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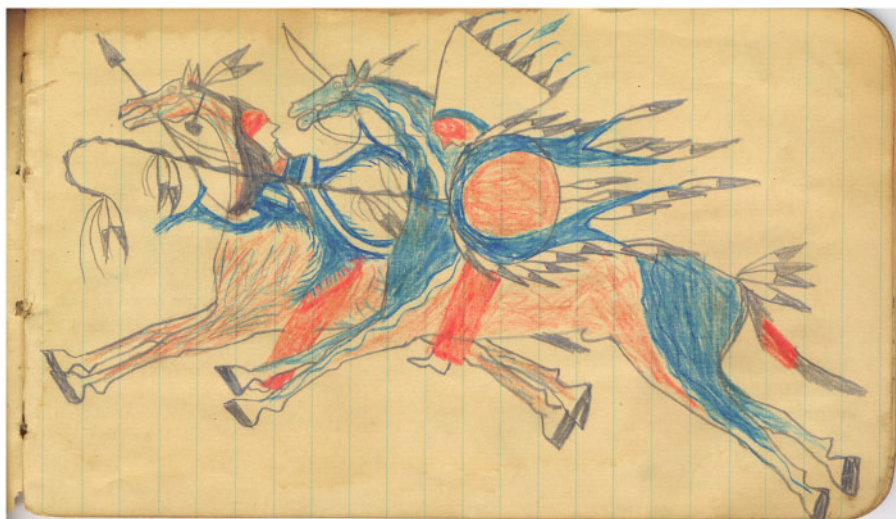
CROW DOG'S TRIAL AND LEDGER DRAWING: CULTURAL PRODUCTION AND TRIBAL NATION IN THE MAW OF THE AMERICAN EMPIRE

ROSS FRANK 

The 1882 trial of Crow Dog (Kangi Súŋka), for the murder in 1881 of Spotted Tail (Siŋté Glešká), a leader of the Sicangu/Brulé Lakota, had all of the hallmarks of a twentieth- or twenty-first-century celebrity trial. People came for miles around Deadwood, Dakota Territory and far-flung parts to the west in order to attend the trial and rub shoulders with the participants. From the point of view of government officials in the Bureau of Indian Affairs who engineered the trial, the goal was to wrest criminal jurisdiction from Indian governments on reservations. A number of drawings on paper, “ledger drawings,” produced by Crow Dog and other Lakota participants engulfed in the trial and related activities, show another colonial process at work—the appropriation and resignification of the Native voice within the public sphere. The confluence of national, regional, and local events swirling around Deadwood, Dakota Territory, and the legal case that becomes Ex-parte Crow Dog before the Supreme Court, resituates the historical significance of this genre of “Captivity Ledgers” both for Lakota and settler sensibilities during the post-Civil War and early reservation era.

On August 7, 1881, Acting Agent Henry Lelar arrested Crow Dog, prominent member of the Brulé Lakota for the killing of

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Lakota leader Spotted Tail at the Rosebud Agency, Dakota Territory.¹ Crow Dog stood trial and a jury found him guilty of murder in March 1882, culminating in the 1883 Supreme Court judgement in *ex-parte Crow Dog*. Between the arrest of Crow Dog and his legal victory at the Supreme Court, a number of Lakota men connected to the proceedings produced drawings on paper for non-Native American participants and spectators. The drawings represent part of a pictorial tradition among many Plains Indian peoples, including pictographs, hide painting, and designs made using porcupine quills or beads on hide. During the period from 1860 to 1900, Plains men created drawings on paper, often in accountants' ledger books acquired by trade, purchase, or as spoils of combat, and hence referred to as "ledger books" or "ledger drawings."

Ledger drawings from the nineteenth century illustrated male "exploits" in battle, as well as other activities associated with the demonstration of power, honor, and status. A drawing by Scares the Enemy, one of the Brulé Lakota men caught up in the Crow Dog story, will serve as an example. Figure 1 shows Scares the Enemy in the process of running down a prominent Crow Warrior, identified by the pompadour hair style, the red war paint applied across the upper portion of his face, and a magnificent fringed and painted war shirt. Scares the Enemy drives forward with his head bent down, his shield positioned horizontally shown by the otter skin wrap and eagle feather attachments streaming behind. His painted and decorated war pony charges ahead

¹ Sidney L. Harring, *Crow Dog's Case: American Indian Sovereignty, Tribal Law, and United States Law in the Nineteenth Century* (Cambridge, UK: Cambridge University Press, 1994), 110–11.

with so much power and speed that it catches the enemy before he can fit his arrow to his bow. Scares the Enemy holds a crooked bow-lance in his right hand, counting “coup” upon his enemy. Striking the enemy with the non-business end of a weapon, or without one altogether, represented a most honorific war exploit.

On one hand, the drawing memorialized a specific and significant event achieved by the protagonist (not necessarily always the artist), communally validated by others in the band, and shared and subsequently recalled by the community through the image. Scholarship on ledger drawings made during the “Indian Wars” often focuses on the counternarrative present for military engagements well-documented in non-Native historical sources.² On the other hand, in this drawing, Scares the Enemy consciously depicts the moment that the spiritual and physical power that he has accrued becomes manifest in his confrontation with the Crow warrior. Rather than emphasizing where in linear historical time this event takes place, Scares the Enemy’s drawing encapsulates the recent past of Lakota and Crow warriors racing their war ponies up to this point, a deeper past of accumulating spiritual power that shows itself in the present moment, and the victory over the Crow warrior that will take place in the immediate future. The ability of Plains people like Scares the Enemy to spatialize time in this manner, encapsulating past, present, and future aspects into a two-dimensional drawing on paper, represents a different kind of counternarrative or counter-archive from that of the Native/Indigenous “perspective” or “voice” within what Mark Rifkin refers to as a “synchronicity usually... provided by settler discourses, structures, and perceptions.”³ Rifkin posits thinking about time “as plural, less as a temporality than *temporalities*,” rather than succumbing to the particular temporal formation produced by U.S. colonialism and its “denial of Indigenous *temporal sovereignty*.”

The ledger drawings, produced by at least thirteen Brulé Lakota men on the occasion of the Crow Dog incarceration and trial, index both Lakota “ways of being-in-time that are not reducible to participation in a singular, given time—a unitary flow” and the colonial processes developing concurrently to interpellate Lakota past, present and future into a single, “unitary flow—largely contoured by non-native patterns and priorities.”⁴ Moreover, each of these people was pulled or dragged into the settler colonial archive related to the Crow Dog trial and its legibility within settler time, a singular, linear historical record that produces silences as it erases or elides other “temporal orientations.” While produced in captivity, these ledger drawings insist on forms of Indigenous temporal sovereignty that link past, present, and future in ways recognized and utilized by descendant communities.

Using the drawings connected to the Crow Dog trial as a point of entry, I also argue that, like the category of “War Ledgers” proposed by Castle McLaughlin, the term

² For example, see Jean Afton et al., *Cheyenne Dog Soldiers: A Ledgerbook History of Coups and Combat* (Niwot, CO: Colorado Historical Society, University of Colorado Press, 1997).

³ Mark Rifkin, *Beyond Settler Time: Temporal Sovereignty and Indigenous Self-Determination* (Durham: Duke University Press, 2017), 1–2.

⁴ Rifkin, *Beyond Settler Time*, 3.

“Captivity Ledgers” provides an analytically important distinction among Plains Indian drawings on paper.⁵ I characterize Captivity Ledgers as drawings: (1) made in the period after the physical contest over land and resources has been decided in favor of the U.S. government and settler-citizens; (2) created during or related to actual captivity—jail, prison, military institutions; and (3) subject to new forms of non-Native appropriation that involve re-signifying Plains ledger drawings to privilege and normalize settler-colonial narratives of ownership and belonging under the emerging U.S. imperial state.⁶ At the time of the Crow Dog trial, settlers and officials had developed a full-fledged practice of misrecognition of Lakota meaning in ledger drawings, a practice also employed in other contemporary interactions.

The story begins with Crow Dog’s (Kang^{hi} Súŋka) arrest and detention in the Lawrence County jail and his celebrated trial for the murder in 1881 of Spotted Tail (Siŋté Glešká), a leader of the Sičanŋ^{hu}/Brulé Lakota (see Figure 2). Since the death of Spotted Tail took place on the Rosebud Reservation and both men belonged to the same band, actions to restore equilibrium and keep the peace took place following Lakota precepts and not according to the legal dictates of the U.S. justice system. Trying Crow Dog in the District Court of Dakota Territory represented the culmination of a concerted plan by federal officials to take the responsibility for punishment of crimes committed by Native people within the reservation out of the hands of tribal members.⁷ They believed that Federal judicial jurisdiction over internal tribal cases would bolster the other programs to civilize and deracinate Indigenous people like the Lakota, such as the suppression of ceremonies like the Sun Dance and the coerced enrollment of Indigenous youth in federally sanctioned boarding schools far from home.

The Federal trial jury found Crow Dog guilty of the murder of Spotted Tail on March 24, 1882, and a week later Judge G. C. Moody sentenced him to death by hanging. Between the moment of Crow Dog’s conviction and the decision on his appeal to the Supreme Court on December 17, 1883, Federal and local officials moved to exercise their newly won jurisdiction over crimes among Lakota on the Rosebud Reservation by arresting men such as Scares the Enemy and Eagle Hawk.⁸

⁵ Castle McLaughlin, *A Lakota War Book from the Little Bighorn: The Pictographic “Autobiography of Half Moon”* (Cambridge, MA: Houghton Library of the Harvard College Library, Peabody Museum Press, 2013), 49–71.

⁶ The examples explored here function as early instantiations of Tuck and Wang’s “settler moves to innocence.” See Eve Tuck and K. Wayne Yang, “Decolonization is not a metaphor,” *Decolonization: Indigeneity, Education & Society* 1, no. 1 (2012): 1–40.

⁷ Harring, *Crow Dog’s Case*, 102. Reporting by the *Black Hills Daily Times* of the initial settlement among the relatives of Spotted Tail and Crow Dog at 119.

⁸ Harring, *Crow Dog*, 124–130; *Black Hills Daily Times*, 19 October 1882, 18 January and 6 March 1883; *Black Hills Daily Times*, 6 March 1883.



A surprising number of ledger drawings survive directly related to the Crow Dog trial and its aftermath. Versions of a single self-portrait done by Crow Dog in at least four different autograph albums have turned up in various venues (see [Figure 3](#)).⁹

The owner of the *Aldine* autograph album ([Figure 4](#)), one of the artifacts connected to the Crow Dog trial, was most likely a resident of Deadwood interested in the impending trial's notoriety and the influx of visitors leading up to and continuing after the March 1882 trial of Crow Dog. Entries begin in January 1882 and end in March of 1892, but most occur during the first half of 1882 during the Crow Dog case. In addition to numerous autographs of non-Native personages from Deadwood and beyond, the autograph album contains the X-marks of almost every Lakota witness that testified during the Crow Dog trial and the signatures of a significant number of the court officials, jurors, and others involved. Based upon a comment made above the autograph of U.S. Attorney Hugh Caulfield, it is likely that the owner of this autograph book was one of the jurors himself (see [Figure 4](#), bottom right).

Most remarkable, however, in the *Aldine* album is a single-page drawing in ledger style by Crow Dog among the other pages of signatures ([Figure 5](#), bottom). A December 15, 1882 note in the *Black Hills Daily Times* mentions that Crow Dog and two other Lakota held in the Lawrence County Jail (Scares the Enemy and Eagle Hawk) "while away their spare moments by filling out autograph albums for their pale-faced friends."¹⁰ The Crow Dog drawing at the top of [Figure 5](#) appears in an autograph

⁹ Crow Dog "autograph" drawings found: *Aldine* Album, Heritage Auctions, 24 November 2013, *Legends of the West Signature Auction*, #6110, lot #44131; Autographs Album, also consigned to Heritage Auction in 2013 but not auctioned; Estella Boyden Billington Album, Adams Museum & House, Deadwood, SD; single Crow Dog drawing on sheet from an autograph album, private owner.

¹⁰ *Black Hills Daily Times*, 15 December 1882.





book now in the Adams House in Deadwood, South Dakota, originally in the possession of Deadwood resident Estella Boyden Billington, wife of Demetrius Billington, the Lawrence County jailor in charge of the Lakota prisoners.¹¹ Estella identified the

¹¹ Acquisition file, Adams Museum and House, Deadwood, SD; Personal communication, Arlette Hansen, 22 June 2011; The US Census of 1900 shows Demetrius S. Billington married Estella Boyden in 1884, 2 years after the Crow Dog trial: *Spearfish, Lawrence, South Dakota*, page 9, Enumeration District 0029, FHL microfilm 124155.

drawing inside of the album as a depiction of the moment that Crow Dog killed Spotted Tail. Since Demetrius did not marry Estella until two years after the Crow Dog trial, she likely annotated Crow Dog's drawing with information she had understood from her husband.¹²

Perusal of the Crow Dog drawing quickly exposes Estella Billington's erroneous description; the warrior that Crow Dog lances is not Lakota, but Crow, identified by his pompadour hairstyle swept back at the top, among other telling details. As the *Black Hills Daily Times* put it, rather dismissively: "They [the Lakota] generally draw illustrations of some valorous deed performed while at war with their natural enemies—the Crows and Pawnees."¹³ The drawing in fact depicts an event in Crow Dog's past that manifested his spiritual power as a warrior vanquishing a Crow enemy. In addition, testimony of the witnesses at the trial agree that Crow Dog and his wife were riding in a wagon leading up to the actual shooting of Spotted Tail, with a rifle.¹⁴ This is how Amos Bad Heart Bull, visual historian of the Oglala, depicted the murder in his ledger book of drawings completed between 1890 and 1910 (Figure 6).¹⁵

The Adams House Crow Dog drawing (Figure 5, top), featuring the confident, expressive pencil outline and shading with colored pencil, as well as the detailed rendering of the face of Crow Dog and those of the horses, served as a model that guided the creation of the remarkably similar scene present in the Aldine album and another example contained in the Autographs album (Figure 3, bottom right). The Aldine drawing (Figure 5, bottom) is outlined in pen and then colored in with ink, pencil, and red, brown, and blue color pencil. All of the details of the scene are quite close to the Adams House drawing and appear to be done in the same Lakota ledger drawing tradition and by the same hand, but with slight simplifying variations introduced in the process. Examples include the "x-ray" juxtaposition of the rear legs of the Crow warrior's pony and the front legs of Crow Dog's horse; the Crow warrior holding his gun aloft in his right hand; Crow Dog's quirt; and Crow Dog's name glyph.

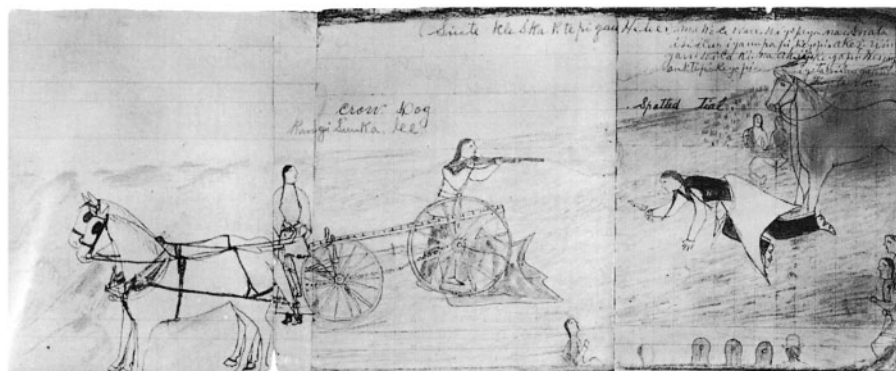
The practice of having celebrities and other persons of interest produce their autographs for different albums began around the time of the Crow Dog trial. It apparently represented a substantial side business, judging from both the Crow Dog drawings and a variety of "his X mark" autographs by different Lakota witnesses framed by the same calligraphic hand in more than one autograph book. All told, the Crow Dog drawings,

¹² *South Dakota, Birth Index, 1856–1917*, Provo, UT, Ancestry.com Operations Inc, 2003, accessed 15 September 2019.

¹³ *Black Hills Daily Times*, 15 December 1882.

¹⁴ Harring, *Crow Dog*, 109; *Black Hills Daily Times*, 17–23 March 1882.

¹⁵ Amos Bad Heart Bull (drawings) and Helen Heather Blish (text). *A Pictographic History of the Oglala Sioux: 50th Anniversary Edition* (Lincoln: University of Nebraska Press, 2017), 408 (No. 311). Blish provided a translation of the Lakota inscription: "This relates to the killing of Spotted Tail. It is said that he sold some land and received and used the proceeds himself. This was the charge against him. On the other hand, it was reported that he was charged with having taken someone's wife from him and having refused to give her up. He was killed for one of these reasons. He had three wives."



and autographs of Native and non-Native participants and observers during 1882 and beyond, represent a significant trove of historical information at the borders of reservation and White societies, and at a crucial junction in the history of Rosebud Agency, the Lakota reservation, White settler social and economic relations, and Federal Indian policy.

While Crow Dog drew images of his exploit against the Crow warrior during his incarceration while awaiting trial, a fellow Lakota prisoner in the same cell produced another set of drawings that help to place the Crow Dog drawing in context. The small album measures six-and-a-half by four inches, the same size as the autograph albums used by Crow Dog, and clearly available commercially in Deadwood, Dakota Territory in the early 1880s. It appeared for the first time in public in an episode of *Antiques Roadshow* produced in 2000 in Columbus, Ohio, and contains ten drawings and a title page. Each of the ten drawings shows an event that represents the bravery and prowess of a Sičang^{hu} /Brulé Lakota warrior named Scares the Enemy. The inscription on the title page reads:

Some of the chief exploits of "Scares the Enemy," an untutored son of the prairie, as drawn by himself in the Lawrence county jail, while confined there during the fall and winter of [18]82 and winter of '83. While so confined, he was awaiting trial on the charge of shooting a squaw man called Big Casino.¹⁶

The *Black Hills Daily Times* reported the arrest of Scares the Enemy on October 19, 1882 in its familiar and droll, bantering tone:

¹⁶ Scares the Enemy Ledger, Plate 3, Title Page, <https://plainsledgerart.org/plates/view/100>. View the complete ledger book at <https://plainsledgerart.org/plates/index/2>.

Deputy United States Marshall Bartlett arrived in town yesterday from Rosebud agency having in charge an Indian called "Scares the Enemy," who is under arrest for shooting a long legged, long haired and generally non-descript appearing individual sailing under the soubriquet of "Big Casino." We have seen both the Indian and the ten of diamonds and are inclined to think that the former should be punished for not taking better aim.¹⁷

Scares the Enemy, hauled into jail as a part of the celebrated trial of Brulé Lakota leader Crow Dog for the murder in 1881 of Spotted Tail, became involved in this event alongside other Lakota witnesses, White officials, and settler-colonists.

In the first of ten drawings (Figure 7), Scares the Enemy flies from right to left on his resplendent horse decorated for war with blue paint, a bobbed tail, and eagle feathers attached to its head and tail. He leads his spare mount, neck and mane decorated, perhaps the fruit of a previous daring raid on an enemy herd. Scares the Enemy wears the eagle feather bonnet of an accomplished warrior, as well as a red stake "no retreat" sash decorated with ten eagle feathers, marking him as a member of an important warrior society.¹⁸

Stealing horses from the enemy represented another activity that enhanced the status of individual warriors, as well as the horse stealing party and the band or tribe generally. In Figure 8, Scares the Enemy rescues a fellow Lakota who has lost his horse while escaping a furious chase by Crow warriors. The heads of four stolen horses appear in front of the fleeing Lakota. At the bottom of the page a tally of hooves recounts Scares the Enemy's horse plus the four captured mounts, followed by the two Crows in pursuit. Bursts of smoke denote the gunfire that Scares the Enemy's partner fires at the Crows behind him, and their volleys correspond with the tadpole-shaped bullets streaming past the Lakota riders. In this scene, Scares the Enemy manages to hold a large feathered banner-lance and the reins of his horse in his right hand, while holding his rifle and applying his quirt with his left hand.

Figure 9 shows Scares the Enemy in his familiar eagle feather bonnet-style head-dress, stealing three horses and chased by many Crow warriors. Riding swiftly, he holds up a coup stick with an otter wrap in his right hand and a rifle in his left, emphasizing the speed of his getaway, while a puff of gun smoke and the single hoof print indicate each of the eight warriors on horseback, giving chase and firing a hail of bullets. Above the head of Scares the Enemy, a set of pencil symbols forms a pictographic representation of his name, a name glyph. It is made up of a figure running toward a man

¹⁷ *Black Hills Daily Times*, 19 October 1882.

¹⁸ See "Societies and ceremonial associations in the Oglala division of the Teton Dakota," in *Anthropological papers of the American Museum of Natural History*, vol. XI, ed. Clark Wissler (New York, 1912), 44–53; See also Helen H. Blish, *A Pictographic History of the Oglala Sioux* (Lincoln: University of Nebraska Press, 1967), 106.



with his sash staked to the ground. Among Lakota, Cheyenne, Arapaho, and most of their Native enemies, one or more warrior societies wore red “no retreat” sashes that, when tied to a stake during battle, indicated that the warrior intended to hold that



ground against the enemy until he perished or one of his war party relieved him.¹⁹ Scares the Enemy's name glyph shows him attacking with such force and power that he scares his enemy from his staked position.

While we learn from the *Black Hills Daily Times* that Lakota prisoners like Scares the Enemy drew pictures during their incarceration for White visitors, the subject matter of the drawings shows no evidence of influence by their patrons.²⁰ Each of the ten drawings in the sketchbook narrates a scene in which Scares the Enemy gained honor and status through his actions. Although the protagonist may not be Scares the Enemy in every drawing, the events shown received communal validation from the group or band and they served as easily recognized narrative stories that could be repeated by others.²¹ As has been noted by other scholars, Plains Indians did not generally draw engagements with White soldiers or settlers in captive situations. Whether incarcerated at a military institution such as Fort Marion, or in a local jail, imprisoned Plains Indian exercised self-censorship to avoid impolitic awkwardness, if not self-

¹⁹ A rich literature describes the use of the "no retreat" sash among the Lakota, Cheyenne, Arapaho, Kiowa, Crow, Blackfoot and other Plains groups. For example, see the essays by Clark Wissler and Robert H. Lowie, Parts 1, 3, 4, 8, and 11, in "Societies of the Plains Indians," in *Anthropological Papers of The American Museum of Natural History*, vol. XI, ed. Clark Wissler (New York, 1916).

²⁰ *Black Hills Daily Times*, 15 December 1882.

²¹ Afton et al., *Cheyenne Dog Soldiers*, xx.

incrimination.²² Instead, *Scares the Enemy* illustrated actions that demonstrated his position and power as a Lakota, following Indigenous spiritual and temporal epistemologies, all in distinction to his imprisoned present.²³

What is the significance of Crow Dog drawing his exploit against the Crow warrior, not once but at least four times, for his jailor and other White visitors for the occasion of his trial? In a sense, the incorporation of Crow Dog's drawing-autographs into settler albums documents the excitement, fascination, and characters brought to Deadwood by the trial. They serve as a simplified metaphor for the result of his trial. The complicated dynamics of Lakota leadership within the Rosebud Reservation that led to Crow Dog's murder of Spotted Tail become reduced to Anglo American juridical definitions of murder and self-defense. The five, six, or more distinct Brulé narratives leading up to the event all become a single one regarding the civilizing potential of American law over Indigenous forms of "savage," and "untutored" justice.²⁴ Estella Billington's misrecognition of her Crow Dog autograph as depicting the death of Spotted Tail serves to re-signify Crow Dog's own claim to warrior status and leadership as an admission of guilt. This highly reductive narrative serves in the same manner as the Crow Dog drawing and X-marks do when they appear in the Aldine and Autographs albums, marking what Native scholar Scott Richard Lyons refers to as "a contaminated and coerced sign of consent made under conditions that are not of one's making. It signifies power, and a lack of power, agency and a lack of agency. It is a decision that one makes when something has already been decided for you, but it is still a

²² See Janet Berlo, "Drawing and Being Drawn In: The Late Nineteenth-Century Plains Graphic Artist and the Intercultural Encounter," in *Plains Indian Drawings, 1865–1935: Pages from a Visual History*, ed. Janet Catherine Berlo (New York: Harry N. Abrams in association with the American Federation of Arts and the Drawing Center, 1996), 16; Denise Low and Ramon Powers, "Northern Cheyenne Warrior Ledger Art: Captivity Narratives of Northern Cheyenne Prisoners in 1879 Dodge City," in *Kansas History: A Journal of the Central Plains* 35 (2012): 4.

²³ Although there is general agreement that those who produced ledger drawings paid attention to their circumstances under which they drew, a differing view about how their awareness affected the content of drawings appears in Edwin L. Wade and Jacki Thompson Rand, "The Subtle Art of Resistance: Encounter and Accommodation at Fort Marion," *Plains Indian Drawings, 1865–1935: Pages from a Visual History*, ed. Janet Catherine Berlo (New York: Harry N. Abrams in association with the American Federation of Arts and the Drawing Center, 1996), 45–49; Michael Paul Jordan, "Striving for Recognition: Ledger Drawings and the Construction and Maintenance of Social Status During the Reservation Period," in *Ledger Narratives: The Plains Indian Drawings of the Lansburgh Collection at Dartmouth College*, ed. Colin G. Calloway (Norman: University of Oklahoma Press, 2012), 20–33; Low and Powers, "Northern Cheyenne Warrior Ledger Art," 18–19, 22–23.

²⁴ For the numerous motives underlying and narratives about Crow Dog's actions, see: Harring, *Crow Dog*, 100–122, 124–130; Waggoner, *Witness*, 48–50; Leonard Crow Dog and Richard Erdoes, *Crow Dog: Four Generations of Sioux Medicine Men* (New York: HarperCollins, 1995), 27–39; George E. Hyde, *Spotted Tail's Folk; a History of the Brulé Sioux* (Norman, University of Oklahoma Press, 1974), 276–304; Jeffrey Ostler, *The Plains Sioux and U.S. Colonialism From Lewis and Clark to Wounded Knee* (Cambridge, UK: Cambridge University Press, 2004), 198–202; *Black Hills Daily Pioneer*, 9, 11, and 20 August 1881; *Black Hills Daily Times*, 21–23 March 1882, 10 January 1883.

decision.”²⁵ The various kinds of appropriation at work — the commissions for drawings from non-Lakota people, and modes of acquisition related to spectacle and imprisonment—served to facilitate re-signifying or re-narrativizing the Lakota meaning of the drawings to serve settler interests.

Candace Greene argues that the visual elements of ledger drawings and the oral recounting of the event communicate different layers of meaning, likely attuned to specific and disparate audiences. Her observation and discussion help to decode the nature of Crow Dog’s choice of subject.²⁶ While in the Lawrence County Jail in Deadwood and on trial for murder, Crow Dog drew a significant encounter with a Crow warrior at the moment of his triumph as a statement of his standing within Brulé society.

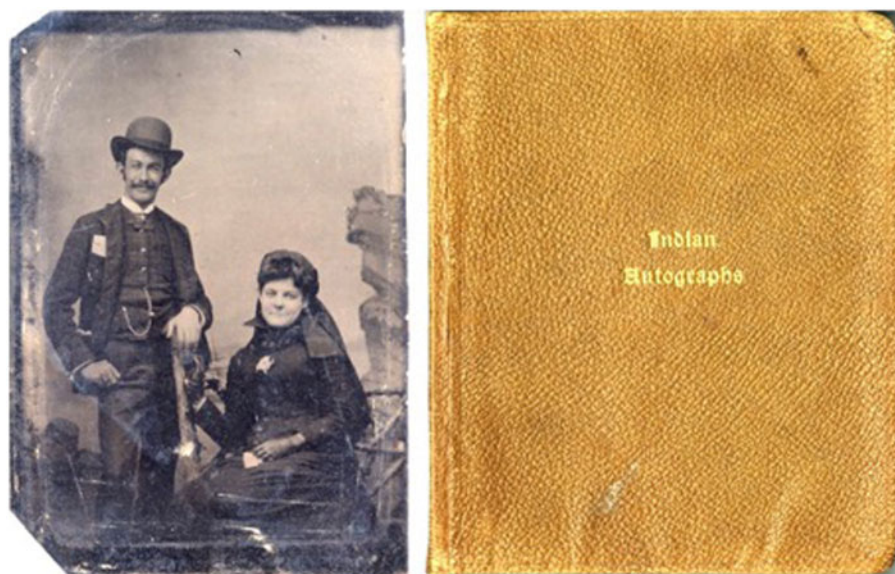
As his great-grandson, Leonard Crow Dog, tells the story, Crow Dog and a band of young Kit Fox warriors went to Cedar Valley “for a vision.” They were near Crow country, and Crow Dog’s horse became alert “and the two eagle feathers my grandfather was wearing caught the wind and the feathers began to talk, telling Crow Dog ‘There are enemies over there, behind those hills.’” Scouting parties found nothing, but still the feathers and then a coyote told Crow Dog, “Something is going to happen to you.” At first light they met a large party of Crow: “Hollow Horn Bear was with Crow Dog that day, and so were Hollow Horn’s sons, and Kills in Water, and Kills on Sight. Kills on Sight was wounded early on. . . . Two Crow came at him from both sides. Crow Dog came up at a dead run and killed the two Crow.” Afterwards, the coyote and other non-humans nursed a gravely wounded Crow Dog back to health: “Crow Dog had the wolf and the coyote power. He could understand their language, understand it spiritually.” This event brought him his power: “From the first fight, where he was hit by arrows, he got his final name. Before he had a bear name. He then took the name *Kangi Shunka Manitou*, or Crow Coyote. The interpreter misunderstood it. His Lakota was poor. It should have been Crow Coyote.”²⁷ The drawing that Crow Dog did for Estella Billington depicts his name glyph with the long, sharp claws of a coyote with the crow on top, not a crow atop a dog, and much more clearly than in the other three “autographs” (See [Figure 5](#), top). Crow Dog’s drawing insists on his true identity as a Brulé warrior and leader in front of his relations caught up in the trial, even as it becomes an appropriated X-mark in the hands of a White settler-colonial audience.

A third group of drawings related to Crow Dog’s murder trial appearing publicly for the first time at auction in 2009, the Fales-Freeman Brulé Ledger, contains drawings by a number of Brulé (Sič̣aŋg^{hu}) Lakota that lived at the Rosebud Agency (see [Figure 10](#)). The album was a Christmas present from Deadwood resident Joseph W.

²⁵ Scott Richard Lyons, *X-Marks: Native Signatures of Assent* (Minneapolis: University of Minnesota Press, 2010), 2–3.

²⁶ Candace Greene, “Verbal Meets Visual: Sitting Bull and the Representation of History,” *Ethnohistory* 62, no. 2 (2015): 217–240.

²⁷ Crow Dog and Erdoes, *Crow Dog: Four Generations*, 19–23.



Freeman to his wife, Elizabeth K. Fales, and was kept by family members until its sale at auction.²⁸ Because of her interest in the Crow Dog case, Fales filled her album of “Indian Autographs” with twenty-two drawings, each created by one of the Brulé Lakota witnesses from Crow Dog’s trial.

Drawings and their annotations within the Fales-Freeman Brulé Ledger serve to demonstrate a more capacious manner in which Lakota visual narratives become subject to the process of appropriation and re-signification. While its Lakota creators were not imprisoned, the project initiated by Fales owed its conception to the captivity and trial of Crow Dog and the spectacle that it produced, as evidenced by the X-marks of these same Lakota witnesses alongside Crow Dog’s autograph album drawings. The Fales-Freeman Brulé Ledger simply functions as a different form of autograph album. As the principal subjects, these Lakota men contributed their “Indian Autographs” in an already appropriated form, both because of the implicit power and patronage relationship between Freeman and Fales and the “warrior artists” and the private and domestic nature of the final product. In a sense, the drawings are removed from the realm of publicly validated exploits that confer status to Lakota men and made captive to a settler framework that rendered the Lakota narrative ambiguous and therefore ripe for interpretation and re-signification.

²⁸ Skinner, *American Indian & Ethnographic Arts*, Sale 2473, lot 245, 26 September 2009.

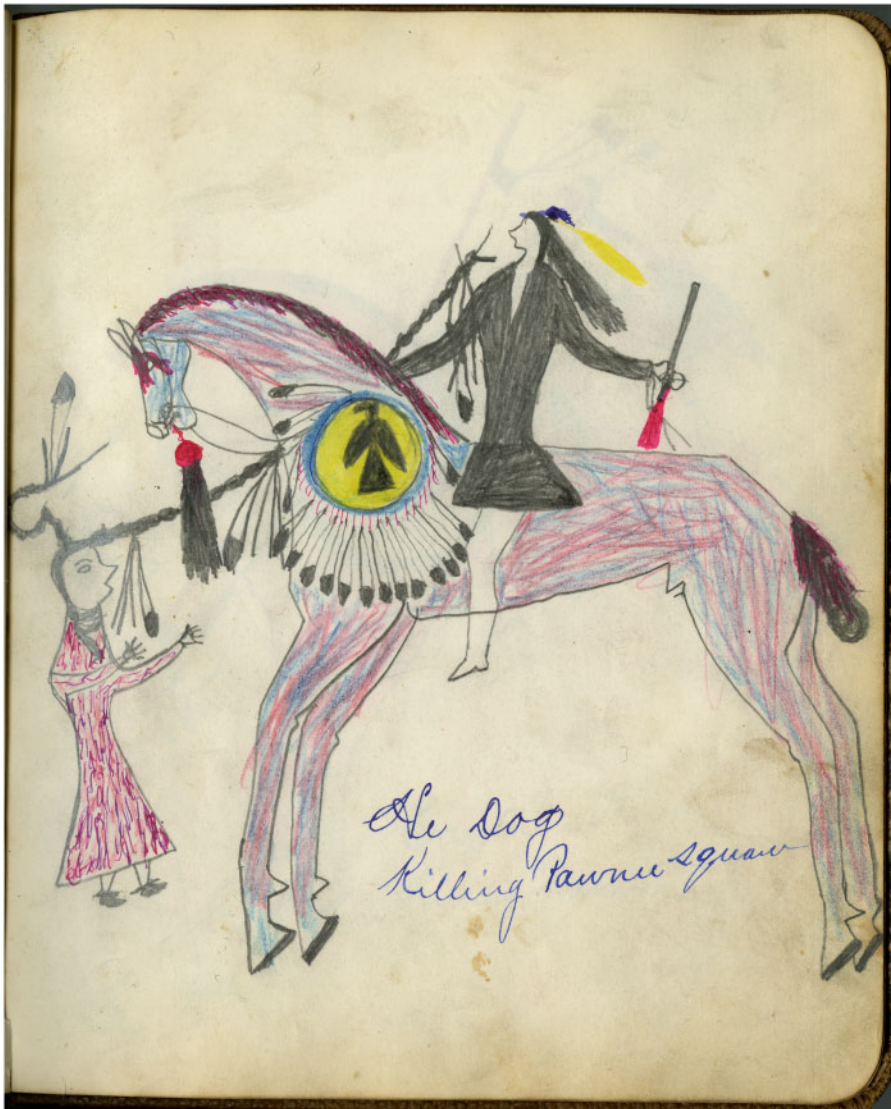


As an example, consider two drawings in the Fales-Freeman Ledger depicting He Dog (Sújka Bloká). He Dog (Figure 11) fought as a Brulé warrior during the 1870s in most of the major battles resisting U.S. military and settler pressure against Plains Indian lifeways, including the Battle of the Little Bighorn/Greasy Grass that destroyed General Custer's command.²⁹ However, Elizabeth Fales sought out his "autograph" here for a different reason (Figure 11); He Dog testified as one of the Lakota witnesses for the prosecution during the March 1882 trial of Crow Dog.

In Figure 12, He Dog depicts one of his earlier military exploits during a raid on the Pawnee, striking a woman with the non-lethal end of his crooked lance wrapped in otter hide.

The caption, in Fales's handwriting, identifies the event as the scene of a woman's death, using a common nineteenth-century racist term for Indigenous women. We have no way to tell how Fales acquired this explanation of the event. In the frontispiece of the volume Fales writes, "These autographs of Indians from the Sioux Tribe

²⁹ Josephine Waggoner, *Witness: A Hunkpapa Historian's Strong-Heart Song of the Lakota* (Lincoln: University of Nebraska Press, 2013), 482, 697n1.



(Brulé) were made for me in the year 1882 in the city of Deadwood, Dakota.”³⁰ On a blank page before the drawings begin, Fales writes the name of the interpreter that she

³⁰ Fales-Freeman Brulé Ledger, Plate 2, Signature Page, <https://plainsledgerart.org/plates/view/741>. View the complete ledger book at: <https://plainsledgerart.org/plates/index/17>.

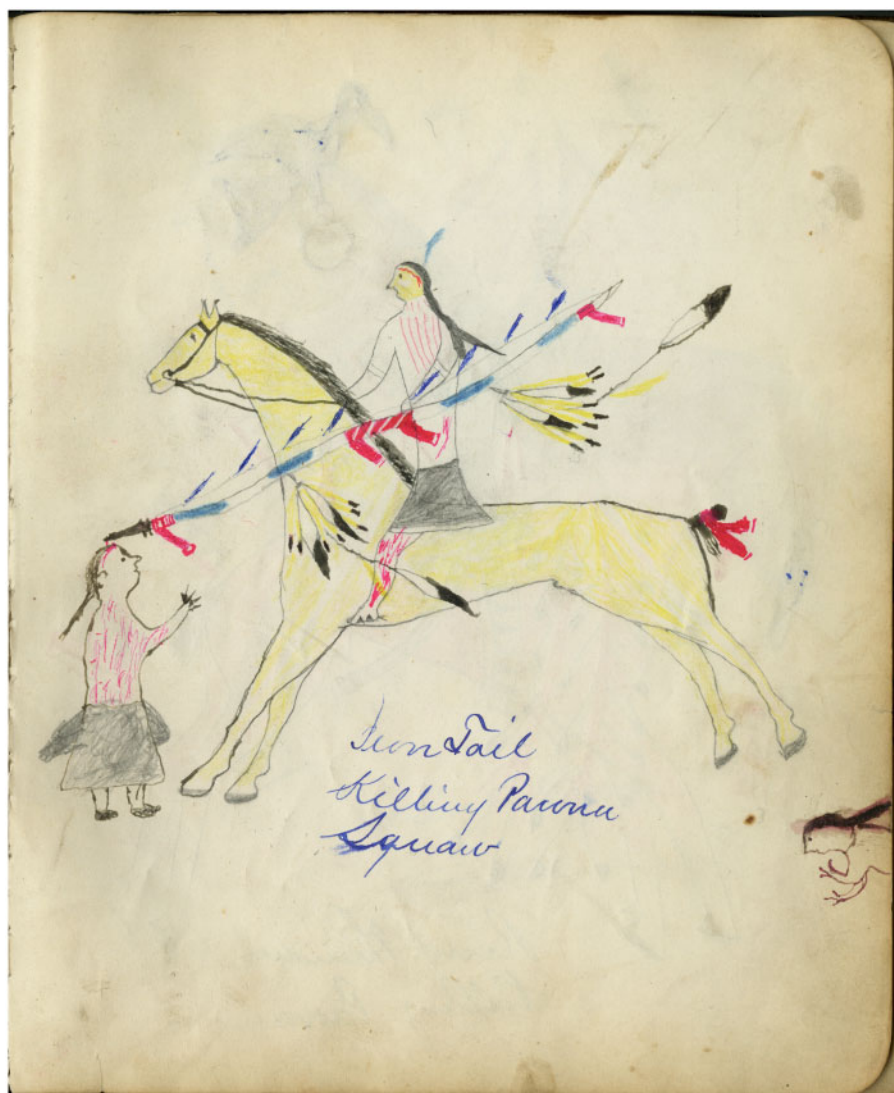
employed during this project, “Louis Bordeaux, Half Breed Sioux [sic].”³¹ Perhaps one may be inclined to excuse Fales in thinking that the death of the female Pawnee followed inevitably from the blow that He Dog delivers, but that is just the point. When the Brulé warriors who drew for Fales wished to show a death as part of a war exploit, they did so, as in the drawing of Iron Tail killing a Pawnee woman with the lance (Figure 13). The difference between “He Dog Killing a Pawnee Squaw (sic)” and “He Dog Counting Coup on a Pawnee Woman” signals the act of misrecognition performed by Fales as she collected the drawings that fill her Christmas present. He Dog does not depict the act of taking a life, but the moment of power that the Brulé warrior has been able to use, drawn from other-than-human forces in the world, to overwhelm his enemy during a time of danger. When Fales characterizes the coup as a foregone conclusion in death, she substitutes He Dog’s narrative for another not of his making.

He Dog’s crooked lance signifies that he has earned status as a member of a prestigious Lakota warrior society, most likely the Iroka.³² His war pony has been specially decorated with wrapped tail and a scalp lock hanging from its bridle, and He Dog displays his shield with its powerful raptor design, holding his rifle unused in his left hand. In the midst of this raid into a Pawnee area, He Dog earns great honor by counting “coup,” touching an enemy without intending to kill. His ability to penetrate a Pawnee defensive perimeter set up to protect highly regarded women and children emphasizes He Dog’s achievement. Fales, in contrast, follows the misrecognition of He Dog’s exploit with its resignification. Fales at once characterized He Dog as uncivilized—in a past narrative of senseless murder, and of a defenseless woman—while simultaneously dismissing his claim as a leader by virtue of the power he manifested in battle. As He Dog’s power is ultimately validated by, and combined with, that of his companions and, more broadly still, his people, its dismissal as murder by Fales serves to erase Lakota authority in favor of settler sovereignty. On the other hand, He Dog intended to depict the moment of his power, a spacialization of time to make visible manifested power that humans cannot normally perceive.

Public interest in the Crow Dog trial emerged at a moment of the consolidation of normative “common sense” narratives about American economy and society emerging after the Civil War, structured by discussions about the place of the racial other. American studies scholar Manu Karuka notes that rumor forms the constitutive medium that circulates in a colonial community to work out common understandings of their place. The “rumor of countersovereignty,” Karuka writes, “manifests here as a form of collective problem-solving, the problems being: the prior occupancy and ongoing existence of Indigenous communities, and the social reproduction of imported

³¹ Louis Bordeaux’s expertise as a Lakota interpreter goes back to the 1850s. See Waggoner, *Witness*, 478.

³² Blish, *A Pictographic History*, 105–111, 294.



labor.”³³ In Dakota Territory and Deadwood, the trial of Crow Dog occurred at the confluence of local and national events that fed the formation of a particular set of

³³ Manu Karuka, *Empire's Tracks: Indigenous Nations, Chinese Workers, and the Transcontinental Railroad* (Berkeley, University of California Press, 2019), 5–6.

commonly understood solutions to these problems. As in the instances of the non-Native reception of the Lakota ledger drawings, misrecognition and resignification function as categories of the rumor of countersovereignty and produce similar results; in each case misrecognition elides Lakota expressions of immanent individual and communal power and works to replace them with United States colonial understandings of non-settler rationality within a settler framework of historical time.

Three days before the jury's conviction of Crow Dog, the *Black Hills Daily Times* editorialized that, although the anti-Chinese movement's leaders had not achieved removal of Chinese immigrant workers, they:

. . . should be satisfied in the fact that if the pigtailed product of the orient cannot be made to "go," at least no more of the coolie horde which threatened to celestialize the great west can come for a term of years, so long that the generation now troubled by their presence will have joined the great majority before the human sewage of China can again invade us.³⁴

From this perspective, settlers in the Dakotas had an interest in protecting their free labor in much the same way they had opposed the specter of African slavery extending northward from the antebellum South.

[T]he fact must not be forgotten that. . . they [the eastern interests] have capital to invest and desire cheap labor. We of the west do not; it costs humanity, our manhood, our institutions, our nation, our future, too dear. We have seen it, and we know it, and have wisely checked the flood which in time would overwhelm us.³⁵

In the context of the dismantling of Reconstruction and the renewed subjugation of freed slaves in the South through local violence and its institutionalization, Chinese Exclusion paired with federal intervention to open up lands in the Great Sioux Reservation could provide emigrants to the Dakotas the same kind of local control over their economic future. As one editorial put it,

The prosperity of Southern Dakota depends in a measure on the opening of that reservation. We have tried the sentimental policy, the grand larceny policy [promises of generous annuities], and now the last and worse, the Yankton policy [treating separately with each band]. All are failures. Let the government exercise its right of eminent domain, condemn these lands, pay for them, and open them for settlement.³⁶

³⁴ *Black Hills Daily Times*, 21 March 1882, front page.

³⁵ *Ibid.*

³⁶ *Black Hills Daily Times*, 19 November 1882.

Interior Secretary Henry Teller appointed a commission to negotiate a breakup of the Great Sioux Reservation into four smaller areas in 1883, the result of a rider inserted in an unrelated 1882 bill by Richard F. Pettigrew, the delegate from the Dakota Territory.³⁷ Consequently, during the Crow Dog trial the local papers provided continuous reports on activities of the government officials in the reservation agencies, often with editorial commentary. Discussion centered on very different views of the best policy to follow. Reporting on a conversation with J. H. Bridgeman from Pine Ridge, one of the interpreters from the Crow Dog trial, the *Black Hills Daily Times* described Pine Ridge agent Dr. V.T. McGillicuddy's policies of disciplining the Lakota members using rations and annuity supplies. McGillicuddy also worked with Captain Richard Pratt to enroll Hunkpapa Lakota children at Carlisle Indian School:

Here we have the Indian problem in a nutshell. Place a McGillicuddy at the head of every Indian agency, detach as many of the Indian youths from their tribal customs as possible and educate them abroad, and a few generations will suffice to solve the Indian problem. We will find it cheaper in the long run than bayonets and ammunition; besides, the verdict will sit more easily upon our consciences.³⁸

The same newspaper, faced with reports of "Indian troubles among the cattle and sheep men along the Tongue and Powder rivers," opined: "Extermination, root and branch, is the only settler of the Indian question."³⁹ A few months later, disappointed by delays and reports of deception in the treaty negotiations, the editorial comment framed the issue in relation to the incorporation of African ex-slaves into the nation:

In our policy we have been consistent. We oppressed and plundered the negro, and we have paid for our crimes in the billions of treasure and an ocean of the best blood in the land. We have ever pursued the hypocritical sneak thief policy towards the Indians. . . . The English plan, though cruel, is honest, there is no deception, no legerdemain, no fraud. Great Britain seizes the savage and his lands for the use of civilization, by virtue of a strong hand. Progressive humanity must have room to expand; and good or bad this is the whole argument. The conquered race still exists by the grace of the conqueror. . .—the savage can take his choice, either entire submission or total annihilation.⁴⁰

³⁷ Ostler, *Plains Sioux and U.S. Colonialism*, 217–221, covers the Edmunds Commission period of the Crow Dog trial; Robert Marshall Utley, *The Indian Frontier of the American West, 1846–1890* (Albuquerque: University of New Press, 1984), 246–47.

³⁸ *Black Hills Daily Times*, 22 March 1882.

³⁹ *Black Hills Daily Times*, 15 August 1883.

⁴⁰ *Black Hills Daily Times*, 17 December 1882.

The government's intention in the Crow Dog case, then, fit perfectly into the justifications for Indigenous subjugation to White settler cultural and economic norms on the basis of racial difference. Accordingly, during the trial the *Black Hills Pioneer* declared,

If it is the intention of the government to extend its jurisdiction over that class of offenses where the offence perpetrated is by an Indian, against the person or property of another Indian, it will have taken a step in the right direction toward solving the Indian problem. The sooner we make the Indian amenable to the white man's law, the sooner will they entertain some respect for such law and begin to emulate the white man in observance of them.⁴¹

Deadwood papers mixed serious discussion about the racialized political and economic policies of the day with the local gossip about visits of Lakota "friends" to the jail and the activities going on inside. On December 14, 1882, the *Black Hills Daily Times* reported in a bantering tone about Scares the Enemy's trade in jail with a White prisoner named Whiteley. After receiving a toothbrush for his moccasins, Scares the Enemy was told that he had been swindled: "This made the Indian's heart bad, especially after the other two [Lakota prisoners Crow Dog and Eagle Hawk] began to laugh at him and call him a fool for allowing the white prisoner to beat him in a trade."⁴² A few weeks later, *Black Hills Daily Times* reporter "Our Hank" related to his readers his interview with Hollow Horn Eagle, Scares the Enemy's father, concerning his son's arrest and impending trial. Hank ends his report with a plan by Agent McGillicuddy to remove "squaw men" living at Rosebud Agency from contact with the "full bloods," suppress the give-away ceremonies (editorializing, "and I hope he may succeed,"), a report on the four agency schools ("the children all making the most wonderful progress,"), and a letter from a student at Carlisle Indian School.⁴³

During the Crow Dog trial, the *Black Hills Daily Times* described the movements of the Pine Ridge and Rosebud delegations that arrived in Deadwood to testify and view the proceedings, commenting on the characteristics of specific Lakota visitors. The paper described their lodgings and board, a tour of the newspaper where they were shown how type was composed, and an "entertainment" mounted on the night of August 16 in Kelmer's hall. The latter notice preceded the article calling for "extermination, root and branch" of the same people.⁴⁴ The juxtaposition of neighborly cordiality also appears in the two autograph albums, alongside racial animus reported at the same time in the daily press. Autographs in Chinese appear on three pages of the Aldine album written by a man named Yee. One page, also signed by

⁴¹ *Black Hills Pioneer*, 1 February 1883.

⁴² *Black Hills Daily Times*, 14 December 1882.

⁴³ *Black Hills Daily Times*, 18 January 1883.

⁴⁴ *Black Hills Daily Times*, 7 and 15 August 1883.

Santiago Baca of Holbrook, Arizona Territory, contains a poem about the virtues of frugality and diligence. Another poem appears on the preceding page:

Green willows fluttering by the riverbank.
 Mid-autumn chrysanthemums are beautiful.
 The pine trees are growing tall on the hillside.
 Late month of the Fall is still beautiful.
 Yee⁴⁵

In the case of White interaction with Lakota and Chinese acquaintances in Deadwood during this period, the familiarity recorded in both the local paper and the autograph albums serves to mask the coalescence of a general assent given to the processes that marked the visible and immanent removal of land from the Lakota reservation, and Chinese people from Dakota Territory. The erasure of Indianness as a public policy parallels a much subtler appropriation taking place during the collection and display of the ledger drawings created around the spectacle of Crow Dog's trial

The trial in Deadwood resulted in the conviction of Crow Dog and the sentence of death by hanging. An appeal to the U.S. Supreme Court ended in overturning Crow Dog's conviction and an affirmation of the right of the Rosebud Agency Lakota to dispense their own justice in *Ex parte Crow Dog*. The decision prompted quick congressional action to pass the Major Crimes Act in 1885, reserving for federal jurisdiction seven categories of criminal offense when committed by an "Indian" on a reservation. While still recognizing inherent tribal powers, the Major Crimes Act significantly undermined the foundations of sovereignty with lasting effects. Removing crimes of murder, manslaughter, rape, arson, burglary, larceny, and intent to kill from tribal jurisdiction meant that justice for crimes committed on reservation lands depended on the ability and willingness of federal marshals and prosecutors to take legal action.⁴⁶ The subsequent hole in tribal jurisdiction became compounded by the effect of the 1978 Supreme Court ruling in *Oliphant v. Squamish Indian Tribe*, which held that Native American tribes did not have jurisdiction to prosecute non-Natives on tribal lands. Where *Ex parte Crow Dog* recognized the inherent right of tribes to govern their members unless overruled by an act of Congress, *Oliphant* argued that tribal incorporation into the United States implicitly extinguished "their power to try non-Native citizens of the United States except in a manner acceptable to Congress."⁴⁷ Reports early this century document the effect that lack of tribal jurisdiction over both

⁴⁵ Aldine Autograph Album, pages 47R, 48V (if you are not diligent and frugal), and 48R (Green Willows). Translation by Julienne Lau.

⁴⁶ Francis Paul Prucha, *Documents of United States Indian Policy*, 2nd ed. (Lincoln: University of Nebraska Press, 1990), 167–69.

⁴⁷ Robert A. Williams, *Like a Loaded Weapon: The Rehnquist Court, Indian Rights, and the Legal History of Racism in America* (Minneapolis: University of Minnesota Press, 2005), 97–100 (*Oliphant*

members and non-members has had on violent crime against Native American and Alaska Native women: victims of violent crime estimated at two-and-half times the national average—twelve times the average in some rural Native Alaskan villages; non-Native people commit an estimated 88 percent of the crimes; prosecutions take place in less than 50 percent of domestic violence crimes against Native women—35 percent of cases were prosecuted in 2011. All reports emphasize the large number of unreported cases of violence against Native women.⁴⁸ The successful legislative battle in 2013 to reauthorize the Violence Against Women Act included a qualified recognition of shared jurisdiction between tribal and federal courts for violent crimes committed by non-Native people against Native women on reservation lands, an attempt to address a loss of sovereignty initiated in reaction to *Ex parte Crow Dog*.⁴⁹

The significance of the ledger drawings produced around the Crow Dog trial in part lies in the manner in which they manifest the dynamic process of appropriation and resignification resulting in the practiced misrecognition of the Native voice taking place at Deadwood and similar places of habitual interaction between Native Americans and non-Natives. Common misconceptions regarding the history of Plains ledger drawing have also helped to obscure the manner in which contemporary creation of Captivity Ledger drawings during the late nineteenth century, their use, and their interpretation, index White appropriation and its effect on Native artistic production. By extension, beginning in the 1970s, recognition of ledger art as an example of yet another register of personhood foreclosed by settler possessiveness influenced the Native American artistic revival of ledger drawings as a contemporary response.

Karen Daniels Petersen published in 1971 a path-breaking and extremely influential study of ledger art. *Plains Indian Art from Fort Marion* begins with the statement that the artists imprisoned there in 1875 “were the first exponents of the Contemporary school of Indian art. As part of their youthful education, they were

quote). My thanks to Mary Kathryn Nagle for her play, *Sliver of a Full Moon*, showing the flawed foundation of *Oliphant*, and subsequent discussions.

⁴⁸ Michalyn Steele, *Comparative Institutional Competency and Sovereignty in Indian Affairs*, 85 *Colo. L. Rev.* 759 (2014): 2–3; Timothy Williams, “For Native American Women, Scourge of Rape, Rare Justice,” *New York Times*, 22 May 2012, <http://www.nytimes.com/2012/05/23/us/native-americans-struggle-with-high-rate-of-rape.html?pagewanted=all>; On 16 March 2022, President Biden signed a reauthorization of the Violence Against Women Act. For the first time, the VAWA extends special tribal criminal jurisdiction to some Alaska Native villages through a pilot project.

⁴⁹ See Dian Million, *Therapeutic Nations: Healing in an Age of Indigenous Human Rights* (Tucson: University of Arizona Press, 2013), 36–40; Sara Deer, *The Beginning and End of Rape: Confronting Sexual Violence in Native America* (Minneapolis: University of Minnesota Press, 2015), 92–106; Cynthia Castillo, “Tribal Courts, Non-Indian, and the Right to an Impartial Jury After the 2013 Reauthorization of VAWA,” *American Indian Law Review* 39, no. 1 (2014-2015): 326–328; Samuel E. Ennis and Caroline P. Mayhew, “Federal Indian Law and Tribal Criminal Justice in the Self-determination Era,” *American Indian Law Review* 38, no. 2 (2013-2014): 421–476.

taught to draw and paint figures.”⁵⁰ This explanation of the history of drawing at Fort Marion elides the extensive tradition of “pictographic” material culture—rock art, painted hides and clothing, calendrical “winter counts”—going back many centuries, and from which ledger drawing emerged. In 1875, Captain Richard Pratt found over twenty artists ready-made when he assembled seventy-two Kiowa, Cheyenne, Arapaho, Comanche, and Caddo prisoners at the old Spanish fort in St. Augustine, Florida. The Fort Marion prisoners, warriors opposed to settler land encroachment and military enforcement, became war criminals without a trial.⁵¹ Petersen discovered them again when she wrote about “the first exponents of the Contemporary school of Indian art” almost a century later.⁵² Despite no lack of examples and scholarship to the contrary, the idea that the Plains prisoners learned to draw at Fort Marion is still alive and well. At the meta-level, popular understanding of the history of Plains ledger drawing has already/always supplanted its Indigenous origin story with one of White tutelage and assimilation, albeit tragically coerced.

Historically, the captivity of Plains Indian prisoners at Fort Marion holds significance as Pratt’s experiment in “civilizing” and “educating” his charges for an American settler world, and Pratt’s successful promotion of the results in order to extend the process, after the release of the prisoners, by founding the Carlisle Indian School. Carlisle became the model for the system of Indian boarding schools established for the subsequent sixty years until the passage of the Howard-Wheeler Act in 1934, part of John Collier’s “Indian New Deal.” Drawings done at Fort Marion represent a new mode of Captivity Drawings: drawings made as gifts or for sale to non-Natives using commercial sketchbooks and loose paper, rather than drawings made using pages of accountant’s ledger books captured in raids or other military exploits.⁵³ In this specific aspect, the ledger drawings produced in association with the Crow Dog trial follow the practice associated with the Fort Marion drawings. Since Petersen, scholars have advanced more complex interpretations of the drawings created at Fort Marion, attempting to balance the agency of the

⁵⁰ Karen Daniels Petersen, *Plains Indian Art from Fort Marion* (Norman: University of Oklahoma Press, 1971), ix.

⁵¹ Brad D. Lookingbill, *War Dance at Fort Marion: Plains Indian War Prisoners* (Norman: University of Oklahoma Press, 2006), 38–39.

⁵² See Lookingbill, *War Dance at Fort Marion*; Evan M. Maurer and Louise Lincoln, *Visions of the People: A Pictorial History of Plains Indian Life* (Minneapolis & Seattle: Minneapolis Institute of Arts & University of Washington Press, 1992), 15–45; Dorothy Dunn, *American Indian Painting of the Southwest and Plains Areas* (Albuquerque: University of New Mexico Press, 1968), 124–184; Garrick Mallery, *Picture-Writing of the American Indians* (1893; reis., New York: Dover Publications, 1972), 1:265–328, II:551–607.

⁵³ McLaughlin argues, in *A Lakota War Book*, 52–68, that the intertribal war parties in the northern plains that opposed white settlement and fought with the U.S. military in the 1870s created war records in captured accountant’s ledger books precisely to appropriate the power of literacy and communication, understood in terms of Indigenous cosmology.

prisoners in relation to the Plains tradition of pictorial narrative with the regimen of forced acculturation envisioned by Pratt and the U.S. government supporters of his experiment.⁵⁴ Despite such distinctions, emphasis on any given aspect of the Fort Marion experiment addresses the consequence of non-Native appropriation of Native meaning, rather than the mechanisms that effectuate the process of appropriation in the first place.

Moreover, drawings from Fort Marion represent only a small portion of the Captivity Ledger drawings created by Plains people during the third quarter of the nineteenth century. The Crow Dog trial helps to identify two subgenres of Plains ledger drawing completed during captivity, in addition to the group of drawings produced in the singular circumstances of Fort Marion: drawings produced in jail or prison in proximity to a reservation; drawings commissioned by local non-Native patrons as keepsakes or mementos, often also related to Native captivity. Ledger drawings produced under these conditions far exceed those created at Fort Marion, both in duration and quantity, and their reception serves to illustrate the Native narrative voice as it becomes subject to processes of White appropriation. From this vantage point, drawings produced at Fort Marion, drawings done on the reservations after the U.S. Army ended freedom of movement for Plains tribes, and drawings created during periods of incarceration such as those produced around the Crow Dog trial, each represent a type of Captivity Ledger that results in a distinct narrative that serves to re-signify Indigenous voice and meaning.

Native American reaction in the public sphere to White re-signification of nineteenth-century Indigeneity begins with an early group of writers and activists, among them Zitkala-Ša (Gertrude Bonnin), Sisseton La Flesch, and Charles Eastman.⁵⁵ In the main, their writings sought to revalorize Native philosophies and lifeways and, in doing so, humanize Indigenous people by appealing to settler moral and ethical norms. Given the settler-colonial propensity to generate new forms of appropriation and re-signification in response to non-Native needs—Patrick Wolfe reminds us that “the logic of elimination marks a return whereby the native repressed continues to structure settler-colonial society”—efforts at combatting non-Native representations

⁵⁴ See Wade and Rand, “The Subtle Art of Resistance,” 45–49; Candice S. Greene, “From Bison Robes to Ledgers,” *European Review of Native American Studies* 18, no. 1 (2004): 28; Birgit Brander Rasmussen, “Toward a New Literary History of the West: Etahdleuth Doanmoe’s Captivity Narrative,” in *Contested Spaces of Early America*, ed. Juliana Barr and Edward Countryman (Philadelphia: University of Pennsylvania Press, 2014), 257–275; Joyce M. Szabo, *Art from Fort Marion: The Silberman Collection* (Norman: University of Oklahoma Press, 2007), 34–63; Janet Catherine Berlo, “A Kiowa’s Odyssey: Etahdleuth Doanmoe, Transcultural Perspectives, and the Art of Fort Marion,” in *A Kiowa’s Odyssey: A Sketchbook from Fort Marion*, ed. Phillip Earenfight (Seattle: University of Washington Press, 2007), 171–197; Joyce M. Szabo, *Imprisoned Art, Complex Patronage: Plains Drawings by Howling Wolf and Zotom at the Autry National Center* (Santa Fe: School for Advanced Research Press, 2011), 20–31; Jordan, “Striving for Recognition,” 20–33.

⁵⁵ See Bernd Peyer, ed., *The Singing Spirit: Early Short Stories by North American Indians* (Tucson: University of Arizona Press, 1989).



of indigeneity constitute an unceasing proposition.⁵⁶ Native artists, both men and women, began using ledger drawing again in the 1970s as a framework for a visual language specifically recast in order to challenge past and current appropriations by connecting the historical references implicit in the nineteenth-century drawings to contemporary circumstances.⁵⁷

⁵⁶ Patrick Wolfe, "Settler Colonialism and the Elimination of the Native," *Journal of Genocide Research* 8, no. 4 (2006): 390; For a few broadly cast examples of "the native repressed" structuring settler-colonial society, and countering moves, see: Nicolas G. Rosenthal, *Reimagining Indian Country: Native American Migration and Identity in Twentieth-Century Los Angeles* (Chapel Hill: The University of North Carolina Press, 2012); Audra Simpson, *Mohawk Interruptus: Political Life Across the Borders of Settler States* (Durham: Duke University Press, 2014); Natchee Blu Barnd, *Native Space: Geographic Strategies to Unsettle Settler Colonialism* (Corvallis: Oregon State University Press, 2017).

⁵⁷ See Berlo, *Plains Indian Drawings*, 56–71; Richard Pearce, *Women and Ledger Art: Four Contemporary Native American Artists* (Tucson: University of Arizona Press, 2013); Karen Miller Nearburg, ed., *Visual/Language: The Ledger Drawings of Dwayne Wilcox* (Staunton, VA: George F. Thompson, 2021); Gussie Fauntleroy, "Ledger Art: Looking Between the Lines," *Native Peoples* (September–October, 2011); Wilhelm Murg, "This is Not Your Great-Great-Great Grandfather's Ledger Art," *Indian Country Today*, 25 October 2013; Tim McGonigal, "One in a Million: Ledger artist John Pepion," KRTV.com, Great Falls, MT, 18 November 2013; Jake Sorich, "Creative spirits collide: Nationally renowned ledger artists showcase works in new Gibson Square exhibit," *Great Falls Tribune*, 17 January 2014; Alex Jacobs, "Chris Pappan Creates and Edgier, Sexier, Ledger Art," *Indian Country Today*, 25 February 2015; Allison Meir, "Contemporary and Historic Ledger Art Joined in a Seamless Native Narrative," *Hyperallergic*, 16 March 2016; Stephen Dow, "Drawn out of the pain," *Buffalo Bulletin*, Buffalo, WY, 4 January 2019.

What of Scares the Enemy? The imprisonment of Scares the Enemy, in the Lawrence County Jail on October 18, 1882, enmeshed him in a set of events emblematic of and constituent to the development of White American power during the late nineteenth century. The story of Scares the Enemy's imprisonment, and the conventions within ledger drawings as a genre, share a process of collapsing multiple pasts and presents into one current moment of Brulé Lakota representation.

With the Crow Dog trial over and the matter of Federal legal jurisdiction over reservations taken up by the Supreme Court, U.S. Attorney Hugh Caulfield and Dakota Territory agents and lawmen had no need of their prisoner. A notice in the *Black Hills Daily Times* on August 17, 1883 reads, "Scares The Enemy, who has been in jail here since last September, for shooting and wounding slightly, a man during the month of December, 1879, was brought into court and discharged, the grand jury finding no bill against him, and there being no evidence that he was the man."⁵⁸ "Dragged" into jail to establish the new legal jurisdiction over criminal activity among Native Americans on the reservation, Scares the Enemy made no apparent marks on settler archives before or after his imprisonment. His father, Hollow Horn Eagle, appears in the press while in Deadwood to visit his son Scares the Enemy, Crow Dog, and the other Lakota prisoners.⁵⁹ He also appears in the Rosebud Reservation census beginning in 1887 through 1907, living with his wife Pulls Her Down and a number of children who make up an extended household.⁶⁰ Scares the Enemy does not appear, although he would most likely have set up his own household by then. I have not located Scares the Enemy in the censuses taken at Rosebud or, as yet, elsewhere in Lakota country.

Nor has the studio photo turned up, taken on a Saturday afternoon outside of the jail with Crow Dog, Scares the Enemy, and Eagle Hawk, "...all were arrayed in neat suits and presented a very natty appearance."⁶¹ Without locating his Lakota name in written or oral sources, the Scares the Enemy recorded while in the Deadwood jail may not match later census records or earlier archives or historical narratives. We have only another "Captivity Ledger" appropriation, a Brulé warrior dragged into a historical archive not intended to contain him, his ten drawings captured for settler-colonial re-signifying, or alternatively, ready to insist on Indigenous "ways of being in time" that disrupt settler temporal certainties.

⁵⁸ *Black Hills Daily Times*, 17 August 1883.

⁵⁹ *Black Hills Daily Times*, 18 January 1883.

⁶⁰ National Archives and Records Administration (NARA), Rosebud census 1887, frame 37; National Archives and Records Administration (NARA), Rosebud census 1891, frame 327, #436–440 (450 sic). In 1887, the extended household comprised of the following: Father: Hollow Horn Eagle - Wab-be-lee Hay Por-lay-cha (59); Pulls Her Down - You-gar-paw (50); Girl - We-chin-challah (40); Yellow Face Bear - War-tor E-tay Zee (27); 5 children listed with ages from 9 to 18.

⁶¹ *Black Hills Daily Times*, 6 March 1883.