

Tradition and Transitions: Elders Working in Canadian Prisons, 1967-1992

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Résumé de l'article

De 1967 à 1992, les aînés autochtones ont joué des rôles toujours plus importants auprès des détenus autochtones dans les pénitenciers du Canada. Si en 1967 seul un petit groupe de personnes sont entrées dans les prisons sur une base volontaire en tant qu'aînés, sans être reconnus par Service correctionnel Canada (SCC), les aînés et SCC ont par la suite établi des liens toujours plus officiels. En 1992, la Loi sur le système correctionnel et la mise en liberté sous condition a stipulé l'embauche d'aînés comme chefs spirituels pour les personnes autochtones en prison. Cette transition est le fruit d'un dialogue culturel continu entre les prisonniers autochtones par l'entremise de groupes de détenus portant le nom de fraternités des Autochtones, soit des organismes communautaires autochtones oeuvrant en milieu carcéral, et les administrations pénales. Même si les fraternités des Autochtones et les aînés qui travaillaient avec elles étaient essentiels à la décolonisation des prisons, au moment d'enchâsser la pratique de la spiritualité autochtone en milieu carcéral dans la loi et de légiférer l'embauche d'aînés, SCC a pris les commandes des pratiques culturelles autochtones et a aliéné les groupes communautaires qui appuyaient auparavant les aînés. Si l'accroissement des droits des aînés prévu dans ce nouveau cadre répondait à bien des besoins exprimés par les prisonniers et les membres de la communauté, le passage d'un service communautaire à un service institutionnel a pourtant marqué un tournant dans les relations entre les peuples autochtones et les établissements pénitentiaires canadiens. Le présent article avance que les efforts des aînés et des fraternités des Autochtones ainsi que la consolidation des mesures d'encadrement de ces efforts par les administrations pénitentiaires sont le résultat de démarches simultanées de décolonisation et de néocolonialisme.

Tradition and Transitions: Elders Working in Canadian Prisons, 1967-1992

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Abstract

Between 1967 and 1992, Aboriginal traditional Elders played increasingly important roles working with Aboriginal inmates in Canadian penitentiaries. Whereas in 1967 a small group of individuals entered prisons as Elders on a voluntary basis, unrecognized by Correctional Services Canada (CSC), over the following decades Elders and CSC developed increasingly formal relationships. By 1992 the Corrections and Conditional Release Act legislated the employment of Elders as spiritual leaders for Aboriginal peoples in prison. This transition was brought about because of an ongoing cultural dialogue between Aboriginal prisoners through inmate groups called the Native Brotherhoods, Aboriginal community organizations that worked inside prisons, and penal administrators. While Native Brotherhoods and the Elders who worked with them were central to the decolonization of prisons, in legislating the practice of Aboriginal spirituality in prisons and mandating the employment of Elders, CSC took control of Aboriginal cultural practices and alienated the community groups that once supported Elders. While the increased rights of Elders under this new framework responded to many of the needs voiced by prisoners and community members, the shift from community-based to institutional-based service represented an important change in the relationship between Aboriginal

* I would like to acknowledge the contributions of several Elders and leaders in Aboriginal corrections for assisting me in this work, especially Ed Buller who cautioned me that defining an Elder is akin to “nailing Jell-O to a wall,” which formed the initial impetus to research this topic. Thanks also go to Laurel Claus-Johnson, Allan Benson, Christie Jefferson, Kim Pate, Eva Hill, the Honorable Warren Allmand, and Charlie, all of whom agreed to be interviewed for this research.

Thanks also to those who have contributed to this work, including my doctoral supervisor Susan Neylan, the anonymous reviewers for the *JCHA*, whose comments have made this a much better paper, and Carolyn Podruchny who put considerable effort into improving this paper, for which I am deeply grateful.

peoples and Canadian penal institutions. This paper argues that the efforts of individual Elders and Native Brotherhoods and the consolidation of control over their efforts by the penal administrations were the result of simultaneous processes of decolonization and neocolonialism.

Résumé

De 1967 à 1992, les aînés autochtones ont joué des rôles toujours plus importants auprès des détenus autochtones dans les pénitenciers du Canada. Si en 1967 seul un petit groupe de personnes sont entrées dans les prisons sur une base volontaire en tant qu'aînés, sans être reconnus par Service correctionnel Canada (SCC), les aînés et SCC ont par la suite établi des liens toujours plus officiels. En 1992, la Loi sur le système correctionnel et la mise en liberté sous condition a stipulé l'embauche d'aînés comme chefs spirituels pour les personnes autochtones en prison. Cette transition est le fruit d'un dialogue culturel continu entre les prisonniers autochtones par l'entremise de groupes de détenus portant le nom de fraternités des Autochtones, soit des organismes communautaires autochtones œuvrant en milieu carcéral, et les administrations pénales. Même si les fraternités des Autochtones et les aînés qui travaillaient avec elles étaient essentiels à la décolonisation des prisons, au moment d'enclôser la pratique de la spiritualité autochtone en milieu carcéral dans la loi et de légiférer l'embauche d'aînés, SCC a pris les commandes des pratiques culturelles autochtones et a aliéné les groupes communautaires qui appuyaient auparavant les aînés. Si l'accroissement des droits des aînés prévu dans ce nouveau cadre répondait à bien des besoins exprimés par les prisonniers et les membres de la communauté, le passage d'un service communautaire à un service institutionnel a pourtant marqué un tournant dans les relations entre les peuples autochtones et les établissements pénitentiaires canadiens. Le présent article avance que les efforts des aînés et des fraternités des Autochtones ainsi que la consolidation des mesures d'encadrement de ces efforts par les administrations pénitentiaires sont le résultat de démarches simultanées de décolonisation et de néocolonialisme.

In the late twentieth century, Aboriginal Elders entered Canadian penal institutions to work with Aboriginal prisoners and, in doing so, came to occupy a unique place in the colonial history

of Canada. As James Waldram has shown, Elders working in prisons form “the backbone of Aboriginal spirituality in prison,” but the role penal Elders played was neither straightforward nor static, especially as Elders’ roles changed according to the local and policy context. Complicating the evolving role of Elders within prisons was the lack of consensus regarding who qualified as an Elder, even within Aboriginal communities.¹ Between 1967 and 1992 Elders were central to a decolonizing project that reclaimed the geography of the prison by transforming it into Indigenous space. At the same time, within the limitations of the penal context, Aboriginal cultural practices were ‘westernized’ because Eldership could not function in the colonial geography of the prison without significant adaptation. While historians have interpreted Aboriginal history from the perspectives of colonization, decolonization, and neocolonialism, the history of Eldership in Canadian prisons complicates these historical narratives by illustrating that all these processes took place at the same time.²

The evolution of the ‘penal Elder’ took place in three distinct shifts. In the 1970s private individuals and community organizations helped prisoners heal independently of the Correctional Services of Canada (CSC) by offering spiritual guidance from a cultural perspective. By introducing Aboriginal spirituality into the carceral geography, individual Elders contributed in powerful ways to decolonizing processes. During the second phase that began after an important 1975 conference held in Edmonton titled, “National Conference on Native Peoples and the Criminal Justice System,” the relationship between Aboriginal community organizations, Native Brotherhoods, and CSC became formalized and, while still supported by community agencies, Elders assumed increasing significance in the lives of prisoners and institutions. Third, in the 1990s CSC institutionalized the role of Elders by hiring them as they would hire chaplains. Shifting from community to institutional roles was an important moment of ‘indigenization’ of the prison, but it resulted in CSC appropriating the role of the “Elder” and defining it based on the Eurocentric expectations of spirituality.

These processes were played out through a cultural dialogue that revealed tensions between Indigenous traditionalism and colonial contexts.³ Viewing “the Elder” as the focal point of a cultural dialogue unsettled fixed definitions of “the Elder,” as Eldership was always multifaceted and dynamic, especially within the prison context.⁴ This dialogue took place both nationally at the policy level and locally within institutions because CSC was organized with flexibility for wardens to innovatively respond to local contexts; these included the makeup of the inmate population, political realities in the region, and a particular institution’s ‘mood.’ Analyzing historically the development of Elders’ programming within this cultural dialogue has the potential to add to functional research that discerns “what works” when rehabilitating Aboriginal offenders, such as what James Waldram has done with his path-breaking book, *The Way of the Pipe*.⁵ While the functionality of Aboriginal spirituality in prisons is a valid and necessary point of inquiry, a longer perspective on Aboriginal history told from within prisons provides additional nuance to understanding the long relationship between prisons and Aboriginal peoples in Canada. Despite regional variations in this relationship, much of this cultural dialogue took place nationally and effected the policy context for the entire penal apparatus in Canada. This article’s national and long-term historical approach demonstrates how neocolonial practices undermined the efforts to decolonize prison life.

Cultural dialogues about the role of Elders working in prisons were generated by prison staff (especially through institutional policies), Aboriginal communities, and prisoners (represented by Native Brotherhoods). Negotiations between these groups led to creative adaptations of traditional practices so that inmates could practice Native spirituality inside the twentieth-century prison. Legal scholar Michael Jackson has shown how Elders working with inmates was in itself remarkable, considering that the penitentiary was originally designed to instil spiritual values. In an era of post-1960s secularization, Native peoples reclaimed the spiritual pedagogical element that had been central to the birth of the prison through the suppressed practice of traditional

spirituality.⁶ Penal administrators tended to be motivated by a goal of “good corrections.” Penal staff aspired to ensure that the inmate population was peaceful and recidivism rates remained low. The Special Programs Division, which was established in 1972, introduced “innovative, experimental, or demonstrative” programmes into Canadian prisons.⁷ The second group in this dialogue was composed of Aboriginal community members, especially those from the recently emergent Friendship Centres that helped urban Aboriginal peoples navigate daily life.⁸ Most incarcerated Aboriginal peoples were either clients or potential clients of the Friendship Centres.⁹ These organizations worked with inmates, and formal organizations evolved from them to serve Aboriginal peoples in conflict with the law through court workers and liaison officers in prisons.¹⁰ The first, largest, and most influential was the Native Counselling Service of Alberta (NCSA). These urban organizations helped reserve communities, but their members were hesitant to enter prisons because, as Allan Benson, CEO of NCSA, explained, the prison was seen as a ‘sick’ space.¹¹ Finally, the inmates themselves organized Native Brotherhoods and Sisterhoods, a movement that emerged in 1964 at the initiative of mostly Cree-speaking Métis men in Prince Albert Penitentiary.¹² They were able to present a near unified voice for their distinct cultural challenges, needs, and opportunities for healing. Cultural intermediaries facilitated dialogue among these three constituencies by navigating cultural divides and speaking to these groups in terms they could understand. These intermediaries were Aboriginal Liaison Workers who served prisoners, court workers, and some individuals such as Joe Couture who was both a CSC-employed psychologist and recognized Elder.¹³

This article uses a collaborative research methodology that relies on oral history interviews as well as archival research to identify the key contributions from each of those taking part in the dialogue surrounding Elders. The world of Aboriginal corrections is relatively small, and several individuals who were involved with Aboriginal corrections have been interviewed for this project. Because many of those who served as Elders or worked with Aboriginal community organizations especially in

the 1970s were older men at that time, few were still alive to be interviewed between 2012 and 2014. I conducted open-ended interviews with those who were active members during this period in Aboriginal corrections, including Ed Buller, Christie Jefferson, Charlie,¹⁴ Allen Benson, Kim Pate, Eva Hill, Laurel Claus-Johnson, and the Honorable Warren Allmand. Charlie, Allen Benson, Laurel Claus-Johnson, and Eva Hill are all Indigenous peoples from First Nations across Canada (Mohawk, Cree, and Ojibwa) who have worked in Aboriginal corrections through community organizations, Native Brotherhoods, or crafting policy at the Solicitor General's Office. Christie Jefferson and Kim Pate were both Executive Directors of the Canadian Association of Elizabeth Fry Societies, and have advocated for prison reform concerning Aboriginal women. Former Liberal Member of Parliament Warren Allmand was Solicitor General in the 1970s and became the Minister of Aboriginal Affairs largely because of his involvement in Aboriginal corrections. While interviewees did not agree on all points concerning Aboriginal corrections, all of these individuals were cognizant of injustices endured by Aboriginal peoples in Canadian prisons, both historically and today. I share their concerns.¹⁵ Recognizing that Aboriginal peoples are present in both the oral and documentary archive, I also draw on the archival record because it sheds light on policy changes as a measure of the political influence that inmates achieved and as a reflection of administrators' contribution to this dialogue.

The twinned narratives of decolonization and neocolonialism in prisons appear distinct within Aboriginal history. In the twentieth century Aboriginal peoples attained new levels of self-governance and control over issues of concern to Indigenous communities. After the 1969 *White Paper*, Indigenous political groups achieved a new unity and influence in political processes in Canada. J.R. Miller identifies the late twentieth century as an era of "Conflict and Confrontation" in his sweeping book, *Skyscrapers Hide the Heavens*.¹⁶ He and other scholars have noted advances in self-government in Aboriginal history, particularly in cases of political autonomy at the band level,¹⁷ land claims cases,¹⁸ wildlife management,¹⁹ and social services in urban areas

through Friendship Centres. What the prison shows, however, are the limits of self-governance as well as the ubiquity and longevity of colonial power. CSC has interpreted its own history as basically benevolent, developing an assertive self-confidence regarding its record on Aboriginal corrections.²⁰ But for Aboriginal volunteers, inmates, or Elders, CSC represented a new stage of colonialism as it took over innovative programmes without first understanding their cultural basis.²¹ Approaching Aboriginal history in the twentieth century with an eye for the paired processes of decolonization and neocolonization, as evidenced in the history of penal Elders, illuminates the ongoing dynamics at play in Indigenous relationships to settler power.

Volunteerism and the Origins of Elder Services, 1967–1975

Elders started entering prisons in the late 1960s and early 1970s as volunteers, on an ad-hoc basis, and at the whim of institutional personnel. CSC did not recognize Aboriginal spirituality and correctional staff were often noted for their cultural ignorance, especially concerning sacred items necessary for ceremony. While a handful of work-release programmes for Aboriginal peoples existed at the time, they did not factor culture in their programming.²² Published in 1967, the first study of Aboriginal peoples in conflict with the law reflected an increasing awareness at the policy level that Aboriginal overrepresentation was a serious issue within the Canadian Penitentiary Service.²³ The 1972 creation of a Special Programs Division within the prison system that responded to the needs of minority groups within prisons, aiming specifically Native inmates, showed that the penal administration was willing to listen to programme ideas at the policy level.²⁴ Still, the realities on the ground did not often lead to openness at the policy level, as much of the initiative for programme innovation came locally from institutional administrators. By 1975, there were still few programmes that addressed the needs for Aboriginal inmates.²⁵ James Waldram characterized the prison system before the 1980s as parallel to the pre-1950 Indian Policy where Aboriginal culture and spiritu-

ality was criminalized.²⁶ During this period though, groups that would later enter into fruitful dialogues with prison authorities began to emerge and develop, marking the beginnings of decolonization within Canadian prisons.

In the 1960s and 1970s community organizations and private individuals worked doggedly to support prisoners independently of the correctional apparatus. At this time the Friendship Centres played a key role facilitating the work of Elders, especially in Alberta. Chester Cunningham was the court worker for the Edmonton Friendship Centre, which had operated since 1964, and in 1970 he developed a new organization, the Native Counselling Services of Alberta (NCSA), which connected prisoners with Elders from the urban Aboriginal community. Based on the model established at NCSA, regional organizations took root in British Columbia (Allied Indian Metis Society, or AIMS), Manitoba (Native Clan), and Saskatchewan (Federation of Saskatchewan Indian Nations). In other places, especially Atlantic Canada and Ontario, these kinds of organizations did not take root and Elders entered prisons as private individuals on their own accord, entirely self-funded. For example, in Ontario two older men named Art Solomon and Ernie Benedict were the only Elders who worked with Kingston-area prisoners.²⁷

Apart from these organizations and individuals, many communities were ill-equipped to address problems facing Aboriginal prisoners. Unfamiliar with processes of rehabilitation, they focused instead on education reform or political self-determination. In some respects community neglect of Aboriginal people in prisons was a capacity issue. Many communities were only beginning to address the legacies of colonialism, and incarceration was simply beyond their ability. Some communities viewed the mostly young male prisoners as social pariahs and assumed no responsibility for them. Furthermore, many men came into prisons as a result of the stresses and problems associated with urban migration; when they fell into the criminal system they were already alienated from their home communities on rural reserves. In addition, prisons were geographically distant from Aboriginal communities, so even those who wished to work with imprisoned community

members had to travel significant distances. Finally, many Elders had problems working within prisons for spiritual reasons. The prison was seen as sick and, according to some Elders' teachings, it was inappropriate to minister to a "captive audience."²⁸ As a result, inmates experienced nearly total alienation from their own communities and those Elders who went into prison were themselves unsupported.²⁹

Compounding these challenges was an unhealthy relationship between prisons and Elders, whether they came through an organization or as individuals, and this relationship manifested itself in several ways. At the root of this dysfunction was the penal administrators' misunderstanding of Aboriginal spirituality and culture. First, access to the inmates was one barrier Elders had to overcome. Since institutions viewed Aboriginal cultural programming as serving primarily a social need, Elders had the same restrictions of movement as any other visitor in the institution, limiting them to visiting hours within designated spaces where many of the practices associated with Aboriginal spirituality could not take place.³⁰ Elders also could not counsel offenders during times of personal or institutional crisis if there was a lockdown or if it was outside visiting hours, which was when it was most often needed. Further, during routine visitor searches staff desecrated sacred bundles and pipes or refused to allow sacred medicines into the prisons because administrators viewed these medicines with suspicion.³¹ This discouraged some Elders from working within prisons, forced others to adapt ceremonies for the penal context, and others to refrain from conducting ceremonies of any type during their visits to the incarcerated.

Cultural intermediaries addressed some of these problems. Perhaps the most important intermediary was the Aboriginal Liaison Officer (ALO), a position that NCSA created explicitly to facilitate dialogue between the administration, communities, and the inmates in Fort Saskatchewan and Prince Albert Penitentiaries beginning in August 1972 and June 1973, respectively.³² Because Drumheller in the early 1970s had an open-minded warden, an active inmate population, and an engaged outside community — along with an individual who facilitated dialogue —, within a year

Elders held at the Drumheller Penitentiary the first Sweat Lodge ceremony in a Canadian prison: this was one of the first Indigenous spiritual ceremonies conducted in a federal prison.³³ Despite this landmark, individual institutions continued to determine the temper and make up of their local Aboriginal programming. Other cultural intermediaries were individuals such as Joe Couture, who was trained in Aboriginal spirituality, but who also held a Ph.D. in psychology. Another was Art Solomon, an Elder from Sudbury, who worked with prisoners for 30 years and became an important resource for policymakers, as he was able to explain Aboriginal spirituality in ways they could understand. These individuals were able to 'translate' Aboriginal cultural practices into correctional jargon, creating a kind of hybrid language through which the two cultures could communicate.³⁴

In response to the ongoing problems facing Aboriginal peoples at all levels of the criminal justice system, including prisons, solicitor General Warren Allmand called in 1975 a conference titled "National Conference on Native Peoples and the Criminal Justice System." This conference included provincial and federal ministers, correctional authorities, representatives from the Royal Canadian Mounted Police, National Parole Board, and Canadian Penitentiary Service. The six major Native organizations, that is the Native Council of Canada, Inuit Tapisariat, Friendship Centres, National Indian Brotherhood, Native Women's Federation, and the Native Law Student's Association, as well as the leaders of the Native Brotherhood and Sisterhood movement, all attended.³⁵ At the conference, inmates and community organizations emphasized Aboriginal rights to culture and ceremonies. Yet in the 21 recommendations relating to prisons, none explicitly mentioned Elders.³⁶ The most common recommendations were Native employment in the criminal justice system and culturally relevant programming.³⁷ The volumes of submissions and over 200 recommendations have been reiterated in many studies and reports concerning Aboriginal peoples in prisons, sometimes adding to the list but never contradicting the recommendations.³⁸ A Federal Advisory Council was established to maintain the momentum and implement the recommendations. This coun-

cil included representation from the organizations cited above (Native Council of Canada, Inuit Tapisariat, Friendship Centres, the National Women's Federation, the National Indian Brotherhood, and the Native Law Student Association) as well as the ministers represented at the Federal Provincial meeting.³⁹ But there was neither the political will nor the funding to move recommendations forward, and changes in personnel and personality rifts within the Native groups, frustration at entrenched practices within the criminal justice system, and internal political conflicts between status and non-status organizations led to the ultimate dissolution of the council.⁴⁰ The practical result was FAC's lack of accomplishments, and CSC was able to take over Elder services once the council collapsed in 1978.

The greatest impact of the conference, however, was in uniting of Aboriginal political community and inmate leadership. Inmates confronted their communities for neglecting them.⁴¹ One group submitted a history of the Native Brotherhood group formed within penitentiaries, and it identified the early challenges of the group as, "not so much a matter of misconceptions as a complete lack of awareness of the native inmate."⁴² Bob Francis of the Department of Justice summarized his impressions of the conference, writing:

The whole thrust, I think, of the conference during the past few days is to sensitizing those involved in the criminal justice system to the particular needs of the individuals coming in contact with that system. Such sensitizing would involve far greater community involvement, including active involvement by groups and individuals which, in turn, would ensure understanding and recognition of cultures and values.⁴³

The inclusion of the six major political organizations that emerged after 1969 in the conference placed issues of Aboriginal justice, including incarceration, squarely on the agendas of indigenous politics and advocacy, especially within the Native Council of Canada which was led by a group of men who began the Native Brotherhood in Prince Albert Penitentiary while

prisoners.⁴⁴ The conference heralded the beginning of community-level approaches to Aboriginal corrections, which means that it was the first time that programming could respond in culturally appropriate ways for Aboriginal prisoners. The conference also was an opportunity to exchange ideas among the network of Brotherhood organizations across the country, as communication was previously rare, mostly taking place through inmate transfers.⁴⁵ Therefore geographically distant inmates could learn of progressive developments and programmes at other institutions and they could then use these examples to lobby for similar programmes. Therefore, at the grassroots level, the conference was an important moment that ultimately enabled Elders to work inside the system. Christie Jefferson, who organized the conference, described this historical moment as when Eldership became entrenched as part of the landscape in penitentiaries.⁴⁶

Formalization of Elders' Work, 1975–1987

After the 1975 conference, increasingly formal relationships between prisoners, communities, and the correctional apparatus allowed a fruitful dialogue to take place and Elders were able to meaningfully work within prisons. The 1970s was a period of re-examination of penal practices because of a series of well-publicized violent incidents, and in 1977 a parliamentary Sub-Committee reported that the system was in a “state of crisis” and needed practical, organizational, and philosophical overhaul.⁴⁷ Authorities were confident that with revision the existing system could work, but there was a growing consensus that the position of Aboriginal peoples in Canadian prisons was a blight on the system and needed serious and sustained policy attention.⁴⁸ These reports also suggested decentralizing and delegating authority to regional and community-based organizations. Joe Couture, the Elder and psychologist who worked as a cultural intermediary, wrote in 1983 a policy paper, “Traditional Aboriginal Spirituality and Religious practice in Federal Prisons,” which explained Native spirituality using the correctional jargon of rehabilitation, giving CSC the language it needed to integrate

Elders into correctional practice.⁴⁹ All of these developments made for a receptive audience in CSC for innovative programmes proposed by Aboriginal communities that were increasingly willing to work with inmates between 1975 and 1987.⁵⁰

CSC responded to this drive towards decentralization by delegating funds and authority to Aboriginal organizations and by funding Elders Councils. New policies addressed the need for institutional recognition of Aboriginal spirituality, funding for programmes, access to inmates, desecration of sacred bundles and guards' cultural insensitivity.⁵¹ The results of these efforts changed regional patterns into national policies. Communities also became more involved through the formation of Elders Councils, which presented a unified voice to CSC, developed programmes, and supported each other financially, emotionally, and spiritually. As Eldership was formalized by CSC, many of those who once refused the title of "Elder" took it on for they saw the necessity to gain access to inmates and to function as spiritual leaders.⁵² In most cases, the same people who served as Elders in the 1970s continued in this new capacity.

One way CSC delegated authority was by contracting organizations to bring Elders to work in prisons. As Elders became increasingly involved in the penitentiaries through continued contact with their clients, NCSA played a leadership role. NCSA matched Elders to the institutions where they could be the most valuable. It recognized that Elders' teachings became a starting point for inmates' life-long healing processes, and that upon release the inmates would continue their spiritual education in their home communities.⁵³ Inmates understood that despite common trends in teachings, cultural variation must be respected. Community-level involvement expanded across Canada through organizations such as the Allied Indian and Metis Society in British Columbia and Ontario, and the Native Clan Organization in Manitoba. While community organizations entered into contracts with Elders to ease the financial burden Elders faced, those organizations were careful to clarify the implications of these funds: moneys compensated Elders for their time, but did not pay for ceremonies.⁵⁴ Thus, when describing the role of Elders,

these organizations did not directly assign them tasks. For example, in a proposal for a youth diversion project, the Native Clan Organization wrote that Elders would “teach and pass on their knowledge of Indian traditional values, using terminology that gave the Elders flexibility to use their gifts without overextending themselves.”⁵⁵ The funding structure allowed Elders to offer gifts without expectations from communities or inmates, which reflected how Elders worked in Indigenous communities.

Another way CSC delegated authority was through the regional Elders’ Councils which providing a mechanism whereby Elders could be vetted by Aboriginal community members. This process gave credibility to the Elders in the eyes of CSC, and adapted traditional electoral mechanisms of community nomination. These councils served as a substitute for formal schools that granted degrees to chaplains of established institutional faiths. This formality also appealed to CSC administrators who otherwise had no mechanism to determine who was an Elder. Because Ontario prisons had more diverse Aboriginal populations, less infrastructure, and fewer working relationships inside CSC, here the Elders Council had numerous challenges to overcome. Art Solomon addressed these challenges by forming the Regional Elders and Traditional Peoples’ Council to “help facilitate Native spiritual and cultural experience and to assure the needs of Native prisoners are met.”⁵⁶ The council had to navigate the diverse cultural needs of its clientele without reducing itself to a pan-Indian group that resembled all Aboriginal cultures while devoting itself to none.⁵⁷ The council traversed these challenges by ensuring that it had the same diversity as the inmate population.⁵⁸ The council built a calendar organized around changes in the seasons where inmates gathered with guests from the community and Brotherhoods from nearby institutions for feasting and celebration.⁵⁹ Each ceremony had linkages across Indigenous cultures while being mainly based on teachings connected to a particular First Nation. That the changing of the season ceremony began under the council and continues today illustrates one legacy of this particular group in Ontario. Having external parties that could speak on behalf of the Brotherhoods became beneficial,

especially when walking the path between the administration and inmate needs with particular grace.

In 1982, a well-publicized hunger strike conducted by Gary and Dino Butler drew renewed media and political attention to the issue of Aboriginal spirituality behind bars. The Butlers were cousins from the United States who were involved with the Red Power movement and were incarcerated at Kent Institution in British Columbia. Their hunger strike protesting the institution's refusal to grant access to sacred medicines and ceremonies attracted considerable media and political attention to the issue of Aboriginal spirituality in prisons, even in the House of Commons.⁶⁰ The hunger strike was perhaps the most direct link between issues of Aboriginal incarceration in Canada and radical activism outside the prisons in the 1980s.⁶¹ This renewed attention did have an important impact on the trajectory of Aboriginal corrections, especially in Western Canada.

The second shift in the position of Aboriginal peoples inside Canadian prisons that took place in 1982 was a legal one. The Constitution Act and the Charter of Rights and Freedoms provided Aboriginal communities and Brotherhoods other means to pressure penal institutions for freedom to practice Aboriginal spirituality in prisons, which included granting Elders more rights inside the prisons. The Charter of Rights and Freedoms guarantees as fundamental freedoms, "freedom of conscience and religion, freedom of thought, belief, opinion and expression, freedom of peaceful assembly, and freedom of association."⁶² Hence, Aboriginal inmates were legally free to practice religious ceremonies. Furthermore, Section 35 of the Constitution Act reads: "The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed."⁶³ According to anthropologist and Aboriginal land rights researcher and advocate Michael Asch, Aboriginal peoples have taken this definition of territorial and political rights to mean that Aboriginal people have "the right to maintain ways of life that are distinct from those of recent immigrants to Canada."⁶⁴ Therefore, recognition of Aboriginal and treaty rights carries with it the potential for self-governance.⁶⁵ Michael Jackson has argued that

although the litigation that followed the charter was important from the perspective of prisons, the cultural shift towards a focus on human rights represented the biggest impact of the Charter. He argues that the hunger strike at Kent was one of the first dramatic instances when an argument based on the Charter of Rights and Freedoms was vocalized, and that in subsequent years what he terms “the Red Road” became increasingly important in the lives of Aboriginal prisoners.⁶⁶ At the same time, as James Waldram has pointed out, this new legal context has misrepresented Aboriginal spirituality by defining it in European terms of “religion,” which Waldram argues misses the therapeutic value of Aboriginal spirituality, as well as the distinctions that exist between institutional religion, namely Christianity, and traditional spirituality.⁶⁷ Between the guarantee of Aboriginal rights and the assurance of fundamental freedoms of religion, thought, expression, and peaceful assembly, the Brotherhoods inside prisons and outside Aboriginal community organizations had a compelling legislative basis to pressure for greater rights, including the right to Elders. They used legislative bias to great effect. Monocausal explanations for change in penal systems are rarely adequate, but the coalescing of political change, legal action, and advocacy from within prisons made the period following 1982 important in the history of Aboriginal corrections.

While working within the correctional system, contracting services through Aboriginal community organizations established an ideal relationship between CSC, Aboriginal communities, and inmates. Because of changes in the system in the 1970s and the ongoing work of a small group of dedicated individuals working within prisons, several successful programmes were developed. Key to this was the intensification of work by Elders. What was most important was the ability for Aboriginal organizations to have meaningful input into the correctional practice inside prisons which was only done after two decades of creative intercultural dialogue. Introducing teachings to the carceral context fit within decolonization processes, but Elders who went into prisons understood that the prison could never be fully decolonized; the goal was to help prisoners survive a colonial

institution, because the only way to fully decolonize the prison was penal abolition. The foundation for future entrenchment of Elder services was set in this period, but there were several unanticipated consequences which were felt when the role of the Elder became professionalized in the late 1980s and early 1990s.

Professionalizing “The Elder,” 1987–1992

As part of an organizational renewal that took place between 1987 and 1992, Elder services became encoded in federal policy and eventually in law, a process that redefined the identification of Elders, how they were selected, to whom they were accountable, and how they could act within prisons.⁶⁸ The most important shift over the five-year span was an intellectual change in CSC that began to view Aboriginal spirituality in terms of service delivery. This intellectual change meant that the role of institutional Elder moved towards that of chaplains. James Waldram has shown the “chaplain” to be a poor analogy for Eldership that indeed continues to be used today because CSC has never understood Aboriginal spirituality and the role of Elders.⁶⁹ This misunderstanding has had significant consequences when CSC began employing Elders, much to the chagrin of groups who lost control of Elders’ work in prisons. Allen Benson, the CEO of Native Counselling Services of Alberta, summarized the takeover of Aboriginal programming by CSC in the following terms: “What they (CSC) started to do then is say ‘well we want the Elders.’ So they would start hiring Elders themselves and started to institute rules about what they can and can’t do. Without sort of proper consultation about it, with the Elders or with the Aboriginal groups.”⁷⁰ These policy changes represented the first time Aboriginal programming was organized and controlled by CSC which did not understand its cultural or spiritual basis. Moreover, the role “the Elder” served was defined by CSC as a set of positive features that reflected the clinical perspective of Euro-Canadian rehabilitation that characterized the psychological model of the prison. Thus, the term “Elder,” which recognized the differences in roles and abilities of uniquely gifted

individuals, was reconceived as an institutional role with a set of clear duties. This new CSC definition motivated Dale Stonechild and Art Solomon to mention explicitly in their information kit for CSC that, as a rule, no Elder can conduct all Indigenous ceremonies because the ability to properly host a ceremony was contingent on a spiritual apprenticeship, the particular gifts that the Creator gave them, and the specific Aboriginal Nation from which they came.⁷¹ In taking control of programmes, CSC disrupted the dialogue that had been robust in the 1980s.

Elders became a permanent legislative piece of the correctional landscape through a series of policy and legislative changes between 1987 and 1992. On 1 January 1987 the CSC Commissioner entrenched Elder services in CSC policy in Commissioners Directive 702 (CD 702). The directive addressed the needs of Aboriginal cultural and spiritual programming and of the 12 recommendations made, six concerned Elders. While the format reflected earlier councils, these recommendations differed because the control and initiative rested wholly in the hands of CSC, limiting community control of spiritual practices within the prisons.⁷² CD 702 recommended institutions hire Elders to conduct ceremonies based on a chaplaincy model. CD 702 also ensured financial compensation and freedom of movement within the prisons for Elders.⁷³ However, by 1988 the policy recommendations had not been implemented in most institutions because enforcement mechanisms were insufficient.⁷⁴ Over the next five years numerous reports, studies, and commissions reached the same conclusion: Elders needed to be integrated into institutional life, which was best achieved through Elder employment.⁷⁵ These recommendations were put into law in sections 81, 82, 83, and 84 of the 1992 Corrections and Conditional Release Act (CCRA). Section 83(1) reads, "For greater certainty, aboriginal spirituality and aboriginal spiritual leaders and Elders have the same status as other religions and other religious leaders."⁷⁶ The CCRA answered calls for change in the prison system for which Aboriginal peoples had long advocated by ensuring freedom of movement, access to spirituality, and the legal right for more programming. Laurel Claus-Johnson interpreted these

policy changes as part of a pattern of establishing, maintaining, and consolidating power in the correctional world.⁷⁷

Prison administrators defined Elders as chaplains because that was the best way that they could describe the role Elders played in prisons. But this definition misrepresented Elders' function because it was predicated on a non-Indigenous approach to spirituality. In short, Elders were not and never were Chaplains. First, by assuming that Aboriginal Elders and prison chaplains performed the same tasks, the system did not change to make concessions for Aboriginal ceremonies.⁷⁸ For example, administrations defined the sweat lodge, which was a healing and cleansing ceremony, as the sole and all-encompassing Indigenous ceremony, much like a Christian service. It then followed that Elders must facilitate sweats, ignoring that the ceremony was not universally practiced in Aboriginal cultures, and that not every Elder could conduct them.⁷⁹ However, when an Elder hesitated or refused to conduct a ceremony for which he or she was not equipped, the Elder met opposition from both inmates and the institution.⁸⁰ Defining Aboriginal programming as akin to the work of a chaplain also narrowed the role that Elders played in the lives of inmates, as Elders' work concerned cultural education, healing, and spiritual guidance.⁸¹ It ironically also meant that Elders were assigned a wider variety of institutional tasks including that of caseworkers, advocates, and psychologists; James Waldram described this reality as the Elder-as-therapist.⁸² These new duties and obligations were reflected in the CSC strategic plan for 1991–1996 that at the same time sent more resources to Elders while assigning them these new roles.⁸³ Narrowing spirituality to a fixed set of practices through legislation missed the nuanced teachings that gave ceremonies meaning. CSC implemented these changes in spite of their own reported understanding that Aboriginal peoples did not constitute a heterogeneous group.⁸⁴

Sacred medicines were also deeply misunderstood by administrators. While sweet grass and sacred tobacco became more accepted in the prisons, administrators did not understand the teachings that went with sacred items. For example, when

entering into an agreement with Elders, CSC would offer sacred tobacco. Traditionally this meant that both parties entered a sacred covenant, and each party had obligations to the other: those accepting tobacco committed to the giver, while the individual offering tobacco conveyed their respect to the person and commitment to honour the gifts of that person.⁸⁵ However, when institutions offered tobacco as part of the contractual process, staff believed that Elders were committing to them but not the other way around. In addition, the effort required to gather medicines was not properly valued or given consideration in these contracts, so Elders had to gather medicines on their own time, meaning they were taxed beyond what the administration acknowledged or appreciated.⁸⁶

The hiring and payment processes also caused concern for many Aboriginal inmates and community members who lost control over who could be called an Elder. Whereas chaplains had seminaries to denote their institutional training, Elders were nominated from within the community. Because previous arrangements relied on communities to supply Elders, it was possible to maintain this kind of nomination process, but when CSC became the authority deciding who was an Elder, this community focus was lost. CSC inappropriately attempted to find Elders by posting job advertisements in the same way any institutional staff were recruited, meaning that the applicant and the institution together decided who could serve in this capacity, eliminating the role of communities.⁸⁷ CSC also opened the door for abuses of the system as individuals began to pursue both title and salary.⁸⁸ When CSC hired Elders, they attracted people to the position for financial gain or the title, leading to problems regarding what Joe Couture referred to as “Popcorn Elders,” a sarcastic reference to individuals who entered a sweat and, with enough heat, “popped” into Eldership.⁸⁹ Laurel Claus-Johnson summarized the changes saying, “We end up having, not so much tongue in cheek as ‘Oh my God, is that real?’ A card carrying Elder.”⁹⁰ Exacerbating these problems was the fact that community-nominated Elders were turned away from prisons because they were not on CSC’s list of employed spiritual practitioners,

turning back the clock for those who had long served this role, transforming them into volunteers as was the case in the 1960s.⁹¹

Finally, community members, prisoners, and Elders themselves disagreed on the impact CSC had on paying Elders, and there was no consensus within any of these groups. The key difference from previous arrangements was that community organizations and councils understood that the Elders worked for the Creator and were assisted financially by communities. In contrast, CSC assumed that because they supplied the funds, Elders worked for them.⁹² Some community members and Elders were uncomfortable with the implications of payment for services. Many Elders saw accepting payment for their services as contrary to their teachings and felt they could not accept this funding. Others understood the financial strain of visiting prisons as an unnecessary burden Elders endured. Financial incentives also measured the value CSC put on Elders' contributions to the lives of prisoners and institutions.⁹³ Compensation for their time was seen as a practical solution to programming problems. This contractual relationship was an underfunded solution, though. As the Native National Advisory Committee noted in 1987, spirituality programmes were floundering because "we are paying the Elders 'peanuts.'"⁹⁴ Contracts also meant that some inmates viewed Elders as tainted by increasingly close relations to CSC.⁹⁵

That CSC misunderstood Aboriginal spirituality is not surprising, which leads to the question of CSC's motives in hiring Elders. Furthermore, bringing spirituality into the prison without fundamentally re-examining the system was a superficial gesture. One reason behind the new policy was optics. One of the most persistent problems within Aboriginal corrections was the understaffing of Aboriginal people within prisons. Over the latter half of the twentieth century, the number of Aboriginal people in federal custody rose considerably, further skewing the disproportionate ratio of Aboriginal inmates to Aboriginal staff. Because recruitment efforts had been unsuccessful, CSC was under pressure to bring more Aboriginal people under their employ. According to Ed Buller:

What happened was that the initial intent behind the liaison services was lost, because they were to be the bridge between the Brotherhoods and the communities. It was a matter of control. Certainly it helped address the recurring criticisms of the number of non-Aboriginal people working for CSC ... By making Elders CSC employees, what they did was they upped their numbers and improved the ratio, so that they could say that there was a significant number of Aboriginal people working for CSC.⁹⁶

What this means is that in the 1990s CSC changed the optics of its staffing without changing the realities on the ground, at the cost of the connections between inmates and Aboriginal communities. Michael Jackson argues that between 1993 and 1996 Aboriginal Spirituality was not respected, and policies in prisons in the 1990s were guided by what he called an “Indian Agent mentality.”⁹⁷ Aboriginal communities lost control of the programmes they had pioneered, Aboriginal workers in various capacities lost the support those communities offered, and CSC managed its image in a way that was advantageous to its own interest, though not to the programming itself.

The other reason for policy changes within CSC was control. According to Laurel Claus-Johnson, CSC took control as a matter of course because it was uncomfortable with programmes, however successful, that it neither understood nor controlled.⁹⁸ Aboriginal correctional programmes, because they developed at the grassroots level both within and outside the prisons, were almost totally outside the immediate control of CSC. Because it could not operate the programmes itself and depended on Aboriginal expertise and knowledge, institutional involvement devalued these programmes. Claus-Johnson interpreted the new policy as part of a pattern of establishing, maintaining, and consolidating power in the correctional world.⁹⁹ Allen Benson, reflecting on the loss of control from within NCSA in regards to the provision of Elders in Alberta prisons, commented:

When something works that they don't understand ... because they don't understand the worldview, they try to take it and put their control on it with their ideals of how it should be run without understanding properly the culture. Without understanding the proper protocol. Without understanding the teachings.¹⁰⁰

Because they did not understand the cultural basis of Elders' work, when administrations took these programmes over they reshaped them to fit the same function as a chaplain, creating a new power dynamic between Elders and themselves. In contrast to the time when the communities facilitated the work of Elders, wardens now held much more power because they were the Elders' employers, leading to situations where when the Warden and the Elder disagreed on a point of policy or practice, the Elder was fired.¹⁰¹

Conclusion: Elders, Institutional Benevolence, Power, and Control

Eldership and the penitentiary, based on contrasting worldviews, came to exist in the same geographic and colonial space through cultural dialogue that ebbed and flowed over the twentieth century. In contracting community organizations and then hiring Elders themselves, CSC integrated Elders into a particular prison model, reshaping both the prison and the role of Elders in inmate communities. Eldership, the prison, inmates, and communities changed from community-based to institutionally operated programmes in Canadian prisons. These changes have come to define the prison in the late twentieth century, especially with the increase in discourses on restorative justice and the growth of community corrections.

The way that Eldership was coopted as part of a neocolonial process in prisons runs contrary to many historical narratives in Canada, raising questions about whether it is possible for Aboriginal culture to be integrated into the penal system. Put another way, is it possible to have a prison that heals offenders in an Aboriginal way, yet has the trappings of the western penal

system? It is clear that the Aboriginal cultural basis of Eldership contrasts with the philosophical basis of the prison and reveals a tension that played out in Elder services. In the end, the lack of CSC's commitment to adapt itself to honour Indigenous teachings led to the alienation of Elders from their prison work. What made the efforts of decolonization in prisons different from other decolonization initiatives, such as wildlife management or political self-governance, was that prisons had no historic model of punishment and rehabilitation upon which to build. They could not draw on traditional knowledge systems or alternative economic and political structures, as did wildlife management and self-governance. Aboriginal peoples had no prisons, so constructing an "Aboriginal prison" necessarily was based on a Eurocentric template. Another barrier to inventing a fully decolonized Aboriginal prison was the lack of power in prisons.¹⁰²

These processes of colonization, decolonization, and neocolonialism were simultaneous and ongoing, as attested by those interviewed in this oral history project. While generally focussed on the practical challenges of introducing Aboriginal cultures in prisons, collaborators in this research understood the difficulties of gaining and maintaining control over Aboriginal programming within frameworks of colonial hegemony. Laurel Claus-Johnson, the Mohawk woman who worked as a "traditional person" in prisons (she was uncomfortable with the title of 'Elder'), spoke of her work as "warming the earth" for changes that were to come in Kingston-area prisons. While her role working with prisoners ended when CSC began hiring Elders, a process which she attributed to CSC's fears of culturally-based programming that it neither understood nor controlled. She also remembered how programmes, which she and her Elders' Council created, still exist behind the walls. While these practices have been colonized in order to adapt them to the prison system, she interpreted this shift as meaningful. Poignantly, she remembered her time at Queen's University in Kingston as a law student in the 1980s where Aboriginal people had "not one square inch to pray" on campus, when now Kingston-area federal prisons permit Aboriginal sacred fires.¹⁰³ This coexistence of decolonization and neocoloni-

zation is a typical narrative for those working in prisons, and one that I have heard many times from people such as Charlie, Kim Pate, Christie Jefferson, Ed Buller, Allan Benson, and Eva Hill.

The history of Eldership in prisons represents a wider trend in correctional history where ongoing struggles between Aboriginal people and CSC are best characterized as cultural dialogue. The prison became an arena for decolonization, evident in the introduction of Eldership and spiritual programmes. While similar processes took place in other Canadian colonial institutions, such as residential schools, prison patterns became distinct because of the longevity of the system, the persistent confidence in incarceration on the part of settler society, and the totalizing nature of life inside the institution.¹⁰⁴ Conducting ceremonies and building sweat lodges decolonized and indigenized the prison itself. At the same time, prisons became an arena for neocolonialism when the state regulated when Aboriginal practices were introduced and controlled what sacred items could be used. The state also attempted to take control of implementing the practice of Aboriginal cultures through formal policy developments. In functioning within the prison, Elders had to accept a certain degree of structure and administrative hierarchy, which represented the European imprint on the practice of spirituality. Regardless of the Aboriginal influence on the practice of incarceration, the penitentiary remained a penitentiary. Thus, the introduction of Elders simultaneously enacted processes of westernization and indigenization, creating a new context for the expression of traditional values within colonial institutions. Decolonization and neocolonialism are not mutually exclusive, and the coexistence of these processes in prisons, even in limited degrees, illuminates how these processes can coexist. Appreciating the complexities within historical processes of decolonization and neocolonialism as played out in prisons, including the unexpected or unarticulated effects of policies and practices in prisons, can become the foundation upon which to improve the contemporary situation Indigenous people face in Canadian prisons.

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Endnotes:

- 1 James Waldram, *The Way of the Pipe: Aboriginal Spirituality and Symbolic Healing in Canadian Prisons* (Peterborough: Broadview Press, 1997), 99–124 (quote from p. 99).
- 2 Many scholars have identified the prison as a colonial institution, though they problematically show colonization to be apparent in over-representation, whereas the fact of Aboriginal incarceration, never mind statistical disparities, is itself a legacy of colonialism. For excellent work on the way that colonialism and incarceration were fundamentally connected, see: Sidney Haring, *White Man's Law: Native People in Nineteenth-Century Canadian Jurisprudence* (Toronto: Osgoode Society, 1998) and Joan Sangster, “Criminalizing the colonized: Ontario native women confront the criminal justice system, 1920–60,” *The Canadian Historical Review* 80, no. 1 (March 1999): 32–60. Luanna Ross has examined how colonization and decolonization took place amongst Aboriginal Women in a prison in Montana. See: Luana Ross, *Inventing the Savage: The Social Construction of Native American Criminality* (Austin: University of Texas Press, 1998).
- 3 The concept of “cultural dialogue” was introduced in: H. David Brumble, “Anthropologists, Novelists, and Indian Sacred Material,” *American Review of Canadian Studies*, Vol. 11, no. 1 (Fall 1980): 34. Joe Couture, an Elder and psychologist who worked in prisons, applied this concept to discuss how the 1960s’ “rush” for Elders changed the meaning of Eldership. See: Joe Couture, “The Role of Native Elders: Emergent Issues,”

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- in *A Metaphoric Mind: Selected Writings of Joseph Couture*, ed. Ruth Couture and Virginia McGowan (Edmonton: Athabasca University Press, 2014), 78.
- 4 Dale Stonechild and Arthur Solomon, *Native Spirituality Information Kit* (Ottawa: Correctional Services Canada, 1997).
 - 5 Waldram argues in his work that Aboriginal spirituality serves as a “symbolic healing” where Aboriginal prisoners have a positive therapeutic effect comparable to that of “western” medical interventions. His final chapter is tellingly titled, “But Does it Work,” Waldram, *The Way of the Pipe*, 201–20. The question of “what works” has also provided fodder for dissertations in psychology, sociology, social work, and education, to name a few.
 - 6 Michael Jackson, *Locking up Natives in Canada, A Report of the Canadian Bar Association Committee on Imprisonment and Release* (Ottawa: Canadian Bar Association, 1988), 90.
 - 7 Ministry Committee on Native People and the Law, “Policy Paper: Native People and the Criminal Justice System Appendix B,” Submitted to the Senior Policy Advisory Committee (1 April, 1975), 6, Library and Archives Canada (hereafter LAC), RG 73, Acc. No. 1983-84/237, Vol. 107 File 1140-161 file packet 1, “Ministry Committee on Native People and the Law.”
 - 8 This period in Aboriginal history has been most often discussed in relation to the Trudeau government’s *Statement of the Government of Canada on Indian Policy*, commonly referred to as the White Paper, and Aboriginal responses to it. See: Canada Department of Indian Affairs and Northern Development. *Indian Policy – Statement of the Government of Canada on Indian Policy (White Paper on Indian Policy)*, 1969. For Indigenous responses, see: Harold Cardinal, *The Unjust Society: The Tragedy of Canada’s Indians* (Edmonton: M.G. Hurting Ltd, 1969) ; Indian Association of Alberta, *Citizens Plus: A Presentation by the Indian Chiefs of Alberta to Right Honourable P. E. Trudeau, Prime Minister and the Government of Canada* (June, 1970). For discussions of the role of Friendship Centres in the National Association of Friendship Centres, “About: Our History,” <http://nafc.ca/about/our-history/>, Accessed 22 April 2014. For example, Maria Campbell’s *Halfbreed* (Saturday Review Press and University of Nebraska Press, 1973) and Lee Maracle’s *Bobbi Lee, Indian Rebel* (Toronto: Woman’s Press, 1990) talk about what life was like in these periods.
 - 9 “A Study on Friendship Centres by the Citizenship Branch, 1963,” LAC, RG 26 Vol. 69, File 2-38-6, “Friendship Centres General File, part 1.”
 - 10 “Report on Interviews with the Deputy Attorneys General in Edmonton, Victoria, and Regina concerning Programmes for Native People, 11–15 December 1973,” LAC, RG 73 Solicitor General Canada Fonds,

- Acc. No. 1983-84/237, box 106 file 1140-161 part 1, "Ministry Committee on Native People and the Law."
- 11 This quote is from Allan Benson, though Ed Buller communicated the same sentiment.
 - 12 "Alberta Native Brotherhood of Indian and Metis Meeting, Drumheller Institution, 11 September 1973," Provincial Archives of Alberta, Department of Municipal Affairs, Fonds, Acc. No 1987.366, box 6, File "Native Brotherhoods 1972-1979:" interview with Charlie Hill, 4 November, 2013.
 - 13 Here I am speaking of individuals such as Joe Couture or Art Solomon as well as organizations such as Native Counselling Services of Alberta.
 - 14 I use the single name "Charlie" to protect this individual's anonymity.
 - 15 I run the risk of being accused of writing an activist piece on their behalf. As Valerie Yow commented in "Do I Like Them Too Much," this might have led me to overlook certain questions or areas in their histories: Valerie Yow, "'Do I Like Them Too Much?': Effects of the Oral History Interview on the Interviewer and Vice-Versa," *The Oral History Review* 24 (1) (Summer 1997): 55-79.
 - 16 J.R. Miller, *Skyscrapers Hide the Heavens* 3rd ed. (Toronto: University of Toronto Press, 2000), 336-63.
 - 17 Alfred, Taiaiake (Gerald), *Heeding the Voices of our Ancestors: Kahnawake Mohawk Politics and the Rise of Native Nationalism*, (Toronto: Oxford University Press), 1995.
 - 18 J.R. Miller, *Skyscrapers Hide the Heavens*, 336-363; Foster, Hamar, Heather Raven, and Jeremy Webber, eds., *Let Right Be Done: Aboriginal Title, the Calder Case, and the Future of Indigenous Rights* (Vancouver: University of British Columbia Press), 2007.
 - 19 John Sandlos, *Hunters at the Margin: Native People and Wildlife Conservation in the Northwest Territories*. (Vancouver: University of British Columbia Press), 2007; Hans Carlson, *Home is the Hunter: The James Bay Cree and Their Land* (Vancouver: University of British Columbia Press, 2009).
 - 20 See institutional histories of CSC, including: J.T.L James, *A Living Tradition: Penitentiary Chaplaincy* (Ottawa: Correctional Service of Canada Chaplaincy Division, 1990); Jim Vantour, *Our Story: Organizational Renewal in Federal Corrections* (Ottawa: Correctional Services Canada), 1991.
 - 21 This included people such as Joe Couture, Art Solomon, Chester Cunningham, Bobby Woods, and Harry Daniels.
 - 22 Arthur Laing, *Indians and the Law: A Report of the Canadian Corrections Association* (Ottawa: Queens Printer, 1967), 48-9.
 - 23 Interview with Christie Jefferson, 10 February 2014.
 - 24 "Bernard Cloutier to Mr. L. Zeitoun, Personal communication, 5 August 1977," LAC, RG 73 Department of the Solicitor General Fonds, Acc.

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- No. 1989-90/047, File 200-N-16 v.6, “Natives and the Law Ministry Committee, Ontario.”
- 25 Ministry Committee on Native People and the Law, “Policy Paper: Native People and the Criminal Justice System,” Submitted to the Senior Policy Advisory Committee (April 1 1975), 6, LAC, RG 73, Acc. No. 1983-84/237, Vol. 107 File 1140-161 file packet 1, “Ministry Committee on Native People and the Law.”
- 26 James Waldram, *The Way of the Pipe*, 9.
- 27 Ed Buller interview, 13 September 2014.
- 28 Ibid.
- 29 Christie Jefferson interview, 10 February 2014.
- 30 Regional Elders and Traditional Peoples Council Minutes, 22 October 1989, Anglican Church of Canada Archives, GS 92-28, Box 2 Folder 7, “Criminal Justice and Human Rights” ; Native Council of Canada. *Métis and Non-Status Indian Crime and Justice Commission* (Ottawa: Native Council of Canada, 1970), 59–62.
- 31 Art Solomon, *Songs for the People* (Toronto: NC Press, 1990), 106.
- 32 Native Counselling Services of Alberta, in Cooperation with the Indian Association of Alberta, Metis Association of Alberta, and Other Native Organizations, “Native Counselling Services of Alberta Submission to the National Conference on Native Peoples and the Criminal Justice System,” Document No. NCJ-15, 3–6.
- 33 Thérèse Lajeunesse & Associates Ltd, “Selected Urban Aboriginal Correctional Programs In Canada: A Program Review,” APC 12 CA (1994), 77; Correctional Service Canada, *50 Years of Human Rights Developments in Federal Corrections: Commemorating the 50th Anniversary of the United Nations Universal Declaration of Human Rights* (Ottawa: Correctional Services Canada, 1998).
- 34 This creation of a hybrid language is explored in: John Lutz, *Makúk: A New History of Indian-White Relations* (Vancouver: University of British Columbia Press, 2008).
- 35 Interview with Warren Allmand, 30 September 2013. For a brief overview of the conference, see: Solicitor General Canada. *Native Peoples and Justice: Reports on the National Conference and the Federal-Provincial Conference on Native Peoples and the Criminal Justice System, Both Held in Edmonton, Feb. 3–5, 1975* (Solicitor General Canada: Ottawa, 1975).
- 36 Conference briefing book, 27–8 and 56 of book, 2–3 of referral list.
- 37 Vern Jones (Liaison Officer) to Bill Donihue, October 1977, Provincial Archives of Alberta, Acc. No. 1987.366, box 6, file “Native Counselling Services of Alberta, 1974–1977.”
- 38 Solicitor General Canada, *Native Peoples and Justice: Reports on the National Conference and the Federal Provincial Conference on Native Peoples and the*

- Criminal Justice System, Both Held in Edmonton, Feb. 3–5, 1975* (Ottawa: Solicitor General Canada, 1975), 3–4.
- 39 Document No. NCJ-80, Federal-Provincial Ministerial Conference on Native Peoples and the Criminal Justice System, 5 February 1975, Verbatim Report (Unrevised Text), 138–9; interview with Warren Allmand September 30, 2014.
- 40 Christie Jefferson interview, 10 February 2014.
- 41 Document No. NCJ-64 (F), Recommendations of Workshop 6: Institutions – Urban – Rural, Chairman Kitty Maracle, Recorder W. Badcock *National Conference on Native Peoples and the Criminal Justice System*, Vol. 1 (3–4 February 1975, Edmonton, AB), 3.
- 42 Document No. NCJ-41, Native Inmates Assistance Program, *National Conference on Native Peoples and the Criminal Justice System*, Vol. 1 (3–4 February 1975, Edmonton, AB), 2.
- 43 Bob Francis, Department of Justice, in “Verbatim Report,” Document No. NCJ-48, *National Conference on Native Peoples and the Criminal Justice System*, Vol. 1 (3–4 February 1975, Edmonton, AB), 120–1.
- 44 Native Council of Canada, *Métis and Non-Status Indian Crime and Justice Commission*, 1977.
- 45 Christie Jefferson interview, 10 February 2014
- 46 Ibid.
- 47 Mark MacGuigan (chairman), *Report to Parliament by the Sub-Committee on the Penitentiary System in Canada*, Second Session of the Thirtieth Parliament, 1976–7 (Ottawa: Ministry of Supply and Services Canada, 1977), 2.
- 48 Canadian Federation of Civil Liberties and Human Rights Association. *How the Canadian Penitentiary System Fails Native People; A Brief to the Task Force on the Canadian Penitentiary System* 1977; John Carson, Commissioner, *Report of the Advisory Committee to the Solicitor General on the Management of Correctional Institutions (Carson Report)*, (Ottawa: Solicitor General, 1984), 1–19, 50–1 ; Cliff Scott, “Report of the Organizational Review Task Force” (Ottawa: Correctional Services Canada, 22 October 1985); Solicitor General Canada, *Correctional Issues Affecting Native Peoples*, Correctional Law Review Working Paper No. 7, February 1988.
- 49 Joe Couture, “Traditional Aboriginal spirituality and Religious Practice in Federal Prisons” (Ottawa: Correctional Services of Canada, 1983).
- 50 For example, the National Indian Brotherhood addressed incarceration in strikingly parallel terms to how it addressed education reform. See: National Indian Brotherhood, “Indians and the Criminal Justice System: A Brief Presented by the National Indian Brotherhood to the National Conference on Native Peoples and the Criminal Justice System,” Document No. NCJ-21, Submission Books Vol. 1, 1.
- 51 W. T. Badcock, “Problems of Native Offenders in the Correctional System,” *Canadian Journal of Criminology and Corrections* (October 1976): 281–9;

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- Chester Cunningham, "The Native Offender," in *The Offender*, ed. C.H.S. Jayewardene (Department of Criminology, University of Ottawa, 1976), 60–6; Art Solomon, *Songs for the People* (Toronto: NC Press, 1990), 106; Joe Couture, "Traditional Aboriginal Spirituality and Religious Practice in Federal Prisons: An Interim Statement on Policy and Procedures," Working Paper #1, Draft #3 (Edmonton: November 1983), 12.
- 52 Regional Elders and Traditional Peoples Council Minutes, 22 October 1989, Anglican Church of Canada Archives, GS 92-28, Box 2 Folder 7, "Criminal Justice and Human Rights"; Native Council of Canada. *Métis and Non-Status Indian Crime and Justice Commission* (Ottawa: Native Council of Canada, 1970), 59–62.
- 53 Ed Buller interview, 9 September 2013.
- 54 Allen Benson interview, 30 March 2014.
- 55 "Proposed Pilot Program – Cultural Awareness 1978," LAC, RG 73 Solicitor General Canada Fonds, Acc. No. 1990-91/256, box 43 File 7300/6/4-17, "Corrections – Consultation Projects – Manitoba."
- 56 Regional Elders and Traditional Peoples Council Minutes, 22 October 1989 Anglican Church of Canada Archives, GS 92-28, Box 2 Folder 7, "Criminal Justice and Human Rights" ; Native Council of Canada. *Métis and Non-Status Indian Crime and Justice Commission* (Ottawa: Native Council of Canada, 1970), 59–62.
- 57 Interview with Ed Buller, 9 September 2013.
- 58 Art Solomon, Fred Wheatley, and Ben Spanish were Ojibway, James Mason, David Jock, Joanne Longboat, and Laurel Claus-Johnson were all Mohawk, and Wanda Whitebird was Micmac. Laurel Claus-Johnson interview, 15 August 2013.
- 59 Ibid.
- 60 Incidentally, James Waldram identified this incident as the first introduction of Aboriginal spirituality within the walls. His reading of the events looks at the implementation of policy changes that began after 1982, thanks to a new legal and social context. I argue instead that the Butlers came into a penal context where prisoners had been advocating for change in correctional programming for at least a decade, and therefore ought to be seen as part of a much larger movement. Waldram, *The Way of the Pipe*, 9–15.
- 61 Incidentally, the American Indian Movement began with a group of men incarcerated in Minnesota's Stillwater State Prison. See Peter Matthiessen, *In the Spirit of Crazy Horse* (New York: Viking Press, 1980).
- 62 Constitution Act, Enacted by the Canada Act, 1982 (IK), c. 11; proclaimed in force 17 April 1982.
- 63 Constitution Act, 1982.
- 64 Michael Asch, *Home and Native Land: Aboriginal Rights and the Canadian Constitution* (Agincourt, Ont.: Methuen Publications, 1984), 37.

- 65 William Pentney, *Aboriginal Rights Provisions in the Constitution Act, 1982I* (Masters of Law Thesis, University of Ottawa, 1987), 191, 232; John Borrows, *Canada's Indigenous Constitution* (Toronto: University of Toronto Press, 2010), 119.
- 66 Michael Jackson, *Justice Behind the Walls: Human Rights in Canadian Prisons* (Vancouver: Douglas & McIntyre, 2002), 58–62, 104–5.
- 67 Waldram, *The Way of the Pipe*, 15.
- 68 Michael Jackson, *Justice Behind the Walls*, 33–7.
- 69 James Waldram, *The Way of the Pipe*, 16–7, 38–41.
- 70 Allan Benson interview, 30 March 2014. This practice was carried out as part of a new policy context shaped by Commissioner's Directive 702.
- 71 Dale Stonechild and Arthur Solomon, *Native Spirituality Information Kit 2*.
- 72 Laurel Claus Johnson interview, 15 August 2013.
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