

**Taming the Moose:
The Colonialism of Canada's Subordinated
Indigenous Prisoner Population in the 21st Century**
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ABOUT THE AUTHOR

Jeff Ewert is Métis currently serving a prison sentence in the province of Québec. Jeff filed a legal challenge against Correctional Service Canada for the use of risk assessment tools on Indigenous peoples' as discriminatory. The Supreme Court of Canada (*Ewert v. Canada – SCC*) ruled that the risk assessment tools in question were not validated on an Indigenous prison population and could not be used until shown to be valid.

ARTICLE

At one time, it was illegal for Native peoples of Canada to practice their spiritual beliefs. Sweat lodges, longhouses, potlatches, and other ceremonies and cultural events were secreted away in mountains and remote areas, out of reach of the Dominion Police Force (one of the predecessors to the Royal Canadian Mounted Police). Residential schools were the Dominion's answer to eradicating Indigenous culture and language. The children were removed from their families, had their hair cut, and were forced to speak English and practice Christianity. Any children caught speaking their own language or practicing their culture at a residential school were punished. Some were just punished for punishment's sake. Some were killed. And many died of a variety of causes. In essence, their natural born identities were replaced with one that was forced upon them by a dominant European culture. If they resisted, it likely resulted in death.

Until only about forty years ago, there were no Sweat Lodges, Medicine Bundles, Pow Wows, Round Dances, or cultural arts and crafts permitted within Canadian prisons. Around 1983, the Butler brothers carried out hunger strikes at Kent Institution in Agassiz, British Columbia in protest of the denial of Indigenous spiritual beliefs and practices. Although their actions nearly killed them, they were successful in garnering enough public attention to get more access to Indigenous spiritual practices (Waldram, 1997). That Indigenous prisoners had to protest, and very nearly die, to "win the right" to practice their spiritual and cultural beliefs, while white Christianity was readily accessible to Canadian prisoners is evidence of European domination and colonialism.

By the time I came to prison in 1984, cultural and spiritual activities of First Peoples were more accessible and, over time and through a series of events, I discovered and embraced my ancestral ways previously lost to me because of a transracial adoption. Over the next three decades, I underwent a process of change wherein I shed my childhood imposed, race-based shame, learned about my culture, found my birth family, and documented a proud genealogy dating back to 1634 which features at least two prominent Indigenous historical figures. I learned that the things I was told about myself and my family, and Indigenous peoples in general, were false. I learned to love the culture into which I was accepted – accepted, for the first time in my life.

In 1992, the *Corrections and Conditional Release Act* (CCRA) and the *Corrections and Conditional Release Regulations* (CCRR) came into force. The CCRA provides under section 82 that the Commissioner is required to establish a National Aboriginal Advisory Committee (NAAC), and may even establish regional and local aboriginal advisory committees, “which shall provide advice to the Service on the provision of correctional services to aboriginal offenders”. Commissioner’s Directive (CD) 702, Aboriginal Programmes, set out the national policy governing the provision of such programmes and services. The CD defined various aspects of Indigenous culture such as a provision for prisoners to possess Medicine Bundles and set out generally what Medicine Bundles could be expected to contain. The 1995 version of CD 702 included the following provisions:

1. To ensure that Aboriginal offenders are provided with an equitable opportunity to practice their culture and traditions without discrimination and with an opportunity to implement traditional Aboriginal practices
2. To recognize and respect that Aboriginal culture and traditional practices contribute to the holistic healing of the Aboriginal offender and his or her eventual reintegration into society.
3. To recognize that Aboriginal offenders have the collective and individual right to maintain and develop their distinct identities and characteristics including the right to identify themselves as Aboriginal [...]

14. 'Medicine Bundle' means a receptacle of any size, or a blanket of any size, either of which contain natural objects or substances of spiritual value. A medicine bundle is considered to be sacred. To preserve its spiritual value, it should be handled only by its owner or by the person entrusted with its care. ...

21. Aboriginal inmates shall be permitted personal possession of medicine bundles and other sacred objects which have been provided or sanctioned by an Elder whose services to inmates had been solicited by the institution. Any required security examination of such bundles or objects should normally be accomplished by having the owner manipulate them for visual inspection by the examining officer.

The intention of the policy in the case of searching medicine bundles, under ordinary circumstances, is that only the owner is to open the Bundle, as well as handle and display its contents under observation of an Elder, Aboriginal Liaison Officer (ALO) or Correctional Officer. If a cell containing a Medicine Bundle is searched and the prisoner is absent from the institution or otherwise incapacitated, an exception can be made where the on-site Elder or ALO would search the medicine bundle. Despite these directives, errors are made by ill-advised correctional staff and there have been numerous instances of improper handling of Medicine Bundles in the courts whereby Crown servants do not respect the spiritual beliefs themselves or the legislation and policies that exist to protect these hard fought and won spiritual practices, including three of my own successful legal challenges.

In 1996, Carol LaPrairie and colleagues published a report entitled *Examining Aboriginal Corrections in Canada*. They had been commissioned by the Solicitor General of Canada to study the over-representation of Aboriginal people.¹ LaPrairie and colleagues identified several contributing factors to Indigenous incarceration such as historical effects of residential schools, the resulting dysfunction, and alcohol and drug use among others. They also pointed to the racism in policing and criminal justice system more broadly. The authors also placed a lot of weight on the creation of the reserve system, and the marginalization and isolation of Indigenous peoples away from mainstream societal culture, values, and norms. They opined that Indigenous peoples deprived of enculturation to such mainstream

values and norms would then, once exposed to life off-reserve, invariably come into conflict with the criminal justice system.

After the LaPairie and colleagues (1996) study was published, other studies began to evidence a stark reduction in the recidivism rate of Indigenous prisoners who followed traditional teachings. This was also around the same time that the Correctional Service Canada (CSC) decided to make the introduction of Indigenous culture in penitentiaries their idea. The Vancouver Province (1999) reported that, “Aboriginal programs in federal prisons are finally succeeding where every other method has failed. The use of traditional teachings, native Elders and spiritual ways such as sweat lodges is not only healing native prisoners while they’re in jail – it’s keeping them from coming back”. Speaking at the March 1999 International Indigenous Symposium on Corrections in Vancouver, then Commissioner of Corrections Ole Ingstrup said in part:

I have to be honest, we aren’t really able to say why the Elders’ teachings and cultural input seems to work, but we can point to results, such as fewer aboriginal offenders returning [...] We’re not being sentimental here. We are just acknowledging that the aboriginal community is better at healing and treating their own people than the federal system ever has been.

If colonialism is responsible for bringing large numbers of Indigenous people into Canada’s prisons, then how could anyone expect that more colonialism would ever prepare us for our release back into community? When CSC was first learning that Indigenous prisoners’ access to Elders’ teachings, along with maintaining and developing their cultural identities, had a positive impact on them and subsequent recidivism rates, however, colonialism had already permeated the traditional healing process.

Within corrections, Indigenous cultural and spiritual practices are categorized under the heading of Aboriginal Programs. The premise that the traditions and culture of Canada’s First Peoples are a CSC “program” in any given penitentiary is colonialism. It places CSC in the position of final authority to decide what will or will not be permitted with respect to otherwise authentic Indigenous cultural and spiritual practices. Decisions, such as to whether or not a prisoner will light their smudge with a wooden match (as per the teaching that matches are the closest thing to the traditional way of making fire) or with a paper match or butane lighter, or to refuse a

request for traditional foods for cultural events, or the hosting of cultural events themselves, are made by someone whose interests and background are that of a technocrat, rather than a spiritual healer.

By taking the “driver’s seat” and placing Eurocentric public servants in charge of “Aboriginal Programs”, CSC has effectively re-created the now impugned residential schools wherein ‘White’ people are telling Indians how to be Indians. It is like putting a cowboy on the back of a moose and expecting the moose to go where you want it to, but the moose neither wants nor needs a cowboy on its back. The moose knows perfectly well how to be a moose without a Moose Programs directive.

Over time, CD 702 Aboriginal Programmes was amended and then amended again in efforts to tame the moose. Setting aside the offensive suggestion that Indigenous culture and traditions are a CSC “program”, the ongoing amendments themselves evidence that colonialism is alive and unwell in the 21st century. This “programmization” of Indigenous culture on behalf of CSC has served to impede the benefits of Elders’ teachings since they were first permitted in carceral environments.

Around the early 2000s, CSC devised the so-called “Pathways” programmization. No other culture has had its cultural beliefs and spiritual practices turned into a program the way Indigenous culture has – there are no “Sikhways”, “Muslimways”, “Celticways” or “Chinaways” programs. Pathways today has replaced everything the Butler brothers and many other Indigenous people fought and nearly died for. Colonialism continues within CSC now under the auspices of the Aboriginal Initiatives Directorate (AID).

Within institutions, a position was created that is now known as the Aboriginal Liaison Officer. These ALOs are unionized CSC employees. Elders, on the other hand, are contract workers and must be careful not to rock the canoe or their contracts are not renewed. In every institution I have been in over the past 18 years, the ALOs have more clout than the Elders. ALOs trump Elders in every aspect of how Indigenous services are provided. In the last medium security penitentiary I was in, the ALO was a non-Indigenous ex-correctional officer. In the medium before that, the ALO was a non-Indigenous former kitchen steward who was moved to the position after he fought with a prisoner in the kitchen. These ALOs will tell you that they have the same traditional authority as an Elder, which is nonsense because non-Indigenous correctional officers and institutional kitchen workers do not have the same life experiences or wisdom as

traditional Elders. What is more nonsensical is if a prisoner has a request of an Elder, the Elder will often need to defer to the ALO.

Under section 83 of the CCRA, Aboriginal spirituality, along with Aboriginal spiritual leaders and Elders, are specifically provided the same status as other religions and other religious leaders. However, ALOs have more status with regard to how Indigenous spiritual practices are carried out. Our Elders and spiritual leaders are not trusted to direct the teachings and practices within the institutions and must defer to the ALOs. For example, if an Elder wanted to give a prisoner some tobacco to make prayer ties, the ALO could prohibit this gifting. Depending on the institution, the region or the ALO in question, the latter could restrict any number of items or activities from taking place, despite their being legitimate or integral parts of Indigenous spiritual practices.

By comparison, institutional chaplains or priests do not have a similar correctional representative usurping the authority of the church service providers. I attended Catholic mass at Mission Institution and was surprised to be handed a glass of wine during communion. Alcohol under any other circumstances is prohibited within federal institutions. If caught with alcohol or alcohol-making implements, we are placed in segregation and likely transferred to higher security. Yet in the chapel, the chaplain or priest has the autonomy to decide how she or he will provide the religious services, unlike our Elders.

At Mission Medium Security Institution (MMSI), after learning that my late birth mother was Roman Catholic by faith, I decided to get baptized in her honour. I applied and was approved for an Escorted Temporary Absence (ETA) to a local parish in the town of Mission. On 27 August 2003, I was baptized in the presence of family and friends, and we shared a meal before I was returned to the penitentiary. I subsequently applied for an ETA to go out with the Elder to pick medicines. This request was denied. It was easy for me to be approved for an ETA to be baptized in the 'White Man's' faith, while being denied an ETA to participate in the culture and spirituality of my own people.

I was still residing in MMSI at the time Pathways was first announced there. The five living units (i.e. cell-blocks) at MMSI at that time were named 'Douglas', 'Oak', 'Dogwood', 'Mission' and 'Valley' respectively. Prisoners were assigned to the units at MMSI in a loosely structured fashion, predicated mostly on available bed space, unless they were

assigned to Unit 1 that was the ‘drug-free’ unit in which the residents voluntarily subject themselves to more frequent urinalysis testing to prove their sobriety and earn credibility with their case management. Around 2004, management announced the Pathways Initiative was being piloted at MMSI, whereby all the Indigenous prisoners would be moved to Unit 5, which was to be designated the Pathways unit. The premise was that Indigenous people would be more comfortable practicing their cultural activities in a unit where only Indigenous people resided. I immediately opposed the initiative and submitted a written grievance citing Carol LaPrairie’s findings and arguing that CSC was doing nothing more than creating a “reserve system” of segregation within its prisons and that this was counterintuitive to the solution. I argued that the creation of Pathways would impede the integration potential of Indigenous prisoners upon release to the community, contrary to the purpose of the CSC as legislated at section 3 of the CCRA:

3. The purpose of the federal correctional system is to contribute to the maintenance of a just, peaceful and safe society by
 - (a) Carrying out sentences imposed by courts through the safe and humane custody and supervision of offenders; and
 - (b) Assisting the rehabilitation of offenders and their reintegration into the community as law-abiding citizens through the provision of programs in penitentiaries and in the community.

The whole of the Native Brotherhood was behind me in my opposition to Pathways until I was involuntarily transferred out of MMSI back to Kent Maximum Security Penitentiary due to my ‘litigious’ nature and for opposing Aboriginal programs. Pathways has since continued to run at MMSI and has expanded to every federal prison in Canada.

Prior to 2008, CD 702 explicitly set out that “The Institutional Head shall allow the formation of Brotherhoods and Sisterhoods”. These special interest groups within prisons organized under executive memberships and were governed by a constitution which was approved by the Warden. The Native Brother and Sisterhoods’ executive members were responsible for organizing group cultural activities such as hobby-craft making or group meetings to plan events attended by traditional drum groups, dancers, and singers from the community like Pow Wows among others. I have been at

such Pow Wows where the gym was filled with dancers and singers wearing their traditional regalia, hoop dancers in regalia, jingle dancers in traditional jingle dresses, and feathered bustles everywhere. There would be a meal of traditional foods which could be comprised of baked or smoked salmon, deer meat, elk, and/or moose meat, sometimes in a stew. Other times there would be wild fowl, various berries, or wild berries, and always bannock. I have not seen anything like this since the introduction of “Pathways”. Today, there are no Pow Wows, no Round Dances, no feasts and no traditional foods, or any other cultural celebrations within most federal institutions anymore. The closest thing to it was a Round Dance at Saskatchewan Penitentiary in 2001, but I do not recall any traditional foods. Nowadays, the most I have seen in the way of a cultural events, at least in the Quebec region, is those in attendance at “Change of Seasons” ceremonies, standing around a fire listening to an institutional Elder talk about himself for two hours, then having a meal of hamburgers and fries cooked in the institutional kitchen, washed down with Coca Cola. It is all gone.

In 2008, CD 702 was amended and paragraphs 14 and 21 were removed for reasons probably related to legal action against CSC for the improper searches (desecration) of prisoner personal Medicine Bundles. CD 702 specified that we had the collective and individual right to maintain and develop our distinct identities and characteristics including the right to identify ourselves as Aboriginal, but we are prohibited from calling our groups Native Brotherhoods or Sisterhoods, under the guise of having gang connotations. The name ‘Native Brotherhood’ originated in the 1930s when Indigenous fishers organized to protect their fishing rights. But more than that, the concept of Brotherhood and Sisterhood is consistent with the Indigenous concept of extended family, which allows for a sense of inclusiveness and belonging. The dominant white culture has decided that we should call ourselves “Aboriginal Wellness Committees” (AWC). “Wellness”? They could not have come up with a more namby-pamby sounding name if they tried. Again, the dominant culture is telling the subordinated one what it is and what it should call itself. Colonialism is ongoing every day under the auspices of public safety interests. Brotherhoods and Sisterhoods were doing more in the way of rehabilitation than anything the CSC have devised by way of programmization, but when CSC saw how well it worked independently of them, they had to intervene. They cannot help themselves. It is their colonizing nature.

Today, CD 702 is mostly dedicated to Pathways. Most of the traditional teachings are gone from the policy and replaced with correctional (colonial) ideology of what is best for the wild Canadian Indian. There is a diagram of what they call the Aboriginal Corrections Continuum of Care Model, a circular thing with a bunch of correctional program jargon. In the very middle is a tiny Medicine Wheel. The text is to the effect that, “The Medicine Wheel can be found at the center of the Continuum of Care”, as though that is where the Medicine Wheel came from. They take other CSC programs like Cognitive Living Skills, Alcohol and Drug Abuse, or Family Violence, and they reprint the program booklets with little diagrams of feathers and Dream-Catchers while placing the word “Aboriginal” in front of the name of each program. They then deliver these programs as if they are new programs designed specifically to address Indigenous needs.

Pathways was sold to us with the promise of being cascaded to lesser security as expedited timeframes for those who participated. If an Indigenous prisoner rejects Pathways, they are treated as a malcontent by his case management team that translates into negative impacts on their security classification and parole assessments. Like trading beads for land, the Pathways program was sold to prisoners by way of false promises.

Furthermore, the policy permitting prisoners to self-identify as Indigenous created a situation where non-Indigenous prisoners who seek to obtain favour with their case management teams vis-à-vis their security classification, make the decision to self-identify as Indigenous to access Pathways. Such individuals have the right to self-identify and are not required to provide any proof of their ancestry to qualify. Pathways units across Canada are full of such “Pretendians” who are seeking to enhance and accelerate their prospects of release. This also results in a distortion of the actual rates of Indigenous people’s incarceration within Canadian prisons, as well as the number of authentic Indigenous people who are interested in Pathways.

It is ironic that non-Indigenous prisoners are benefiting by way of transfers to lower security levels for lying about their ancestry. In some or most of these units, the Indigenous prisoners are the minority. Indeed, If CSC were to cascade all the Indigenous participants, the programs would still be full of “white” prisoners on the Pathways units. This situation highlights the competing contradiction in the Pathways program that, on one hand, depends on ongoing Indigenous participation to justify its budget while, on

the other hand, it must show that the program results in the eventual release of the participants. To solve this dilemma, CSC cascades the Pretendians, while keeping the Indians in the program. It is clear from the inception of Pathways why CSC does not know why traditional spirituality worked before they made it a program.

After all the epic failures of the Canadian government in attempting to enculturate the so-called wild Indian – from the creation of the reserve system, to legislating the *Indian Act* (1876), to the horrific legacy of residential schools, through to the colonizing of Indigenous culture and spirituality within its prisons – it still has not realized that it cannot tame the moose.

ENDNOTES

- ¹ “Indigenous” is the new name that has been attributed to us by the colonizers. Prior to this it was “Indian”, then “Natives” and then “Aboriginal”.

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LEGISLATION CITED

- Corrections and Conditional Release Act* (1992)
- Indian Act* (1876)