support the inclusion of a Missing Children template and statement taking data.
- Documents collected by or on behalf of the TRC as well as any documents created by the TRC will ultimately be stored in the TRC's National Research Centre. Material stored in the National Research Centre will be accessible to the public subject to applicable privacy legislation and "any recommendations by the Commission concerning the continued confidentiality of records". [Schedule N, Section 12].

3. Information Analysis:

- Information derived from historical documents and personal statements will form the basis of four distinct Missing Children research projects:
 - a) Statistical Survey:
 - The statistical survey will aim to achieve a precise estimate of:
 - Total enrolment throughout the history of the IRS system;
 - Rates of infection; and
 - Rates and cause of death.
 - The statistical survey will be completed prior to, and in preparation for, the TRC's two year report.
 - Operational requirements for this project include:
 - One social historian trained in statistical analysis working under the direction of a TRC staff member; and
 - A database with date matching capabilities.
 - b) IRS Operational Policies and Custodial Care:
 - This study will seek to understand the regulatory regime in which the schools operated with respect to the care of children including the provision of health services, policies on discipline, runaways, deaths and burials, as well as commentary on Departmental administration of regulations and church compliance with these regulations.
 - This study will also examine the degree to which school administrators, church and departmental officials and the government in general were aware of the phenomenon of schools deaths, disease and missing children.
 - Research and Analysis of this project will be completed prior to, and in preparation for, the TRC's two year report.
 - Operational requirements for this project include:
 - One professional researcher/writer working under the direction of a TRC staff member;
 - The researcher/writer will require access to all signatory archives (subject to privacy legislation); and
 - The TRC will provide administrative assistance and support where required.
 - c) Unmarked Burials (& Commemoration):
 - This study will seek to identify the location of cemeteries and grave sites in which IRS students are believed to be buried.
 - Research will make use of oral testimony (obtained through TRC statement taking activities) and archival documents, including site maps and parish registries. Other research methodologies may be adopted as required in consultation with key stakeholders and partner organizations.
 - Once possible grave sites are located, the TRC will consult with the appropriate Band Council offices to determine if and/or how the community wishes to proceed with further research and commemoration.

- Possible options for honouring the spirit of those who died include:
 - Visiting residential school sites where graves of Missing Children are located or the cemeteries near the schools where Missing Children could have been buried.
 - Conducting traditional ceremonies in those locations to ask the spirits of the Missing Children to return home to their communities.
 - Organizing Commemorative Feasts in the communities that have experienced Missing Children to welcome the spirits home. Invitations to the feast would be extended to as many community members as possible which will support those who have lost children. This will help to initiate healing in the community.
 - Where no burial sites are found but deaths are believed to have occurred, traditional ceremonies may be conducted at the site of the residential school to request the spirits of the Missing Children to return home to their respective communities. Commemorative activities may also be held.
- Research for this project will aim for completion within the first two years of the launch of the TRC, but may continue as required over the full five years of the TRC mandate.
- Operational requirements for the research aspect of this study include:
 - The provision of one research consultant working under the supervision of a TRC staff member.
 - The consultant should be familiar with the methodologies associated with historical research and cultural/social archaeology.
 - Additional resources will be determined as the need arises.
- Operational requirements for the commemorative aspect of this initiative will be determined in accordance with the TRC's plan for Commemoration activities.

d) Specific Case Research:

- When the TRC receives information of specific incidents where a student died or went missing, efforts will be made to identify the details of the case including the location of the burial site (if applicable).
- Details of the project design will be established in collaboration with Canada and the churches under the auspices of the TRC's Research Manager.
- Results of this research will be released to the family upon request and subject to applicable Privacy legislation.
- Research will be undertaken as required throughout the five years of the TRC mandate.
- Operational requirements for specific case research include:
 - A database with date matching capabilities;
 - One data analyst working under the auspices of a TRC staff member to record and match information.
 - Additional resources to be obtained as the need arises.

e) Future Research:

- Upon completion of the TRC's two year report, the Commissioners may consider recommendations for additional research to be undertaken during the remaining three years of the TRC mandate.
- Topics for consideration include:
 - Student transfers to other IRS
 - Hospitalization
 - Foster care and adoption
 - Community impacts
 - Spiritual distress
- Operational requirements for future research projects will be outlined within the proposed recommendations.

NEXT STEPS:

- The TRC should form a working committee with Canada and the churches in consultation with partner groups to develop a common inventory of IRS records and to establish protocols for historical research and document collection.
- The TRC should clarify protocols concerning Access to Information and Privacy pursuant to the establishment of the National Research Centre.
- The TRC should explore methods of accessing relevant documents in non-signatory archives.
- The TRC should explore funding options and possible cost sharing arrangements pursuant to developing a formal budget for this project.