



JUSTICE FOR LEONARD PELTIER

Imprisoned for Nearly Five Decades

“ENOUGH IS ENOUGH.”

– Prosecuting U.S. Attorney James Reynolds

Leonard Peltier, 79, a Native American activist and citizen of the Turtle Mountain Band of Chippewa Indians (ND), is now in his 49th year of incarceration. He is serving two life sentences in a maximum-security federal prison for his alleged role in the deaths of two FBI agents during a shootout on the Pine Ridge Indian Reservation in South Dakota in 1975. Imprisoned at the age of 31, Mr. Peltier is now elderly, and his conviction is turning into a de facto death sentence.

Leonard Peltier is serving a sentence for aiding and abetting in a case where his co-defendants were found not guilty on grounds of self-defense. In fact, the prosecutors acknowledged in 1978 that they did not know who killed the agents, and the facts did not directly indicate the person responsible. For this, he is serving a longer sentence than most principals in murder convictions.

For decades, Peltier's unjust imprisonment has been recognized as the product of a flawed prosecution, trial, and conviction by national and international human rights organizations, leading voices on criminal justice issues, dignitaries from around the world, and many current and former members of Congress. Leonard's advancing age and fragile health status place renewed urgency behind the worldwide support for the effort to gain his release.

Thirty years ago, Sen. Daniel K. Inouye (D-HI), then-Chairman of the United States Senate Committee on Indian Affairs, endorsed clemency for Mr. Peltier and stated, *“As long as the FBI misconduct issues in this case are left unresolved, it will be difficult for Native Americans to trust that the U.S. judicial system will accord them with the same justice it accords to other citizens.”*

The current Chairman of the U.S. Senate Committee on Indian Affairs, Sen. Brian Schatz (D-HI), wrote a letter to the President in January of 2022, saying, *“I strongly support your administration's work to pursue a fair and constitutionally sound justice system. In keeping with those principles, I urge you to commute Mr. Peltier's sentence.”*

Gerald Heaney, the judge who presided over Mr. Peltier's 1986 appeal in the Eighth Circuit, called for his release in 1991 and again in 2000. Our cry for justice is also joined by former U.S. Attorney James Reynolds, whose office successfully fought the appeal of Mr. Peltier's case in _____. In an extraordinary letter to President Biden, Mr. Reynolds said: *“I write today from a position rare for a former prosecutor: to beseech you to commute the sentence of a man who I helped put behind bars.”* Reynolds' letter further highlights the injustice of Mr. Peltier's continued incarceration, noting the prosecutorial misconduct and constitutional violations committed by his office at the time and one

juror's early trial admission of racism against Native Americans.

In June of 2022, the United Nations Working Group on Arbitrary Detention joined the call for justice with the release of an opinion calling for the immediate release of Leonard Peltier. The [opinion](#) deemed Peltier's detention prolonged, indefinite, and arbitrary and specifically noted the anti-Indigenous bias surrounding Peltier's detention, stating that he "*continues to be detained because he is Native American.*"

Finally, on December 3, 2022, Retired FBI Special Agent - Minneapolis Office Coleen Rowley added her voice to the call for clemency for Leonard Peltier in a remarkable letter to President Biden. Her letter noted the key role that the "long-standing horribly wrongful oppressive treatment of Indians in the U.S." played in Peltier's case and, critically, the "FBI Family" vendetta behind their opposition to clemency that has kept Peltier behind bars for nearly five decades.

There has also been recognition of the FBI's role in creating the volatile atmosphere on the Pine Ridge Indian reservation as a result of its efforts to interfere with the work of the American Indian Movement (AIM). At the time of the shooting, the FBI was actively engaged in and funding a covert campaign to suppress the activities of AIM, whose advocacy on behalf of Indigenous people was viewed as "extremist" political activity.

The FBI's misconduct resonates deeply in Indian Country and represents a time of open oppression, racism, and aggression by federal law enforcement on Indian reservations throughout the United States. Their continued opposition to clemency for Leonard Peltier is now an emotion-driven vendetta with no place in our criminal justice system today.

The time for justice and mercy is now.

Clemency, Compassionate Release, and Parole for Leonard Peltier

Parole: Leonard is eligible for parole review every 15 years, and a hearing has been scheduled for June 10, 2024, at USP Coleman I, where he is currently incarcerated. The U.S. Parole Commission has denied parole multiple times. After a lengthy investigation, the United Nations Human Rights Commission Working Group on Arbitrary Detention opined that his parole processes have been fraught with substantive and procedural due process violations and anti-Native American bias. The opinion called on the United States to take "urgent action to ensure Mr. Peltier's immediate release." In addition, Mr. Peltier has consistently maintained his innocence. The history of the parole process shares the same history as the handling of his case - misconduct and injustice.

Clemency: President Biden's powers of executive clemency give him several options. A commutation of his sentence will address the acknowledged constitutional violations and prosecutorial misconduct in the handling of his case. A grant of executive clemency will provide justice for Leonard Peltier and allow him to live out his remaining years in his tribal homelands on the Turtle Mountain Indian Reservation.

Compassionate release: Leonard's petitions for compassionate release have been denied multiple times. His most recent denial occurred in April of 2024. His conviction is considered an "old law," and he has no right to appeal these denials to a federal district court because he was convicted before November 1, 1987. These "old law" prisoners were excluded from the First Step Act's provisions allowing for court appeals.

Detail of Constitutional Violations & Prosecutorial Misconduct in Handling of Case

- The government withheld exculpatory evidence: a ballistics report showed the shell casings collected from the scene did not come from Mr. Peltier's weapon.
- The prosecution of Leonard Peltier relied on testimony from witnesses who later recanted their statements, asserting that FBI agents threatened and coerced them into lying.
- Counterpoint to the assertion that his conviction has been upheld by the U.S. District Court, the 8th Circuit Court of Appeals, and the Supreme Court:
 - No denial of the prosecution's misconduct.
 - The Eighth Circuit stated that "[t]he use of the affidavits of Myrtle Poor Bear in the extradition proceedings was a clear abuse of the investigative process of the F.B.I." See *United States v. Peltier*, 585 F.2d 314, 335 n.18 (8th Cir. 1978).
 - The Eighth Circuit later acknowledged the "improper conduct" by the FBI and noted that the explanation for the initial ballistics report authored four months prior to the one used at trial – showing that "[n]one of the other ammunition components recovered at the [shoot-out] scene could be associated with [the Wichita AR-15]" – was "facially inconsistent with the newly-discovered evidence." See *United States v. Peltier*, 800 F.2d 772, 776, 778 (8th Cir. 1986) (some alterations in original, some added).
 - Despite this, the Court applied a standard of review requiring a finding "that it is reasonably probable the jury would have acquitted Peltier had it been aware of [the hidden] evidence." The law has subsequently been clarified to only require a finding that the defendant was deprived of a fair trial. Consequently, if the case was tried today, under these circumstances he most certainly would get a new trial.
- Mr. Peltier was also the victim of admitted juror bias. In what would today be considered "ineffective assistance of counsel," Mr. Peltier's attorneys failed to challenge a juror who admitted to the Court that she "disliked Indians" and that she was "prejudiced against Indians" - a clear violation of his Sixth Amendment right to an impartial jury.

Letters / Resources:

2024

- [Native Bidaské with Kevin Sharp on Leonard Peltier's Upcoming Parole Hearing](#)
 - Native News Online - YouTube | May 2024
- [OST Letter in Support of Parole for Peltier](#)
 - Oglala Sioux Tribe: Letter in support of parole for Peltier | May 2024
- [Leonard Peltier: I hope I make it to June 10](#)
 - Indian Country Today | April 2024

- [NCAI President Mark Macarro Letter in Support of Parole](#)
 - National Congress of American Indians | April 2024
- [Joint ACLU and HRW Letter in Support of Peltier release](#)
 - Joint letter in support of parole for Leonard Peltier | April 2024
- [U.S. Senate: Ltr. in Support of Parole](#)
 - U.S. Senate Letter: Led by Sen. Brian Schatz (D-HI), Chairman of the Senate Committee on Indian Affairs and also signed by Sen. Elizabeth Warren (D-MA), Sen. Tina Smith (D-MN), Sen. Ed Markey (D-MA), Sen. Mazie Hirono (D-HI), Sen. Peter Welch (D-VT), Sen. Bernie Sanders (D-VT) | March 2024

2023

- [USET Letter in Support of Peltier Release](#)
 - United South and Eastern Tribes
- [MAST Resolution in Support of Peltier Release](#)
 - Midwest Alliance of Sovereign Tribes
- [COLT Letter in Support of Peltier Release](#)
 - Coalition of Large Tribes
- [TASIN Ltr. in Support of Peltier Release](#)
 - Tribal Association of Sovereign Indian Nations (TASIN - CA)
- [Elected Tribal Leader Letter](#)
 - Tribal Leader Letter in Support of Peltier Release:
- [Letter from former clerks of Judge Gerald Heaney](#)
 - Letter in support of Peltier's release from 38 former law clerks of the Honorable Gerald W. Heaney of the 8th Circuit, United States Court of Appeals, including those who helped draft the opinions reported at United States v. Peltier, 585 F.2d 314 (8th Cir. 1978); 731 F.2d 550 (8th Cir 1984); and 800 F.2d 772 (8th Cir. 1986) | November 2023
- [33 Lawmakers Urge Biden to Release Peltier](#)
 - HuffPost (Jen Bendery) | October 2022
- [Supporters of Peltier Hold White House Rally, 35 Arrested](#)

- AP (Trisha Ahmed) | September 2023
- [Joe Biden Is Going To Have To Talk About Leonard Peltier](#)
 - HuffPost (Jen Bendery) | September 2023
- [NCAI President Fawn Sharp Ltr.](#) | July 2023
- [Presidential Medal of Freedom Recipient Suzan Harjo Letter](#) | April 2023
- [Native American Rights Fund Echo Hawk Ltr.](#) | September 2022
- [Top Indigenous Leaders Press Biden On Why He Hasn't Freed Leonard Peltier](#)
 - HuffPost (Jen Bendery) | August 2023
- [Campaign: President Joe Biden Should Free Leonard Peltier](#)
- [After 46 years of imprisonment, it's time to free Leonard Peltier](#)
 - Amnesty International | February/April 2023
- [Indigenous activist Leonard Peltier in plea for clemency after 47 years in jail](#)
- [FBI's opposition to releasing Leonard Peltier driven by vendetta, says ex-agent](#)
 - The Guardian Articles (Nina Lakhani) | January/February 2023

2022

- [Hundreds Of Indigenous Artists, Hollywood Stars Urge Biden To Release Leonard Peltier](#) | HuffPost (Jennifer Bendery) | December 2022
- [Letter to Biden from over 200 Members of the Entertainment and Fashion Industries](#)
 - December 2022
- [The Man Missing from Biden's Remarks](#)
 - Politico Article | November 2022
- [Letter in Support of Clemency Signed by Brian Schatz, Patrick Leahy, Elizabeth Warren, Edward J. Markey, Bernard Sanders, Mazie Hirono, and Tina Smith](#)
 - Senate Letter to President Biden | November 2022
- [Leonard Peltier's 46 Years in Prison: "What Else Do You Want?"](#)
 - Indian Country Today – Mark Trahan & Aliyah Chavez | October 2022
- [HuffPost: U.N. Human Rights Legal Experts Call For Immediate Release Of Leonard Peltier](#)
 - U.N. Working Group on Arbitrary Detention Opinion | July 2022
 - [U.N. Opinion](#)
- [Sen. Bernie Sanders Strongly Supports Releasing Leonard Peltier from Prison](#)
 - HuffPost | Jennifer Bendery) | June 2022
 - Sen. Bernie Sanders (D-VT) Letter to Constituent re: Peltier:
 - [Constituent Letter](#)

- [Sen. Hirono Letter](#) | May 2022
- [Former Federal Judge Kevin Sharp CBS News Interview](#) | 2022 February
- [Sen. Schatz Letter](#) | February 2022
 - Sen. Schatz is the Chairman of the United States Senate Committee on Indian Affairs.
- (former President Pro Tempore of the U.S. Senate): [Sen. Leahy Letter](#) | February 2022
 - **Sen. Patrick Leahy (D-VT) Letter to President Biden**
- [Letter from Members of Congress](#) | February 2022
 - Congressional Ltr. led by Cong. Raul Grijalva (D-AZ)
- [NCAI Resolution](#)
 - The National Congress of American Indians Resolution | February 2022
- [Chairman Azure Letter](#) | February 2022
 - Letter from Jamie Azure, Tribal Chairman of the Turtle Mountain Band of Chippewa Indians where Leonard Peltier is an enrolled citizen.
- [Supporters Seek Clemency for Native American Activist](#)
 - New York Times Article (Mark Walker) | February 2022

2021

- [Cong. Grijalva-led Ltr. with 11 Members](#) | November 2021
- [Leonard Peltier is America's Longest-Serving Political Prisoner. Biden May Be His Last Hope.](#)
 - HuffPost article (Jennifer Bendery) | November 2021
- [James Reynolds' Letter](#) | July 2021
 - Former U.S. Atty. whose office handled the prosecution of Peltier

2020

- [Haaland & Grijalva Letter](#) | April 2020
 - Then-Cong. Haaland and Chairman Grijalva Letter requesting clemency

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