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Habeas Corpus: Breaking Reservation Boundaries

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Habeas Corpus: Breaking Reservation Boundaries

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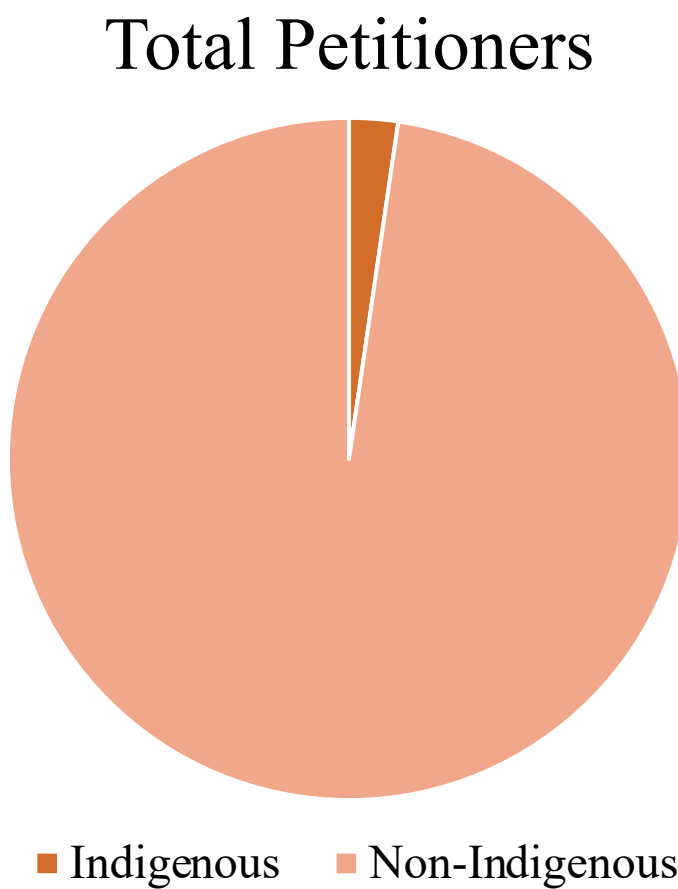


Abstract

Dr. Katrina Jagodinsky’s *Petitioning for Freedom* examines marginalized peoples’ use of habeas corpus in the American West from 1812 to 1924. This project has uncovered Indigenous manipulation of the American legal system to counter the challenges of colonialism. Indigenous peoples used habeas to protest, and sometimes successfully mitigate boarding school experiences, forced removal, and confinement on reservations. This study aims to show how Indigenous peoples and other minorities had a complex understanding of the law and used it to their advantage.

Methods

1. Identify and digitize Habeas Corpus in State and Federal Archives
2. Transcribe and encode habeas petitions and supporting documents into xml and csv to highlight petitioner and petition attributes for critical, mixed-methods analysis
3. Isolate Indigenous petitioners using habeas to challenge reservation confinement from the larger data set
4. Prepare and present findings to public audience and invite tribal engagement with data analysis



Keokuk v Wiley | 1868

Moses Keokuk, Chief of the Sac & Fox, led a tribal delegation to Washington D.C.

Indian Agent Albert Wiley arrested and jailed Keokuk and his delegation in Lawrence, KS

Wiley justified the arrest on an order stating no Indians could travel to D.C. due to lack of funds and claimed federal authority over the Sac & Fox

Keokuk successfully used habeas to challenge Wiley’s authority because he was paying his own way to D.C.

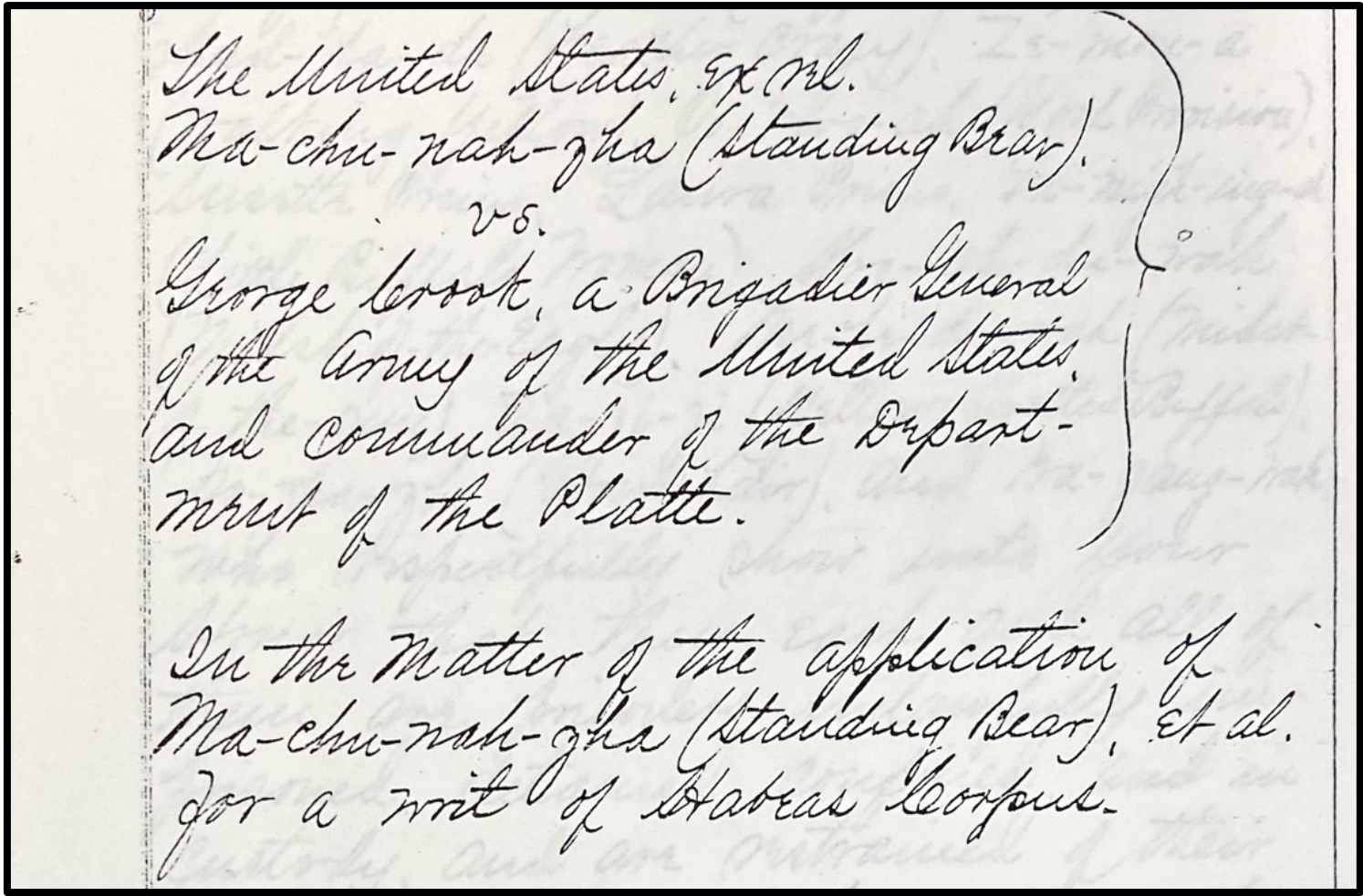


Image 2: An excerpt from Standing Bear’s casefile

Heo v Milroy | 1880

John Heo lived and worked near the Nisqually and Puyallup Agency, and was arrested by the agent for refusing to return to the reservation

Heo used habeas to explain he had never lived on the reservation and denied the Agent’s and the federal government’s authority over him

The Judge denied Heo’s petition, but Heo remained outside the reservation boundaries in defiance of the order and the Puyallup Agent

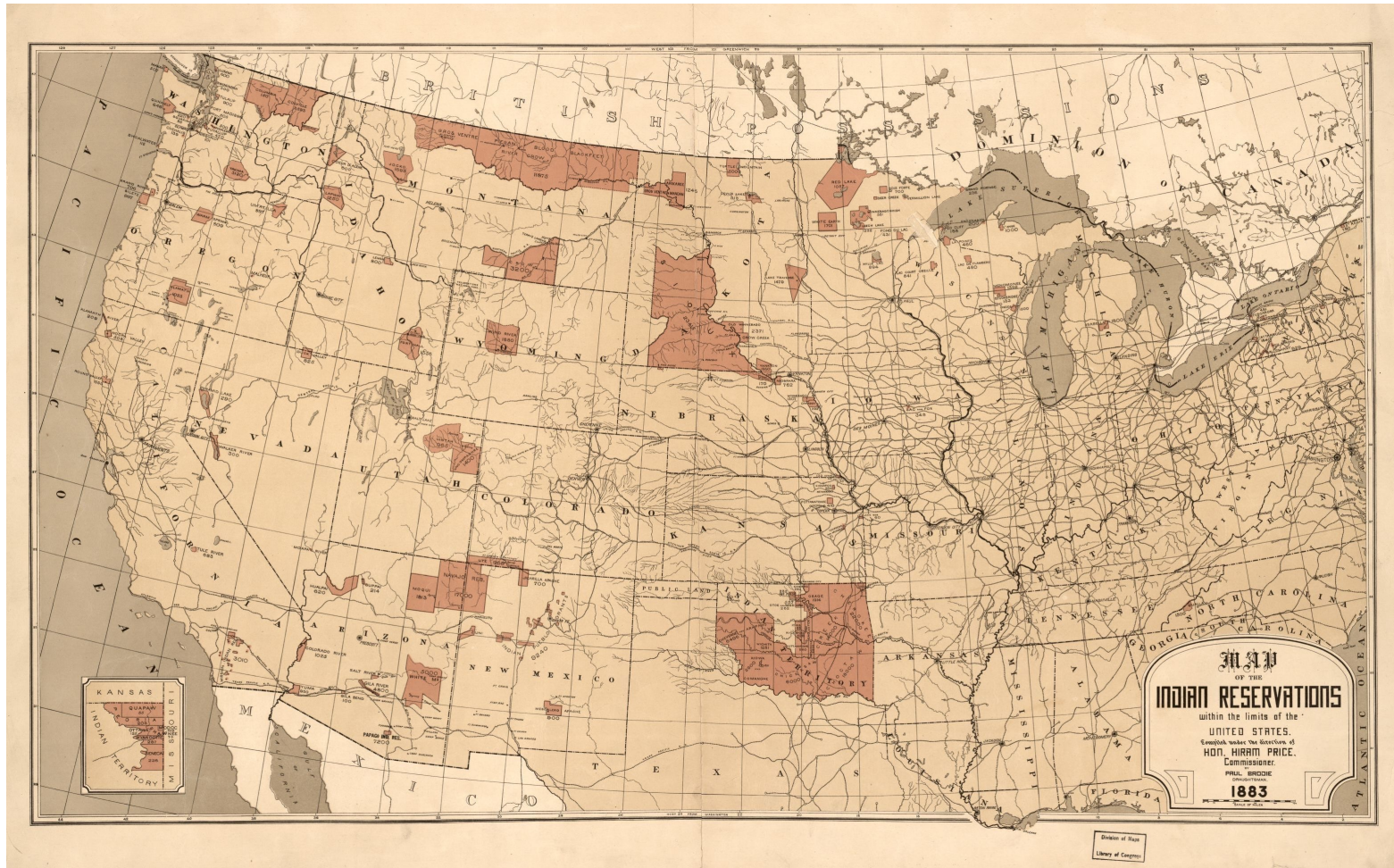


Image 1: A map of reservations in the United States in 1883
Image courtesy of the Library of Congress

Standing Bear v Crook | 1879

Standing Bear and 29 of his people returned to Ponca homelands in 1879 after being forcibly marched to Indian Territory in 1878 and facing deadly conditions there

Gen. George Crook arrested the Ponca in Omaha and Standing Bear’s band filed for habeas corpus, arguing that they broke no laws by leaving Indian Territory

Judge Dundy upheld the Ponca claim to habeas and Standing Bear led a 3-year campaign to restore Ponca land rights in Nebraska

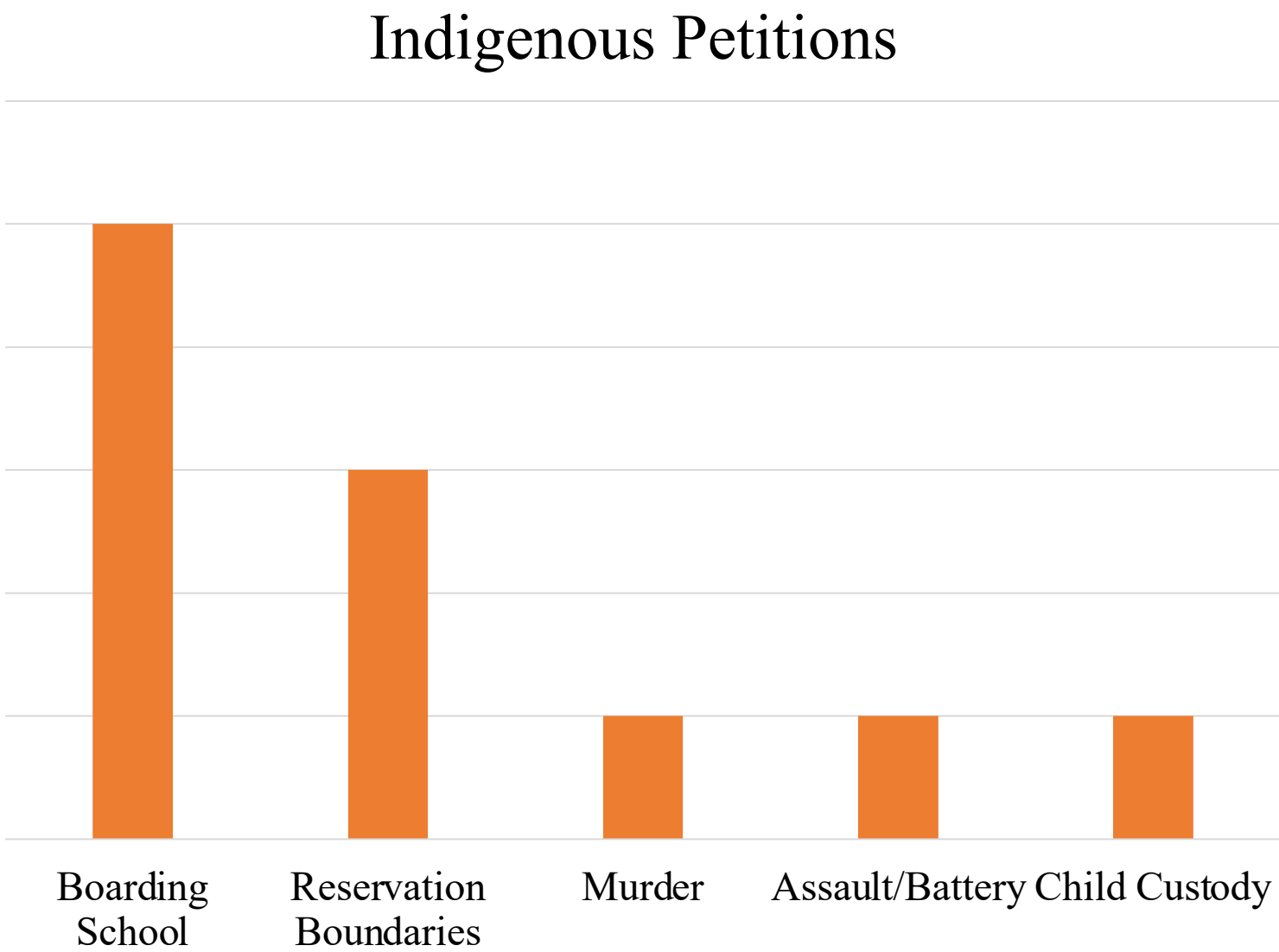


Image 3: Moses Keokuk
Image Courtesy of the Oklahoma State Historical Society



Image 4: Standing Bear
Image Courtesy of Nebraska Public Media

Conclusions



Standing Bear was not the first or the last to use habeas corpus to challenge reservation confinement

The 1868 Keokuk and 1879 Standing Bear decision did not make others successful

Different strategies were used within these cases to garner support from judges and the public

Native development of habeas practice should be viewed as an evolving and fluid process

Questions

Are there similar cases that have yet to be encoded?

Did Indigenous women utilize habeas corpus to justify leaving the reservation?

What other legal methods were used to leave the reservation?