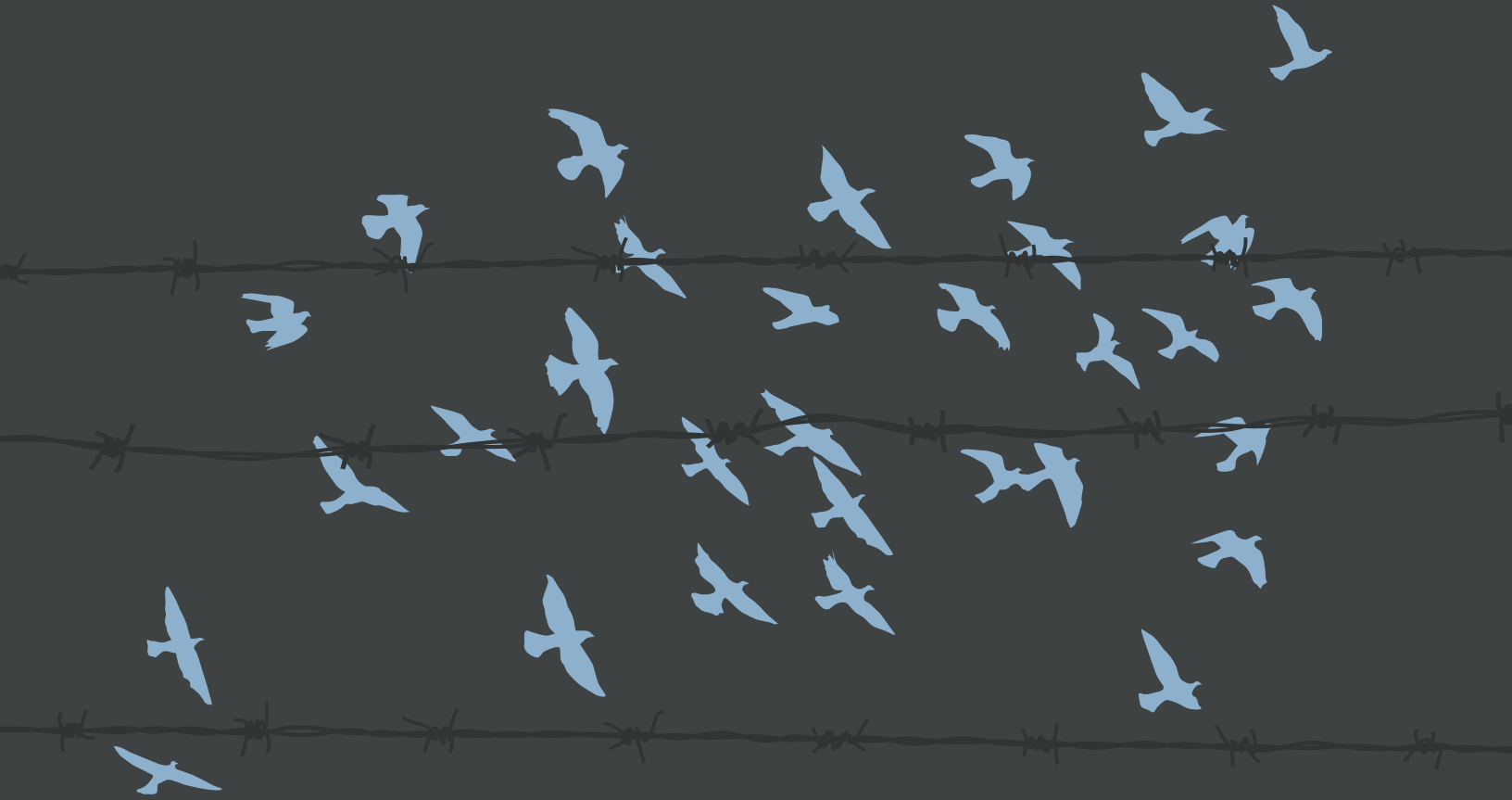


HEALTHCARE AND HARM REDUCTION FOR

# INDIGENOUS PEOPLE IN PRISON



HARD TIME PERSISTS



# The strength and resilience of Indigenous Peoples in Canada is rooted within a rich diversity of cultures, traditions, and values that have long been nurtured by Indigenous health systems and healing practices.

Despite this, Indigenous people have been — and continue to be — deeply affected by the history of colonialism, racism, and systemic discrimination in Canada. Residential schools, the Sixties Scoop, and other manifestations of cultural oppression, structural violence, and abuse have resulted in long-lasting health impacts, intergenerational trauma, and economic and social marginalization for Indigenous people in this country.<sup>1</sup>

Indigenous people in Canada have long been subjected to mass incarceration, due to the enduring legacy of colonialism and ongoing racism.<sup>2</sup> In 2023, Indigenous people represented 32% of the federal prison population, while making up just 5% of the total adult population.<sup>3</sup> In fact, the increasing incarceration of Indigenous women has resulted in Indigenous women representing roughly half of all women detained in federal prisons as of 2022.<sup>4</sup> Their mass incarceration is linked to poor health outcomes, including higher rates of toxic drug injury and death and increased risks of acquiring HIV, hepatitis C (HCV), and other sexually transmitted and blood-borne infections (STBBIs).<sup>5</sup> **Accordingly, the Truth and Reconciliation Commission and the National Inquiry into Missing and Murdered Indigenous Women and Girls have both issued calls pressing all orders of government to reduce overrepresentation and accommodate the specific health and cultural needs of Indigenous people in prison.<sup>6</sup> Canada must ensure that Indigenous people in prison have access to culturally appropriate healthcare, including harm reduction programs.<sup>7</sup>**





## Indigenous harm reduction policies, programs, and practices are:

- **Decolonizing.** They must go beyond addressing substance use and substance using behaviours and interrogate the neo-colonial systems and structures that shape and constrain the lives of First Nations, Inuit and Métis people by *centering power and control* in places where it has been systematically removed. This means supporting policies, programs and practices that are: *community-based and peer-led, trauma-informed, distinctions-based and culturally-safe*, and have a built-in *reflexive* component to ensure that colonial systems are not re-inscribed.
- **Indigenizing.** Supporting policies, programs and practices that are grounded in local Indigenous knowledges, traditions, teachings, ceremonies, land, and languages where appropriate.
- **Holistic and Wholistic.** Creating the conditions in which Indigenous peoples can be mentally, physically, emotionally and spiritually well. This means ensuring Indigenous peoples have equitable access to all social determinants of health, including access to education, housing, language, land, and cultural and political self-determination.
- **Inclusive.** In addition to incorporating and respecting diverse and local cultural knowledges and practices, programs must also respect age, gender, sexual orientation, literacy levels, socio-economic status, criminal backgrounds, spiritual belief or disbelief and substance use of clients.
- **Innovative and Evidence Based.** Combining the best of Indigenous and mainstream approaches to ensure that First Nations, Inuit and Métis peoples have access to the most competent, professional and culturally grounded assistance possible with full recognition that evidence comes in many forms.”

Source: CAAN, *Policy Brief: Indigenous Harm Reduction = Reducing the Harms of Colonialism*, March 19, 2019, available at <https://substanceuse.ca/sites/default/files/2021-04/Indigenous-Harm-Reduction-Policy-Brief.pdf>, at p. 4.



**At present, most prisons in Canada fall short in offering culturally sensitive and appropriate supports and services for Indigenous people.** Prison staff, including correctional officers and healthcare providers, lack cultural awareness, and do not receive adequate training about Indigenous cultural realities.<sup>8</sup>

**At the federal level,** Correctional Services Canada (CSC) has developed and implemented several Indigenous programs. Those programs, however, face persistent challenges:

- The **Pathways Initiative** aims to address the overrepresentation of Indigenous people in prison and ensure culturally appropriate services are available.<sup>9</sup> Elders are meant to play a central role, guiding participants through spiritual practices, teachings, and ceremonies. The program has, however, been consistently criticized for: serving too few people to have a measurable impact; undervaluing and overburdening Elders, support workers, and liaison officers; imposing stringent eligibility criteria, including onerous security classification requirements; and imposing a “one-size-fits-all” approach, which oversimplifies Indigenous diversity and fails to adequately serve all Indigenous communities.<sup>10</sup> A lack of meaningful accountability mechanisms, including performance indicators, makes it all the more difficult to assess impact.<sup>11</sup>
- **Alternatives to traditional correctional establishments** for Indigenous people, including healing lodges and Indigenous-run community initiatives, also exist at the federal level. However, they remain insufficient in number, inadequately funded, and under-utilized.<sup>12</sup> Ultimately, they are incapable of fully responding to the needs of Indigenous prison populations.

**At the provincial and territorial level**, the situation for Indigenous people varies greatly. Some jurisdictions have established meaningful cultural policies and programs, while others are failing to adequately meet Indigenous needs:

- In the **Yukon**, Indigenous programs are prioritized, as First Nations governments ensure that people in prisons have regular access to traditional activities and spiritual services.<sup>13</sup> Incarcerated people have access to traditional medicines, traditional cooking, First Nations language classes, and arts and crafts programs, including beading, carving, drum-making, and medicine bag-making. Incarcerated people have opportunities to engage in talking circles, smudging ceremonies, elder counselling, solstice gatherings and feasts, healing rooms, outdoor healing areas, and sweats.
- In **Nunavut**, policy specifies that Indigenous people should have access to counselling by Elders, Inuit cultural skills programming, through which they learn about the land, hunting and gathering, and the diverse cultures of the north.<sup>14</sup> Incarcerated people are also to be provided with carving and other arts and crafts programs. Information on what the program looks like in practice is detailed below (see “Bright Spots,” on p. 8).
- **Other jurisdictions in Canada** fail to mandate or provide adequate cultural services and programming in both policy and practice. For instance, only New Brunswick, Nova Scotia, Ontario, and Saskatchewan promise some culturally relevant programming in policy. However, each also allows ambiguous security issues to override Indigenous rights and needs.<sup>15</sup> In practice, most jurisdictions only offer a limited choice of programming, which is often inconsistently available. When combined with burdensome administrative delays and requirements, as well as shorter durations of incarceration, many Indigenous people have difficulty accessing culturally appropriate programs and services.<sup>16</sup>



“

I was working with a female who was... looking at a very lengthy federal sentence. I was brought in to meet with her when she was on remand status.

We quickly developed a very traditional, culturally safe space with each other. She went through the court system, accessing her Gladue rights. We provided wraparound supports to her... She didn't end up getting a federal sentence, her remand time had counted. With the work we had done with her while she was on remand... she was able to go back to school and did online training in herbology. She is a traditional herbologist now, she does medicine walks with our community, she helps us make ribbon skirts. She drums... That is the importance of harm reduction — meeting people where they are at and providing that non-judgemental space. There are successes and there will be more successes.”

(Interview with the HIV Legal Network, September 27, 2023)



# Moving forward, federal, provincial, and territorial governments must ensure that culturally appropriate healthcare, including harm reduction programs, are consistently available to Indigenous people in prison.

The current lack of services and programs tailored to the needs of Indigenous people in prison represents an ongoing failure to promote, protect, and respect their rights.

## 1. Prioritize decarceration and alternatives to incarceration

The harm caused by incarceration is magnified for Indigenous people, who often lose vital connections to family, community, and culture, leading to worse physical and mental health and poorer outcomes related to reintegration and recidivism. Maintaining cultural and community ties for Indigenous people in prison is thus crucial to promoting their health and wellbeing.

Alternatives to detention must be expanded at the federal, provincial, and territorial level. To be effective, these alternatives need to be properly resourced and expanded. Greater resources must also be devoted to healing lodges, particularly those operated by Indigenous communities, and funding and opportunities must also be prioritized for First Nations, Inuit, and Métis governing bodies, communities, and organizations to provide autonomous health services on an in-reach basis to incarcerated Indigenous people. These measures must be viewed as the first step of a broader journey towards decarceration and the decolonization of Canada's correctional system.

Any meaningful recognition of Indigenous self-determination must move beyond mere collaboration to include funding and opportunities for Indigenous bodies to support Indigenous people involved in the criminal legal system.

## **2. Provide consistent and tailored indigenous services and programs**

Indigenous people in prison have a right to trauma-informed, culturally appropriate, and culturally sensitive services, including in healthcare, throughout their incarceration. Additionally, the importance of Indigenous culture as a means of healthcare and harm reduction is well known.<sup>17</sup> That is, for many, reconnecting with culture, community, and traditional practices can greatly aid in the journey towards improving spiritual, physical, and mental health.

To create a healthy environment conducive to harm reduction in correctional settings, Indigenous people should have access to tailored cultural supports, including Elders, Indigenous liaison officers, and peer support workers, all of whom can be instrumental sources of traditional knowledge, spiritual guidance, and mentorship. Prisons authorities should invest heavily in these cultural supports to ensure Indigenous people receive adequate assistance and service on a full-time basis, and that Elders and peer support workers can operate under reasonable working conditions and in an environment that allows them to conduct ceremonies, gatherings, and counselling. Prison authorities should facilitate Indigenous cultural practices — like smudging, sweats, feasts, drumming circles, tobacco smoking, burning traditional medicines, full moon ceremonies, sharing circles, and storytelling — as much as possible. They should review internal policies to minimize any administrative or “security”-related obstacles, as these practices are a fundamental part of Indigenous conceptions of health, well-being, and harm reduction. Finally, prison authorities should establish community ties and support systems for incarcerated people before their release to facilitate smoother reintegration into the community, which can help reduce the risk of overdose post-release

## **3. Prioritize cultural sensitivity and understanding**

Indigenous people have a fundamental right to freedom from discrimination, including in the prison environment. Prison authorities across Canada must work to create culturally safe and sensitive environments that respect those fundamental rights of incarcerated people.

Across Canada, prison authorities must ensure adequate staffing, including through diverse representation, and provide proper training in cultural and professional competencies to meet the diverse needs of Canada’s prison population and to foster a culturally safe environment. The rights and perspectives of Indigenous people need to be at the forefront of staffing decisions and training programs. Training programs should be implemented and administered by external actors to provide knowledge to prison staff about human rights principles and Indigenous cultures, beliefs, and practices, as well as in-depth training on harm reduction and trauma-informed care. These programs must be monitored and evaluated to allow for improvement and adaptation based on local realities and practical experiences.





## Bright Spots

- **Cultural Programming in Nunavut:** In line with its policies, Nunavut is prioritizing Indigenous programs at its largest correctional facility, Aaqqigiarvik Correctional Healing Facility. The prison provides classes that allow Indigenous people to reconnect with their culture.<sup>18</sup> Participants are taught hands-on skills, like building traditional tools and engaging in traditional activities, before being taken out to the land to practice what they have learned. Participants also have the option of sending their completed projects home or selling them.<sup>19</sup> The prison offers in-class programs tailored to Indigenous people, on topics such as parenting.
- **Friendship Centres in Newfoundland:** Healthcare staff at Her Majesty's Penitentiary in Newfoundland are pushing to expand Indigenous programming. They developed an education program on Indigenous rights and culture for prison staff and incarcerated people.<sup>20</sup> They also successfully advocated to conduct smudges and to build a sweat lodge. The sweat lodge was built in collaboration with the Indigenous communities in Conne River, who led a two-day opening ceremony at the prison. The Indigenous programming at the prison is now run by the St. John's Friendship Centre, a community-based organization that provides cultural services to Indigenous people in Newfoundland.<sup>21</sup>



## References

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- <sup>2</sup> Justice Canada, *Overrepresentation of Indigenous People in the Canadian Criminal Justice System: Causes and Responses*, January 20, 2023, available at [www.justice.gc.ca/eng/rp-pr/jr/oip-cjs/p3.html](http://www.justice.gc.ca/eng/rp-pr/jr/oip-cjs/p3.html); Public Safety Canada, *Overrepresentation (Indigenous Offenders)*, March 9, 2023, available at [www.publicsafety.gc.ca/cnt/trnsprnc/brfng-mtrls/primntry-bndrs/20230720/12-en.aspx](http://www.publicsafety.gc.ca/cnt/trnsprnc/brfng-mtrls/primntry-bndrs/20230720/12-en.aspx); Public Safety Canada, *2022 Annual Report: Corrections and Conditional Release: Statistical Overview*, March 2024, available at [www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ccrso-2022/index-en.aspx](http://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ccrso-2022/index-en.aspx).
- <sup>3</sup> Public Safety Canada, *Overrepresentation (Indigenous Offenders)*, *ibid*.
- <sup>4</sup> Justice Canada, *The Overrepresentation of Indigenous People in the Criminal Justice System* November 2024, available at [www.justice.gc.ca/eng/rp-pr/jr/jf-pf/2024/pdf/rsd\\_jf2024\\_indigenous-overrepresentation\\_eng.pdf](http://www.justice.gc.ca/eng/rp-pr/jr/jf-pf/2024/pdf/rsd_jf2024_indigenous-overrepresentation_eng.pdf).
- <sup>5</sup> A. Boulanger et al., *Hard Time Persists: Health Care and Harm Reduction in Canada's Prison System*, HIV Legal Network, forthcoming.
- <sup>6</sup> Truth and Reconciliation Commission of Canada, *Truth and Reconciliation Commission of Canada: Calls to Action*, 2015, at CTA 19, 30-32, 36, 38; National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place*, 2019, at CFJ 3.1, 5.14, 5.16, 5.20, 5.21, 14.6, 14.8, 16.28, 16.30, 17.27, 18.22.
- <sup>7</sup> As supported by *United Nations Declaration on the Rights of Indigenous Peoples*, UNGA, A/61/L.67, September 13, 2007, Article 24, which confirms that Indigenous people have a right to their traditional medications and to maintain their health practices; the right to access, without discrimination, all social and health services; and the right to the enjoyment of the highest attainable standard of physical and mental health. See also, *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14, Article 24.
- <sup>8</sup> Saskatchewan and British Columbia are the only jurisdictions to require comprehensive staff training in policy; see, e.g., Saskatchewan, *First Nations and Metis Cultural Programs and Services*, November 1, 2014; BC, *Indigenous-specific Racism and Discrimination for PHSA Staff Policy*, September 26, 2023.
- <sup>9</sup> CSC, *Commissioner's Directive 702-1: Establishment and Operation of Pathways Initiative*, November 12, 2013.
- <sup>10</sup> I. Zinger, *Ten Years Since Spirit Matters: A Roadmap for the Reform of Indigenous Corrections in Canada*, Office of the Correctional Investigator (OCI), 2023, available at <https://oci-bec.gc.ca/sites/default/files/2023-10/Spirit%20Matters%20EN%20C3%94%C3%87%C3%B4%20Web.pdf>; see also, OCI, *Summary of Ten Years Since Spirit Matters: Indigenous Issues in Federal Corrections*, November 1, 2023, available at <https://oci-bec.gc.ca/en/content/backgrounder-summary-ten-years-spirit-matters-indigenous-issues-federal-corrections-parts>.
- <sup>11</sup> CAEFS (Interview with the HIV Legal Network, February 1 and 27, 2023).
- <sup>12</sup> OCI, *Annual Report 2022-2023, 2023*, available at <https://oci-bec.gc.ca/sites/default/files/2023-10/Annual%20Report%20EN%20C3%94%C3%87%C3%B4%20Web.pdf>; Prisoners' Legal Services, *Submission to the United Nations Human Rights Council Canada's Fourth Universal Periodic Review*, April 4, 2023, at paras 23-24, 26.
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- <sup>14</sup> Nunavut, *ACHF: Counselling Program*, July 2021; Nunavut, *ACHF: Inuit Cultural Skills Program*, July 2021; Nunavut, *ACHF: Carving and Arts/Crafts Program*, July 2021.

- <sup>15</sup> See, e.g., NB, *Indigenous Traditional Spirituality and Elder Services*, December 2022; NB, *Chaplaincy / Elder Services*, January 2022; NS, *Smudging Ceremony*, April 25, 2015; NS, *Sweat Lodge*, April 24, 2015. Ministry of the Solicitor General, *Indigenous spirituality in correctional services*, May 15, 2023, available at [www.ontario.ca/page/indigenous-spirituality-correctional-services#:~:text=In%20addition%20to%20the%20general,of%20visits%20to%20the%20institution](http://www.ontario.ca/page/indigenous-spirituality-correctional-services#:~:text=In%20addition%20to%20the%20general,of%20visits%20to%20the%20institution); Saskatchewan, First Nations and Metis Cultural Programs and Services, November 1, 2014.
- <sup>16</sup> See, e.g., East Coast Prison Justice Society, *Conditions of Confinement in Nova Scotia Jails Designated for Men: East Coast Prison Justice Society Visiting Commission – Annual Report 2021-2022*, February 2023, available at [www.eastcoastprisonjustice.ca/conditions-of-confinement-report-2021-2022.html](http://www.eastcoastprisonjustice.ca/conditions-of-confinement-report-2021-2022.html), at pp. 72-75; Office of the Auditor General of Canada, *Report to the Northwest Territories Legislative Assembly – 2015: Corrections in the Northwest Territories*, March 3, 2015, at pp. 12-13; Northwest Territories, *Department of Justice Corrections Service: Annual Report 2022-2023*, July 2023, available at [www.justice.gov.nt.ca/content/uploads/2023/12/Corrections-Service-Annual-Report-2022-2023.pdf](http://www.justice.gov.nt.ca/content/uploads/2023/12/Corrections-Service-Annual-Report-2022-2023.pdf), at pp. 12-13.
- <sup>17</sup> See, e.g., *Policy Brief: Indigenous Harm Reduction = Reducing the Harms of Colonialism*, March 19, 2019, available at <https://substanceuse.ca/sites/default/files/2021-04/Indigenous-Harm-Reduction-Policy-Brief.pdf>.
- <sup>18</sup> “With Nunavut’s COVID-19 restrictions lifted, more inmates in Iqaluit can join cultural program,” *CBC News*, April 12, 2022, available at [www.cbc.ca/news/canada/north/iqaluit-inmates-cultural-program-1.6417407](http://www.cbc.ca/news/canada/north/iqaluit-inmates-cultural-program-1.6417407). Note, the program is open to other correctional facilities in Iqaluit, on a rotating basis.
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- <sup>20</sup> Eastern Health (Interview with the HIV Legal Network, May 16, 2023).
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