



Bringing Balance to the Scales of Justice:

Fulfilling Our Responsibility to Indigenous
People Involved in the Justice System

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Edited by Joanne MacKinnon
Designed by Graphcom

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**Disclaimer**

Please keep in mind that this document is not meant to be an exhaustive guide to implementing restorative justice. Nor is it intended to provide an in-depth list of specific cultural alternatives that should be used to prevent an offence or limit recidivism. Instead, this document is meant to provide justice personnel and clients with a knowledge base to make more informed and appropriate decisions when determining programs or sentences for Indigenous offenders. This is simply a starting place. Information is current to September 2017.

Introduction

This resource guide provides a general introduction to justice issues for people who work with Indigenous clients in the Atlantic Canadian justice system.

Indigenous people are over-represented in the Canadian justice system as both offenders and victims of crime. It is our hope that this guide will shed light on both the historical circumstances that have led to this situation and the innovative efforts being made to incorporate an Indigenous world-view into our justice system. By implementing restorative justice models, providing offenders with access to traditional cultural practices and ceremonies, and focusing on individual and community healing, there is new hope that we can bring balance to the scales of justice.

The first half of the guide provides an overview of the post-colonial experiences of Indigenous people in Atlantic Canada, explores the reasons for Indigenous overrepresentation in the justice system and reviews efforts to reduce this overrepresentation. The second half provides insights into traditional Indigenous views on justice and healing, and outlines some of the common ceremonial practices that can be successfully integrated into justice programs.

While appreciating that a short publication cannot be *“all things to all people,”* we hope that this guide will be of use to all participants in the justice system, including police services, court services, victim services, and correctional and probation services.

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Lori St. Onge

Director of the Mi'kmaq Confederacy of PEI Indigenous Justice Program

Note on Terminology

The preferred terminology when referring to Canada's Indigenous peoples can be confusing and is constantly evolving.

This is intended as a quick glossary to some of the common terms.

Aboriginal Peoples: refers to the original peoples of Canada. It is the term that is recognized in the Canadian Constitution. Section 35(2) of the *Canadian Constitution Act* recognizes three groups of Aboriginal people — Indians, Métis and Inuit. These are three separate peoples with unique heritages, languages, cultural practices and spiritual beliefs.

First Nations: refers to the Indian peoples of Canada, both Status and Non-Status. Although it has no legal definition, it can be preferable in some situations to using the legal term “*Indian*” as it is considered offensive.

Indian: describes Aboriginal people who are not Inuit or Métis. The term “*Indian*” is considered offensive by many, and often the term “*First Nation*” is preferable except when it is necessary to make precise legal distinctions, for example when referring to how a person is defined under the *Indian Act*.

There are three types of Indians in Canada.

Status Indians are First Nations people whose names are included on the Indian Registry—a list maintained by the federal government. Status Indians are recognized under the *Indian Act* and are entitled to specific rights and benefits.

Non-Status Indians are people who are members of a First Nation community but are not recognized as Indians under the *Indian Act*. Many First Nations people lost their status rights through past discriminatory practices.

Treaty Indian is a Status Indian who belongs to a First Nation that signed a treaty with the Crown.

Indigenous: is often used interchangeably with Aboriginal and is used to refer to First Nations, Métis and Inuit peoples. It is the term most commonly used in the International context and by the United Nations in, for example, the United Nations Declaration on the Rights of Indigenous Peoples. The term “*Indigenous*” is replacing “*Aboriginal*” in many contexts. It should be noted however, that the term does not have a specific legal definition in Canada, while the term “*Aboriginal*” does.

Inuit: describes the Indigenous peoples of Arctic Canada. Inuit are not covered in the *Indian Act*, but the Supreme Court has interpreted the federal government’s power to make laws affecting “*Indians, and Lands reserved for the Indians*” to include the Inuit. Inuit never lived on reserves, therefore the terms “*on-reserve*” and “*off-reserve*” do not apply. It should be noted that “*Inuit*” means “*the people*” in Inuktitut, so one should avoid using the term “*Inuit people*” as “*people*” is redundant.

Métis: describes people with mixed First Nations and European ancestry who choose to identify themselves as Métis. Many Canadians have mixed Aboriginal and non-Aboriginal ancestry, but do not identify as Métis. It should be noted that Métis organizations have differing criteria about who qualifies as a Métis person.

Native: is similar in meaning to “*Aboriginal*” and “*Indigenous*” and can refer to First Nation, Inuit and Métis peoples. In the United States, the term “*Native American*” is commonly used to describe Aboriginal people, but in Canada the terms “*Aboriginal*” or “*Indigenous*” may be preferable to “*Native*.”

Reserve (on-reserve/off-reserve): A reserve is land, legally owned by the Crown, set aside for the use and benefit of an Indian Band. On-reserve refers to a First Nations person who lives in the Band community, and off-reserve refers to a First Nations person who does not live within a Band community. They should not to be confused with the terms “*Status*” or “*Non-Status*.”

For further information:

Hill Notes: Indigenous Peoples: Terminology and Identity

<https://hillnotes.ca/2015/12/14/indigenous-peoples-terminology-and-identity/>

University of British Columbia: Indigenous Foundations

<http://indigenousfoundations.web.arts.ubc.ca/terminology/>

Indigenous Peoples: A Guide to Terminology, Indigenous Corporate Training

<https://www.ictinc.ca/aboriginal-peoples-a-guide-to-terminology>

The Indigenous Peoples of Atlantic Canada

There are technically five Indigenous groups in the Atlantic Region. They include the Inuit of the Arctic (i.e. Labrador, northern Quebec, Greenland, and Alaska); the Innu people of north-eastern Quebec and Newfoundland and Labrador; the Maliseet of the Saint John River Valley and tributaries in Quebec, New Brunswick (and Maine, USA); the Mi'kmaq of Quebec's Gaspé Peninsula, New Brunswick, Nova Scotia, Newfoundland and Labrador and Prince Edward Island; and the Passamaquoddy of New Brunswick (and Maine, USA).

Did You Know?

Innu – the people

Inuit – human beings

Maliseet / Malecite – Wolastoqiyik – people of the good river

Mi'kmaq / Micmac – L'nu – the people

Passamaquoddy – Peskotomuhkati – people of the dawn

According to the National Household Survey by Statistics Canada, in 2011 there were about 1.4 million Indigenous people living in Canada. That was just 4% of Canada's population. Between 2006 and 2011, the Indigenous population in Canada grew by 20% compared to the non-Indigenous population growth of 5%. Of the Indigenous people living in Canada in 2011, 7% lived in the Atlantic region and 21,960 reported living on reserve while 43,513 reported living off-reserve.

Among the Indigenous peoples in Atlantic Canada, more than 67,000 identify as Mi'kmaq or Maliseet First Nations. Both are part of the Algonquian language group and are considered Eastern Woodlands hunters-gatherers. Evidence has been found to suggest they have been here for 10,000 years. While the Maliseet live primarily in New Brunswick, Mi'kmaq territory is divided into seven districts across four provinces.

For more information on Indigenous Peoples of Canada:

www.aadnc-aandc.gc.ca/eng/1100100013785/1304467449155

www12.statcan.gc.ca/nhs-enm/2011/as-sa/99-011-x/99-011-x2011001-eng.cfm

www.nfb.ca/subjects/aboriginal-peoples-in-canada/atlantic-region/

The Land of the Mi'kmaq



Source: www12.statcan.gc.ca/nhs-enm/2011/as-sa/99-011-x/99-011-x2011001-eng.cfm
Source: <http://fnpim-cipn.aandc-aadnc.gc.ca/index-eng.html>

Indigenous Bands and Tribal Councils

Each Indigenous community or band has its own government (Chief and Council), laws, and services, including those bands without a current land base, such as the Qalipu Mi'kmaq First Nation of Newfoundland and Labrador, as well as La Nation Micmac de Gespeg of Quebec.

Often bands will join together under a Tribal Council to provide advisory and/or program services to member bands. These groupings are required to incorporate under provincial or federal legislation.

Once recognized as a Tribal Council, the incorporated body must provide five core advisory services to their member First Nations: economic development, financial management, community planning, technical services, and band governance.

Tribal Councils in Atlantic Canada are:

- *Confederacy of Mainland Mi'kmaq* in Truro, Nova Scotia
- *Mi'kmaq Confederacy of PEI* in Charlottetown and Summerside, Prince Edward Island
- *North Shore Micmac District Council* in Eel Ground, New Brunswick
- *Saint John River Valley Tribal Council* in Fredericton, New Brunswick
- *Sickadomec First Nation Inc* in Charlo, New Brunswick
- *Union of Nova Scotia Indians* in Membertou, Nova Scotia

For more information on Tribal Councils across Canada:

<http://fnp-ppn.aandc-aadnc.gc.ca/fnp/Main/Search/SearchTC.aspx?lang=eng>

Source: <http://fnp-ppn.aandc-aadnc.gc.ca/fnp/Main/Search/TCListGrid.aspx?lang=eng>

Source: [http://pse5-esd5.ainc-inac.gc.ca/fnp/Main/Definitions.aspx#Tribal Council Detail](http://pse5-esd5.ainc-inac.gc.ca/fnp/Main/Definitions.aspx#Tribal%20Council%20Detail)

Indigenous-Crown Relations

Peace and Friendship Treaties

Great Britain's interest in trade lay at the foundation of the series of treaties negotiated with the Mi'kmaq, the Maliseet, and the Passamaquoddy after 1713. The treaties were mainly concerned with one thing: to establish a durable alliance between the British and the region's Indigenous communities. To that end the treaties created a series of laws which were designed to normalize relations between the British and the region's three Indigenous societies.

The first of the treaties was signed in 1726, and is composed of two separate documents. One document, termed the articles of peace and agreement, was signed by the Mi'kmaq, Maliseet and Passamaquoddy. This document contains the promises made by each of the three communities to the British. The second document, often referred to as the reciprocal promises, contain those promises made by the British to the Mi'kmaq, Maliseet, and Passamaquoddy.

The most important of the treaty's provisions dealt with land. On the one hand, the Mi'kmaq and Maliseet agreed not to molest His Majesty's subjects in their settlements '*already made or lawfully to be made.*' In the reciprocal portion of the treaty, the British agreed not to molest the communities' fishing, hunting, planting and '*other lawful activities.*'

Additional treaties were signed in 1726, 1756, 1761 and 1777.

For more information:

Dr. William Wicken: Treaty of Peace and Friendship 1760
<https://www.aadnc-aandc.gc.ca/eng/1100100028599/1100100028600>

Royal Proclamation of 1763

The Royal Proclamation of 1763 was issued by King George III to establish a basis of government administration in the North American territories formally ceded by France to Britain following the Seven Years War. It established the constitutional framework for the negotiation of treaties with the Indigenous inhabitants of large sections of Canada, and has been labelled an “*Indian Magna Carta*” or an “*Indian Bill of Rights*.”

In the Proclamation King George reserved the western lands as exclusive hunting grounds for the “*several nations or tribes of Indians*.” As sovereign of this territory, however, the king claimed ultimate dominion over the entire region. The proclamation set out a procedure whereby an Aboriginal nation, if they freely chose, could sell their lands to properly authorized representatives of the British monarch, making the British Crown essential to the transfer of Indigenous lands to colonial settlers.



And whereas it is just and reasonable, and essential to our Interest, and the Security of our Colonies, that the several Nations or Tribes of Indians with whom We are connected, and who live under our Protection, should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not having been ceded to or purchased by Us, are reserved to them, or any of them, as their Hunting Grounds.

The Proclamation of 1763

The proclamation is referenced in section 25 of the *Constitution Act*. This provision dictates that nothing in the Charter of Rights and Freedoms diminishes Aboriginal rights established in the Royal Proclamation, ensuring that its interpretation continues to be an important part of any attempt to clarify Aboriginal rights in Canadian law.

Source: The Canadian Encyclopedia, <http://thecanadianencyclopedia.com/en/article/royal-proclamation-of-1763/>

The Indian Act

The *Indian Act* is the principal statute through which the federal government administers Indian status, local First Nations governments and the management of reserve land and communal monies.

In 1876, the government consolidated the *Gradual Civilization Act* and the *Gradual Enfranchisement Act* into the *Indian Act*. Through the Department of Indian Affairs and its Indian Agents, the *Indian Act* gave the government sweeping powers related to First Nations identity, political structures, governance, cultural practices and education. The Act also replaced traditional structures of governance with band council elections — all at the discretion of the Department and its agents.

In 1951, the Act was overhauled. Under the revised *Indian Act*, the potlatch and other gatherings were no longer outlawed, communities were able to bring about land claims against the government and women were allowed to vote in band council elections. The Act also replaced the concept of “Indian blood” with one of status through registration. The provisions regarding a woman’s status were particularly extreme. A woman’s status rights flowed entirely through her husband. A non-status woman who married a man with status would gain status herself. A status woman who married a status man had her band membership tied to his so she was no longer a member of her own band, and she lost her status entirely if she was widowed or abandoned by her husband.

In 1985, responding to the lack of equality in the *Indian Act*, government passed Bill C-31. Under C-31 those who had lost status through marriage were reinstated as Status Indians and as band members. Their children gained status, but would not gain band membership for two years. This interval was intended to give bands time to enact their own membership codes, which could exclude the children, but not their mothers. If such a code was not enacted prior to June 1987, the children gained band membership as well.

Source: The Canadian Encyclopedia, <http://www.thecanadianencyclopedia.ca/en/article/indian-act/>

Did You Know?

At various points in time, The Indian Act:

- *denied women status;*
- *introduced residential schools;*
- *created reserves;*
- *renamed individuals with European names;*
- *restricted First Nations from leaving reserve without permission from the Indian Agent;*
- *enforced enfranchisement of any First Nation admitted to university;*
- *could expropriate portions of reserves for roads, railways and other public works, as well as move an entire reserve away from a municipality if it was deemed expedient;*
- *could lease out uncultivated reserve lands to non-First Nations if the new leaseholder would use it for farming or pasture;*
- *forbade First Nations from forming political organizations;*
- *denied First Nations the right to vote;*
- *created a permit system to control First Nations ability to sell products from farms;*
- *prohibited anyone, First Nation or non-First Nation, from soliciting funds for First Nation legal claims without special license from the Superintendent General. (this 1927 amendment granted the government control over the ability of First Nations to pursue land claims);*
- *prohibited the sale of alcohol to First Nations;*
- *prohibited the sale of ammunition to First Nations;*
- *prohibited pool hall owners from allowing First Nations entrance;*
- *imposed the “band council” system;*
- *forbade First Nations from speaking their native language;*
- *forbade First Nations from practicing their traditional religions;*
- *forbade western First Nations from appearing in any public dance, show, exhibition, stampede or pageant wearing traditional regalia; and*
- *declared potlatch and other cultural ceremonies illegal.*

Source: Indigenous Corporate Training Inc., www.ictinc.ca/blog/21-things-you-may-not-have-known-about-the-indian-act

Section 35 of the Constitution Act

Section 35 of the *Constitution Act*, 1982 recognizes and affirms existing Aboriginal rights, but does not define them. What Aboriginal rights include has been the topic of much debate and discussion, and they have been defined over time through Supreme Court cases.

Section 35 of the *Constitution Act* states:

35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

(2) In this Act, “aboriginal peoples of Canada” includes the Indian, Inuit and Métis peoples of Canada.

(3) For greater certainty, in subsection (1) “treaty rights” includes rights that now exist by way of land claims agreements or may be so acquired.

(4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

Aboriginal rights have been interpreted to include a range of cultural, social, political, and economic rights including the right to land, as well as to fish, to hunt, to practice one’s own culture, and to establish treaties.

Section 35 falls outside of the Charter of Rights and Freedoms. This allows Section 35 to be exempt from the “*notwithstanding clause*” that applies to the Charter. Therefore, the federal government cannot override Aboriginal rights.

Source: Indigenous Foundations, UBC article by Erin Hanson http://indigenousfoundations.arts.ubc.ca/constitution_act_1982_section_35/

United Nations Declaration on the Rights of Indigenous Peoples

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was drafted and formally debated for over twenty years prior to being adopted by the General Assembly on 13 September 2007. The document emphasizes the rights of Indigenous peoples to live in dignity, to maintain and strengthen their own institutions, cultures and traditions and to pursue their self-determined development, in keeping with their own needs and aspirations.

The Declaration addresses both individual and collective rights, cultural rights and identity, rights to education, health, employment, language, and others. Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular those based on their Indigenous origin or identity. Indigenous peoples have the right to self-determination. By that right they can freely determine their political status and pursue their economic, social and cultural development. They have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their rights to participate fully, if they choose to, in the political, economic, social and cultural life of the state.

When UNDRIP was adopted by the UN General Assembly in 2007, Canada was one of four countries that voted against its adoption. The other three were Australia, New Zealand and the United States. In November 2010, Canada issued a statement of support for UNDRIP endorsing its principles, however, did not commit to implementing it. In May of 2016, Canada announced it was now a full supporter without qualification of the Declaration.



Let's be honest, implementing UNDRIP should not be scary. Recognition of elements of the declaration began 250 years ago with the Royal Proclamation, which was about sharing the land fairly. UNDRIP reflects the spirit and intent of our treaties. Friends, this is an exciting time. This conversation has begun. From coast to coast to coast, Canadians are embarking on a journey of reconciliation.

Hon. Carolyn Bennett, addressing the
UN Permanent Forum on Indigenous
Issues, May 10, 2016

For the complete text of the United Nations Declaration of the Rights of Indigenous Peoples, visit: http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

For more information on the UNDRIP and Canada's Obligations:

Blaine Favel and Ken Coates: Understanding UNDRIP (MacDonald-Laurier Institute):

<http://www.macdonaldlaurier.ca/files/pdf/MLI-10-UNDRIPCoates-Flave105-16-WebReadyV4.pdf>

Indian Residential Schools

Supported by the federal government, and often run by churches, the Indian Residential School Program ran from the 1870s until the last school closed in Saskatchewan, in 1996. It was an education system in name only for much of its existence. Residential schools were created for the purpose of separating Indigenous children from their families, minimizing and weakening family ties and cultural linkages, and indoctrinating children into Euro-Christian Canadian society.



When the school is on the reserve the child lives with its parents, who are savages; he is surrounded by savages, and though he may learn to read and write his habits, and training and mode of thought are Indian. He is simply a savage who can read and write. It has been strongly pressed on myself, as the head of the Department, that Indian children should be withdrawn as much as possible from the parental influence, and the only way to do that would be to put them in central training industrial schools where they will acquire the habits and modes of thought of white men.

Sir John A. Macdonald, justifying government's residential school policy to House of Commons, 1883

Beginning with the establishment of three industrial schools in the prairies in 1883, and through the next half-century, the federal government and churches developed a system of residential schools stretching across much of the country.

At its height around 1930, the residential school system totalled 80 institutions. The Roman Catholic Church ran three-fifths, the Anglican Church one-quarter and the United and Presbyterian Churches the remainder.

Until the late 1950s, residential schools operated on a half-day system: students spent half the day in the classroom and the other at work. The theory was that students would learn skills that would allow them to earn a living as adults, but the reality was that the children's labour was being used to run the school inexpensively. Funding was a constant concern in the residential school system. From the 1890s until the 1950s, the Canadian government tried to shift the cost of the schools onto the churches and onto the students through their labour.

“
It can start with a knock on the door one morning. It is the local Indian agent, or the parish priest, or, perhaps, a Mounted Police officer. The bus for residential school leaves that morning....The officials have arrived and the children must go.

Final Report of the Truth and Reconciliation
Commission of Canada: Volume 1 (p.37)



The general experience of residential school students was negative. The food was low in quantity and poor in quality, and clothing was ill-fitting, shabby and, in the case of winter clothing, not adequate protection for the season. The pedagogical program, both academic and vocational, was deficient. Lessons were taught in English or French, which many of the children did not speak.

Students were isolated, their culture disparaged — removed from their homes and parents, separated from some of their siblings (the schools were segregated according to gender) and in some cases forbidden to speak their Indigenous language. Discipline was often excessive, resulting in physical abuse, and many children reported being subjected to sexual abuse by staff.

Underfed and inadequately clothed, students were vulnerable to diseases such as tuberculosis and influenza. According to the Truth and Reconciliation Commission, at least 3,200 Indigenous children died in the overcrowded residential schools.

Source: The Canadian Encyclopedia, <http://www.thecanadianencyclopedia.ca/en/article/residential-schools/>

Did You Know?

Students at some residential schools in the 1940s and 1950s were subjected to nutritional experiments without their consent or the consent of their parents. These studies were approved by various federal government departments and included restricting some students' access to essential nutrients and dental care.

Shubenacadie Indian Residential School

There was only one Indian Residential School in the Maritimes, located in Shubenacadie, Nova Scotia, which operated from 1930 to 1967. More than 2,000 children were taken from their families throughout the Maritimes to attend the school. Survivors of the Shubenacadie Indian Residential School have reported that they suffered both physical and sexual abuse, vocational training that more closely resembled forced labour, overcrowding, malnutrition, and a systematic denigration of their language and culture.

*I lost my talk
The talk you took away.
When I was a little girl
At Shubenacadie school.*

"I Lost My Talk" by Rita Joe

Association for the Survivors of the Shubenacadie Indian Residential School

In the late 1980s, Nora Bernard, a survivor of Shubenacadie, started to seek out other survivors. Over the years, she located more than nine hundred survivors to form the Association for the Survivors of the Shubenacadie Indian Residential School. In 1997, the Association launched a lawsuit against the federal government and the Catholic Church. This was the first lawsuit launched by residential school survivors. Soon other survivor groups were launching their own lawsuits, and the federal government was overwhelmed with claims of abuse.

For more information on Shubenacadie Indian Residential School:

Indian School Road, Chris Benjamin, Nimbus Publishing 2014.

Out of the Depths, Fourth Edition, Isabelle Knockwood, Fernwood Publishing, 2015

Indian Residential School Settlement

In 2001, the federal Office of Indian Residential Schools Resolution Canada was created to manage and resolve the large number of abuse claims filed by former students against the federal government. On September 19, 2007, all parties approved and implemented a negotiated settlement agreement. On June 11, 2008, the Prime Minister, on behalf of the Government of Canada, issued an apology in the House of Commons to former students, their families and their communities.

The Indian Residential School Settlement was the largest class action settlement in Canadian history. It acknowledged that approximately 86,000 Indigenous children were removed from their families and placed into residential and day schools during the 20th century. The settlement provided 1.9 billion dollars to former students through Common Experience Payments (CEP) of \$10,000 for the first year and \$3,000 for any additional years at a residential school, and Independent Assessment Payments (IAP) between \$5,000 and \$275,000 for those students who experienced abuse. Money was also made available for relevant research projects, healing projects and program development. The Indian Residential School Settlement document also included the mandate for the Truth and Reconciliation Commission.

Source: http://www.residentialschoolsettlement.ca/summary_notice.pdf

“ [The] Government of Canada now recognizes that it was wrong to forcibly remove children from their homes and we apologize for having done this. We now recognize that it was wrong to separate children from rich and vibrant cultures and traditions that it created a void in many lives and communities, and we apologize for having done this. We now recognize that, in separating children from their families, we undermined the ability of many to adequately parent their own children and sowed the seeds for generations to follow, and we apologize for having done this. We now recognize that, far too often, these institutions gave rise to abuse or neglect and were inadequately controlled, and we apologize for failing to protect you. Not only did you suffer these abuses as children, but as you became parents, you were powerless to protect your own children from suffering the same experience, and for this we are sorry.

Prime Minister Stephen Harper,
official apology, June 11, 2008

Newfoundland Residential School Settlement

Newfoundland and Labrador were excluded from the National Apology and Indian Residential School Settlement Agreement. The federal government argued that because the schools in Newfoundland and Labrador were opened before Newfoundland joined Confederation in 1949 the former students should not be included.

Approximately 800 -1,000 former students filed a class-action lawsuit. The suit was settled in 2016 for \$50 million. Students who lived in school residences for less than five years were eligible for \$15,000 in general compensation, while those who lived there five years or more were eligible for \$20,000. Compensation for sexual or significant physical abuse could be up to \$200,000 and based on sworn testimony. Students who attended the schools before 1949 were not included in the settlement.



The Truth and Reconciliation Commission

The creation of the Truth and Reconciliation Commission (TRC) was the direct result of the Indian Residential Schools Settlement Agreement.

In 2009, the Honourable Justice Murray Sinclair was appointed Chairperson of the TRC. During the six-year mandate, three commissioners heard more than 6,750 survivor and witness statements. In 2015, the TRC released its final report, in six volumes, along with 94 calls to action to help advance the process of reconciliation.

Upon the release of the final report, Prime Minister Justin Trudeau, issued a statement committing the federal government to implementing all 94 calls to action.



And we will, in partnership with Indigenous communities, the provinces, territories, and other vital partners, fully implement the Calls to Action of the Truth and Reconciliation Commission, starting with the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

Prime Minister Justin Trudeau

All reports by the Truth and Reconciliation Commission can be found online at the National Centre for Truth and Reconciliation at the University of Manitoba: <http://nctr.ca/reports.php>

The 60s Scoop

Even after most Indian Residential Schools were closed, Indigenous children were still at risk of being taken from their families by the government.

The term ‘*Sixties Scoop*’ was coined by Patrick Johnston, author of the 1983 report, *Native Children and the Child Welfare System*. It refers to the mass removal of Indigenous children from their families, often shortly following their birth, and without consent of their families or bands.

The practice of removing Indigenous children from their families and into state care was long established before the 1960s through Indian Residential Schools. With the closure of most schools during this period, Indigenous children became drastically over represented in the child welfare system.

The process began with 1951 amendments to the *Indian Act* that gave child welfare jurisdiction to provincial authorities where none existed federally. Between the 1960s and the 1980s thousands of Indigenous children were taken from their homes by child-welfare service workers and placed with mostly non-Indigenous families. In some cases, children were sent to live with families in other provinces, the United States and the U.K.

Although in 1950, Indigenous children represented only 1% of children in care nationally, by the late sixties, they represented one-third. Indigenous and Northern Affairs has estimated that between 1960 and 1990, 11,132 Indigenous children were placed in care, but other estimates have put the number as high as 20,000.

This overrepresentation of children in the child welfare system continues today. According to Statistics Canada, in 2011, about 14,200 Aboriginal children under fourteen were foster children. Aboriginal children accounted for nearly half (48%) of all children in foster care, even though they accounted for 7% of the overall child population. However, these proportions vary significantly across the country. In Saskatchewan and Manitoba, for example, where Aboriginal children account for more than a quarter of the total child population, they represented 85% or more of those in foster care.

On October 5, 2017, the Canadian government announced they had reached an agreement in principle to compensate survivors of the Sixties Scoop. The proposed \$800 million settlement will end a number of class action lawsuits against the government.

Sources: <http://indigenousfoundations.arts.ubc.ca/home/government-policy/sixties-scoop.html>
The Canadian Encyclopedia <http://www.thecanadianencyclopedia.ca/en/article/sixties-scoop/>
Statistics Canada: Study: Living arrangements of Aboriginal children aged 14 and under, 2011
<http://www.statcan.gc.ca/daily-quotidien/160413/dq160413a-eng.htm?HPA>



The residential school experience was followed by the “Sixties Scoop”—the wide-scale national apprehension of Aboriginal children by child-welfare agencies. Child-welfare authorities removed thousands of Aboriginal children from their families and communities and placed them in non-Aboriginal homes without taking steps to preserve their culture and identity. Children were placed in homes across Canada, in the United States, and even overseas. This practice actually extended well beyond the 1960s, until at least the mid- to late 1980s.

Final Report of the Truth and Reconciliation
Commission of Canada Volume 1 (p.138)

Intergenerational Trauma

A phenomenon, labeled Intergenerational Trauma, has been seen in the descendants of Residential School Survivors who may have not experienced the trauma of abuse themselves.

It is acknowledged that the cumulative effects of trauma are passed down along generations and often are amplified or cause other unpredictable impacts. With this in mind, it can be understood why the residential school experience could have traumatic effects in the lives of children and grandchildren of survivors of Indian Residential Schools. There have been a variety of negative outcomes of intergenerational trauma identified, including:

- Cultural disconnection;
- Mental health issues;
- Violence;
- Substance abuse due to undiagnosed PTSD;
- Depression; and
- Hopelessness





Indigenous Peoples and the Justice System

At a basic level of understanding, the concept of justice is understood differently by Indigenous peoples. For most Indigenous peoples, the traditional method of addressing wrongs committed against community members involved restoring or healing relationships rather than punishing the offender. The offender and victim(s) would discuss the harm caused by the offense. The offender would be expected to understand the consequences and take responsibility for the harm, and together, they would discuss appropriate ways to make amends.

Justice is not seen as a separate domain from community life that needs to be overseen and administered by experts (such as police, lawyers, judges, etc.), rather it must be integrated into daily living. Most disputes should be resolved in the community, among the families of those affected, and guided by elders.

For more information:

The Report of the Aboriginal Justice Inquiry of Manitoba:
Volume one <http://www.ajic.mb.ca/volumel/toc.html>

Overrepresentation in the Criminal Justice System

For too long, Indigenous peoples have been overrepresented in the criminal justice system. This should come as no surprise given Canada's history of discrimination and abuse towards Indigenous peoples. Starting with colonization and policies of assimilation and eradication, followed by oppressive, paternalistic rule, many Indigenous people have become caught between two worlds – one trying to fit in to a modern society with high expectations for conformity and contribution – the other trying to rediscover and reclaim a naturally balanced spirituality that was taken from them.

In February 2016, a Maclean's Magazine article appeared under the headline "Canada's prisons are the 'new residential schools'". It cited a wide range of discouraging statistics: 36% of women and 25% of men sentenced in provincial and territorial custody are Indigenous and in Federal custody, Indigenous people represent 22.8%. Yet, Indigenous people represent only four per cent of Canada's overall population.



In the U.S., the go-to example for the asymmetric jailing of minority populations, black men are six times more likely to be imprisoned than white men. In Canada, the Indigenous incarceration rate is 10 times higher than the non-Indigenous population—higher even than South Africa at the height of apartheid.

Maclean's Magazine, 18 February 2016 'Canada's prisons are the 'new residential schools''

The situation is further exacerbated by the fact that once in the justice system, Indigenous offenders often encounter further discrimination. According to the Office of the Correctional Investigator:

"The gap between Indigenous and non-Indigenous offenders continues to widen on nearly every indicator of correctional performance:

- Indigenous offenders serve disproportionately more of their sentence behind bars before first release.*
- Indigenous offenders are under-represented in community supervision populations and over-represented in maximum security institutions.*
- Indigenous offenders are more likely to return to prison on revocation of parole.*
- Indigenous offenders are disproportionately involved in institutional security incidents, use of force interventions, segregation placements and self-injurious behaviour."*

Source: Spirit Matters: Aboriginal People and the Corrections and Conditional Release Act Office of the Correctional Investigator, 2012, p.5



Former Lieutenant Governor of New Brunswick, Judge Graydon Nicholas addresses PEI's annual Indigenous Justice Forum.

The Criminal Code and R v Gladue

The overrepresentation of Indigenous people in the criminal justice system is not a new problem and has long been recognized.

Subsection 718.2 (e) of the *Criminal Code* states:

A court that imposes a sentence shall also take into consideration the following principles:

(e) all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.

In 1999, the Supreme Court of Canada brought down the *R. v. Gladue* decision, the first case considering the application of this section*. The Court concluded that Aboriginal offenders are, as a result of unique systemic and background factors, more adversely affected by incarceration and less likely to be rehabilitated by it, because imprisonment is often culturally inappropriate and facilitates further discrimination towards them (para 68).

The Court further stated that the unbalanced ratio of imprisonment for Indigenous offenders flows from a number of sources, including “low incomes, high unemployment, lack of opportunities and options, lack or irrelevance of education, substance abuse, loneliness and community fragmentation.” (para 67). It also arises from bias and discrimination against Aboriginal people within the justice system.

The court also asserted that the circumstances of Aboriginal people differ from the broader population because many Aboriginal people are victims of systemic and direct discrimination. Many suffer the legacy of dislocation, and are affected by poor social and economic conditions (para 68).

According to *R v. Gladue*, sentencing judges must not only take into account “the unique systemic or background factors which may have played a part in bringing the particular aboriginal offender before the courts,” but must also consider “the types of sentencing procedures and sanctions which may be appropriate in the circumstances for the offender because of his or her particular aboriginal heritage or connection.”

*At the time of the ruling Subsection 718.2 (e) read: (e) *all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders.*

R. v. Gladue also notes that the “absence of alternative sentencing programs specific to an aboriginal community does not eliminate the ability of a sentencing judge to impose a sanction that takes into account principles of restorative justice and the needs of the parties involved.”

Therefore, it is necessary for the judge to also consider how to accommodate the Indigenous worldview and consider culturally-appropriate alternatives, for each offender. Often Gladue reports will provide information on what services are available in the community and will make recommendations on appropriate programs, processes or ceremonies.

For more information on R v. Gladue:

<http://www.canlii.org/en/ca/laws/stat/rsc-1985-c-c-46/latest/rsc-1985-c-c-46.html>

<http://www.fasdjustice.ca/cases/r-v-gladue-ii.html>

http://www.justice.gc.ca/eng/rp-pr/csj-sjc/ccs-ajc/rr12_11/rr12_11.pdf

Gladue Reports



In order to undertake these considerations the sentencing judge will require information pertaining to the accused. Judges may take judicial notice of the broad systemic and background factors affecting aboriginal people, and of the priority given in aboriginal cultures to a restorative approach to sentencing. In the usual course of events, additional case-specific information will come from counsel and from a pre-sentence report which takes into account the systemic or background factors and the appropriate sentencing procedures and sanctions, which in turn may come from representations of the relevant aboriginal community.

R v. Gladue

Although the Supreme Court indicated that judges needed to take into account an offender’s Aboriginal experience when sentencing, it offered little guidance on how that information should be conveyed to the judge.

In response to that need, many jurisdictions began using Gladue reports, which are pre-sentence reports prepared at the bail stage or sentencing stage. The Gladue writer will prepare a report detailing the unique life circumstances of an Indigenous person charged with an offence who is applying for bail or who has pled guilty (or been found guilty) of a criminal offence and is being sentenced. The Gladue report will link the life story of an Indigenous offender to the broader issues facing Indigenous people.

A Gladue report is different than a pre-sentence report, as the Gladue report gives a detailed report of an Indigenous offender's life, background information, Indigenous community and circumstances that brought the offender before the courts. The Gladue report gives the judge the information he or she needs to make the best decision possible when sentencing an Indigenous offender.

To request a Gladue report, offenders need to tell their lawyer, duty counsel or judge that they have a Gladue right and would like a Gladue report.

For more information on Gladue reports:

<https://nwac.ca/wp-content/uploads/2015/05/What-Is-Gladue.pdf>

<http://blog.legalaid.on.ca/2015/03/13/gladue-reports-not-just-a-sentencing-report/>

R v Ipeelee

In 2012, the Supreme Court of Canada heard *R. v Ipeelee*. This case reaffirmed the principles of Gladue. The case was an appeal of the sentencing of two long-term offenders, both of Indigenous heritage. In paragraph 60 of the *Ipeelee* decision, the Court asserts:

When sentencing an Aboriginal offender, courts must take judicial notice of such matters as the history of colonialism, displacement, and residential schools and how that history continues to translate into lower educational attainment, lower incomes, higher unemployment, higher rates of substance abuse and suicide, and of course higher levels of incarceration for Aboriginal peoples.

It also states that there is an active duty to present this information unless an offender waives the right.

Counsel has a duty to bring individualized information before the court in every case, unless the offender expressly waives his right to have it considered. A *Gladue* report, which contains case-specific information, is tailored to the specific circumstances of the Aboriginal offender. A *Gladue* report is an indispensable sentencing tool to be provided at a sentencing hearing for an Aboriginal offender and it is also indispensable to a judge in fulfilling his duties under s.718.2(e) of the *Criminal Code*.

For more information on R v. Ipeelee:

www.canlii.org/en/ca/scc/doc/2012/2012scc13/2012scc13.html?autocompleteStr=r%20v%20Ipeelee&autocompletePos=3

Overrepresentation as Victims of Crime

Just as Indigenous people are overrepresented in the criminal justice system as offenders, they are also overrepresented as victims.

Research shows that there are a number of risk factors that are associated with victimization. For example, young people are more likely to be victims, and the Indigenous population of Canada is younger than the non-Indigenous population. Other factors that seem to indicate higher levels of victimization are: experiencing childhood maltreatment, perceiving social disorder in one's neighbourhood, having been homeless, using drugs, or having fair or poor mental health. These risk factors are more prevalent in Indigenous communities and many can be directly traced back to the residential school experiences.

Did You Know?

According to the 2014 General Social Survey on Victimization, Aboriginal females had an overall rate of violent victimization that was double that of Aboriginal males, almost triple that of non-Aboriginal females and more than triple that of non-Aboriginal males.

Source: Statistics Canada, Victimization of Aboriginal people in Canada, 2014 <http://www.statcan.gc.ca/pub/85-002-x/2016001/article/14631-eng.htm>



Murdered and Missing Indigenous Women and Girls

Over the last decade, public awareness around the issue of murdered and missing Indigenous women and girls has garnered national and international attention. It was first brought to public attention by the Native Women's Association of Canada (NWAC) which began work on a national database of missing and murdered Indigenous woman and girls. By 2010, they had documented 582 cases.

In 2013, the RCMP began their own National Operational Review of cases that involved murdered or missing Indigenous women and girls. Covering the years 1980-2012, and bringing together data from all Canadian police services, the review identified a total of 1,181 cases: 1,017 homicide victims and 164 considered missing.

Did You Know?

Indigenous women make up approximately 4% of the overall population of Canada, but made up 23% of female homicide victims in 2012.



In 2016, the federal government launched a national inquiry into the issue.

Mandate of the National Inquiry

The commissioners are required to examine and report on the systemic causes behind the violence that Indigenous women and girls experience, and their greater vulnerability to violence, by looking for patterns and underlying factors that explain why higher levels of violence occur. The commissioners have been mandated to examine the underlying historical, social, economic, institutional and cultural factors that contribute to the violence.

The commission will examine practices, policies and institutions such as policing, child welfare, coroners and other government policies/practices or social/economic conditions.

The commissioners, as part of their mandate, will examine and report on institutional policies and practices that have been put in place as a response to violence, including those that have been effective in reducing violence and increasing the safety of Indigenous women and girls.

For more information:

Native Women's Association of Canada: Fact Sheet on Missing and Murdered Aboriginal Women

https://nwwac.ca/wp-content/uploads/2015/05/Fact_Sheet_Missing_and_Murdered_Aboriginal_Women_and_Girls

RCMP: Murdered and Missing Aboriginal Women: A National Operational Overview

<http://www.rcmp-grc.gc.ca/en/missing-and-murdered-aboriginal-women-national-operational-overview>

National Inquiry into Murdered and Missing Indigenous Women and Girls

<http://www.mmiwg-ffada.ca/en/>



Indigenous Worldview and Culture

Worldview

It is essential to take into account an Indigenous worldview when working with or providing services to Indigenous people.

The Indigenous worldview often stresses reverence for the spiritual, physical, emotional and mental connections with family, community, ancestors, future generations, nature and the interconnectedness of all things.

The Western worldview often emphasizes individuality, reliance of experts and diagnoses, a future orientation and the nuclear family.

There is no right or wrong way to look at the world, and the goal of this information is to recognize that having more than one worldview is a reality for many.

Chart of worldview between Indigenous and non-Indigenous Peoples

	INDIGENOUS	NON-INDIGENOUS
KNOWLEDGE	<i>Believe their ancestors are mostly right and thus value the preservation and use of ancestral knowledge</i>	<i>Contemporary or futuristic knowledge is valued over ancestral knowledge.</i>
TIME	<i>Believe in expansion concepts of time that reach back and forward in time. For example, all decisions made should consider the impacts on the “7 generations” of children to come. Also, often the “spirit” seeking ceremonies are performed to get advice from generations that have passed.</i>	<i>Time is often limited to three generations. That of the living, their offspring and their grandchildren. There is little to no attempt to seek guidance from previous generations.</i>

	INDIGENOUS	NON-INDIGENOUS
CONNECTION	<i>Believe they are part of the natural world order and are interconnected across time to those who came before and those who are yet to come. There is also a connection to nature, spirits and the universe.</i>	<i>Believe that humans are part of the natural world and do not perceive a fundamental interconnection to the past or future.</i>
HEALTH	<i>Believe that in order for a person, family or community to be healthy they must have balance between all of the physical, emotional, cognitive and mental aspects of health. All these aspects of health are interconnected and thus any “treatment” received must fully consider the whole person and community.</i>	<i>Believe that health care can be separated into specialized functions. Services to non-Indigenous peoples tend to distinguish between services for physical health and mental wellbeing with little interconnection between the two. Although there is commitment to interdisciplinary health practices, the practical reality is that people get treated one piece at a time.</i>
PLACE IN THE WORLD	<i>View themselves as a link in a long chain of people who have come before and those who will follow. In this context, you are special to the extent you live in a good way and pass along the information and values necessary to sustain your group across time.</i>	<i>Believe in individual as opposed to collective rights and gives primacy to the generation that currently exists with limited attention to their groups over time.</i>
CULTURE	<i>Deeply value knowledge gained by generations living across millennia and is transmitted as oral history. It contains a rich and varied knowledge of the experience of people on such topics as politics, law, caring for children, architecture, astrology, pharmaceuticals and ecology.</i>	<i>New expert knowledge is most highly valued. Life history is considered important in understanding health issues but little consideration is given to ancestral knowledge or the overall history of cultural groups. Although professionals typically value cultural diversity, the health system itself is embedded in western cultural norms and often erroneously assumes a cultural neutrality that applies across all cultures.</i>

Source: Aboriginal Cultural Connections:
A Child Protection Resource Guide

This is an overarching statement of an Indigenous worldview and it is important to remember a few factors when considering these differences.

1. Cultural Identity

Although there are many aspects of Indigenous culture that are relatively similar regardless of where in Canada the Indigenous peoples are from, each band or community is distinct and may have its own dialects, protocols and practices. It is important not to make assumptions when interacting with Indigenous people. Instead, ask a community member about local expectations.

For example, the Medicine Wheel is considered 'pan-Aboriginal.' For many Aboriginal people across North America, the Medicine Wheel is a tool for teaching about life balance and life stages. However, different groups use different colours, medicines, and other representations within the wheel.

2. Family & Community

Similar in many cultures, Indigenous peoples often rely on grandparents, extended family and the community to raise and protect their children. Grandparents and other Elders in the community spent time sharing their teachings with the children while the parents were working to provide for the family and community (i.e. hunting, fishing, etc.). Neighbours knew each other, and communities worked together to ensure that nobody went without what they needed. Family friends were considered “aunties” and uncles while other children were often called cousin, regardless of blood relation.

For example, next of kin tends to be closely defined in Western culture. So if someone was in hospital or incarcerated they might be limited to only having visitors who fall into the Western definition. But in Indigenous communities, everyone is considered family, so identifying someone as your aunt or brother may not actually indicate a blood relation.

3. History

For Indigenous people, history is an important part of their identity. Lineage, seasonal migration, hunting, fishing, and building techniques, as well as other important family life lessons, like parenting and cooking, were passed from generation to generation through storytelling and practical experience.

Source: Two stories narrated: <https://www.aadncaandc.gc.ca/eng/1316530132377/1316530184659>

4. Spirituality & Religion

These two things are not the same. Spirituality is a way of life. It is about accepting your place and fulfilling your role in the world – in unison with all other life. It was often a hard life, but it was simple. With colonization, Indigenous peoples were exposed to the complex rules of religion. Initially seen as savages by Europeans, religion was imposed upon Indigenous people as part of fitting into the new world as the Europeans saw it.

Holistic Worldview

A key to understanding Indigenous cultures is that they are holistic in the sense that culture—beliefs, norms, spirituality, and values—is not sharply separated from human social life or the organization of the universe.

For Indigenous peoples, culture is usually tightly interconnected with territory, kinship, community, ceremony, government, personality, and cosmic order.

Indigenous holistic cultures embrace nature, live within nature, do not attempt to transcend nature, and honour nature's rules and ways of supporting life on earth as part of the cosmic order. Holistic cultural views do not mean that Indigenous Peoples will not change, but they will change in ways that are informed by their own cultural relations and values. Holistic cultures have been a great strength for Indigenous continuity, but they can also be the basis for innovative patterns of enduring change.

Source: <https://indiancountrymedianetwork.com/history/events/understanding-holistic-indigenous-cultures/>



PHOTO CREDIT: PANDORA/ACC 3466 / HFTZ.66.119

Seven Sacred Teachings

The traditional concepts of respect and sharing that form the foundation of Indigenous ways of life are built around the seven natural laws, or sacred teachings. Each teaching honours one of the basic virtues intrinsic to a full and healthy life. These teachings are practiced in everyday life. Parents, Elders and community teach children by example. It is through these teachings children grow to live by the seven sacred teachings. Children learn the importance of teachings through the relationship they have with others who live by them every day.

Love

To feel true love is to know the Creator. It is expected that one's first love is to be for the Great Spirit/the Creator. He is considered the father of all children and the giver of human life. Love given to the Great Spirit is expressed through love of oneself and it is understood that if one cannot love oneself it is impossible to love another. Love is said to be a very pure and powerful medicine but it can be very elusive as it depends upon a world that acknowledges the importance of spirituality. The Eagle was chosen by the Great Spirit to represent this law because it is the eagle that can reach the highest above the earth. It can bring pure vision to the seeker. The Eagle is the most sacred creature to the Mi'kmaq people.

Respect

Indigenous people believed themselves to be true caretakers of the great herds and developed a sustainable relationship with the Buffalo resulting in a relationship that was a true expression of respect. The Buffalo, through giving its life and sharing every part of its being, showed the deep respect it had for the people. No animal was more important to the existence of Aboriginal families than this animal. It provided shelter, clothing and utensils for daily living.

Courage

The Bear provides many lessons in the way it lives, but courage is the most important teaching it offers. Though gentle by nature, the ferociousness of a mother Bear when one of her cubs is approached is the true definition of courage. To have the mental and moral strength to overcome fears that prevent us from living our true spirit as human beings is a great challenge that must be met with the same vigor and intensity as a mother Bear protecting her cub. Living of the heart and of the spirit is difficult but the Bear's example shows us how to face any danger and how to achieve these goals.

Honesty

Long ago, there was a giand called Kitch-Sabe. Kitch-Sabe walked among the people to remind them to be honest to the laws of the Creator and honest to each other. The highest honour that could be bestowed upon an individual was the saying “There walks an honest man. He can be trusted.” To be truly honest was to keep promises one made to the Creator, to others and to oneself. The Elders would say, “Never try to be someone else; live true to your spirit, be honest to yourself and accept who you are the way the Creator made you.” The animal that represents this teaching now, is the Sabe.

Humility

Recognizing and acknowledging that there is a higher power than man, known as the Creator, is to be truly humble. To express deference of submission to the Creator through the acceptance that all beings are equal, is to capture the spirit of humility. The expression of this humility is manifested through the consideration of others before oneself. In this way, the Wolf became the teacher of this lesson. He bows his head in the presence of others out of deference, and will not take of the food until it can be shared with the entire pack. His lack of arrogance and his respect for his community is a hard lesson, but integral in the Indigenous way.

Truth

To know truth is to know and understand all of the original laws as given by the Creator - and to remain faithful to them. It is said that in the beginning, when the Creator made man and gave him the seven sacred teachings, the Grandmother Turtle was present to ensure that these teachings would never be lost or forgotten. On the back of the Turtle are the 13 moons, each representing the truth of one cycle of the Earth’s rotations around the sun. The 28 markings on her back represent the cycle of the moon and of a woman’s body. The shell of the Turtle represents the body of events as created by the Higher Power, and serves as a reminder of the Creator’s will and teachings.

Wisdom

This is the very last teaching that one can learn. The building of a community is entirely dependent on gifts given to each member by the Creator and how these gifts are used. The Beaver’s example of using his sharp teeth for cutting trees and branches to build his dams and lodges expresses this teaching. If he did not use his teeth, the teeth would continue to grow until they became useless, and ultimately making it impossible for him to sustain himself. The same can be said for human beings. One’s spirit will grow weak if not fulfilling its use. When used properly, however, these gifts contribute to the development of a peaceful and healthy community.

Source: http://www.thesharingcircle.com/sacred_teachings.html

Indigenous Social Customs

Many of the following customs are still practiced within most Atlantic Canadian Indigenous communities. These are a set of understandings rather than rules. Most Indigenous people value or display them within their daily routine.

Respect: Respect for Elders is one of the main ideologies that is accepted throughout all Indigenous communities. It is very important and is a high priority. Respect also extends to the rest of the world in caring for animals, plants and other people.

Non-Interference: This concept is one of the hardest for non-Indigenous people to understand. This involves not advising, persuading or ordering someone to do something. In Indigenous society, it is considered rude and judgmental to tell someone else how to do something or how to behave. The acceptable way to guide desired behaviours is to tell stories of individuals in similar situations and give examples of different types of consequences. Then, let the person decide on their own what course they would like to take.

Anger must not be shown: It is considered rude to show anger in any setting and is unacceptable to display this emotion in public.

Everything is to be shared: Traditionally Indigenous people lived in a communal setting where all resources were shared among the people so that everyone could survive the harsh environments. Success and achievements were and are still today celebrated through the community.

Concept of Time: Indigenous peoples' sense of time stems from their belief that everything will happen when the time is right and meant to happen. This usually occurs when they have completed something else.

Gratitude: This is another concept that may be difficult for non-Indigenous people to understand. Praise and gratitude are not given to people for their jobs. There is an understanding that you have that job because you are good at what you do and you do it well. Praise and gratitude are thought to be celebrated at the end of life.

Protocol: Protocol is very important in many communities. They range from pow wow protocols to medicines. It is important that you follow the communities' protocols when working with Indigenous people.

Non-Confrontational: Most Indigenous people do not like confrontational actions and will usually withdraw when insulted or offended. Indigenous people are peaceful.

Eye contact, silences, and nodding: Eye contact may be perceived as rude and challenging. This depends on the Indigenous person's customs and traditions. Do not be surprised if direct eye contact is not made during conversation, as it is a sign of respect. Silences also depend on the customs of a person. Generally, silences in conversation are due to a person thinking before they speak. This is important to decrease the misunderstandings that can occur. Indigenous people will often nod just to indicate that they have heard and understood what you said. This can often be mistaken for agreement. Instead of assuming a nod indicates agreement, it is best to confirm agreement verbally.

Role of Elders

A traditional Elder is someone who follows the teachings of the ancestors. Traditional Elders live the “good” life. They teach and share the wisdom gained from the culture, history and language. The sharing of their wisdom is healing. There is no age relation to being an Elder. Instead, being an Elder depends on the teachings a person has had and the respect he or she has earned in the community for his or her contribution to the community's spiritual development. An Elder should be able to reflect the seven sacred teachings in his or her life and behaviour on an everyday basis. Elders are treated with respect at all times and their perspectives are sought by both young and old. Often Elders' duties include: conducting smudges, sweats, prayers, counseling, sweetgrass ceremonies and negotiations.

Source: Aboriginal Cultural Connections: A Child Protection Resource Guide
Source: <http://www.ictinc.ca/blog/aboriginal-elder-definition>

For more information on the importance of Elders within Indigenous culture:

<https://firstnationspedagogy.ca/elders.html>
<http://www3.brandonu.ca/cjns/16.1/Stiegelbauer.pdf>
<https://www.youtube.com/watch?v=g8N6Gqkels>



Approaching an Elder

There is no wrong way to approach an Elder. However, there are respectful ways to do so. Some simple advice:

- *Offer traditional medicine (tobacco, sage, sweet grass, cedar) to the Elder. This “offering” is used for ceremonial purposes.*
- *If you have no medicine, don’t let this stop you. An Elder always has medicine to respond to these times.*
- *Elders are helpers. They are here to help, to teach, and to offer guidance; listen well to understand their words.*
- *Ask them how you may approach them in the future.*

Source: The Miykiwan Toolkit, The Congress of Aboriginal People <http://abo-peoples.org/wp-content/uploads/2015/03/CAP-FVPT-LifeFactBook.pdf>

Traditional Healing

Medicine Wheel

The medicine wheel symbolizes the interconnection of all life, the various cycles of nature, and how life represents a circular journey. The number four is sacred to many Indigenous peoples of North America and can represent many things: the four seasons, the four parts of a person (physical, mental, emotional and spiritual); the four kingdoms (animal, mineral, plant and human); and the four sacred medicines (sweetgrass, tobacco, cedar and sage). Hence, you may see the medicine wheel presented in several different ways:

- 1.** The four points of the compass, each with a guiding spirit, symbolize stages in the life journey. The East, direction of the daily birth of the sun, represents a person’s birth and early years. The South relates to childhood and intellectual growth. The West symbolizes adulthood and introspection, while the North represents old age, wisdom and the spiritual aspects of life. The centre of the wheel is symbolic of Mother Earth and the Creator, and their role in the beginning and continuation of life.
- 2.** The four points can also represent the balance between spiritual (East), mental (North), physical (West) and emotional (South) aspects of health.

3. The wheel can also represent values and decisions. Here, values (drawn in the East, where the sun rises) influence decisions taken in the mental realm (drawn in the North, at the top). Then, decisions are implemented in the physical realm (West), and actions produce reactions in the emotional realm (South). Finally, these reactions provide feedback into the value system, completing the circle of value - action - evaluation.

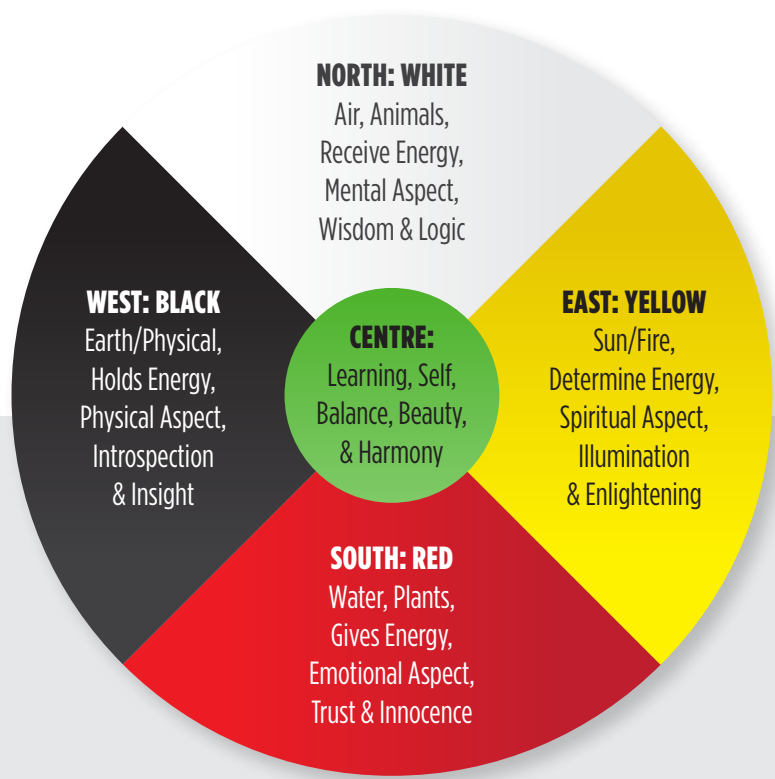
4. The quadrants of the wheel are often coloured red, yellow, black, white or green.

For a traditional healer, an imbalance (e.g., the loss of traditional values, perhaps resulting from experiences in residential schools) may affect health decisions (e.g., leading to alcoholism).

Source: https://www.med.uottawa.ca/sim/data/Aboriginal_Medicine_e.htm

Without spiritual health life lacks meaning, purpose and fulfillment. Without spiritual health our sense of responsibility to oneself and others is weakened. With spiritual health we are better able to assume our responsibilities and use our gifts respectfully.

Elder Josie Augustine
Elsipogtog, New Brunswick



Healing Rituals

Sweats are a cleansing and healing ritual. They are most often done in a sweat lodge, which is run by a person trained to conduct the sacred ceremony. Sacred herbs may be added to the smoke and steam during the ceremony.

Smudging involves burning sacred herbs in a bowl. A person puts their hands into the sacred smoke and carries it to their body, especially to areas that need healing. A smudge wand may also be used to direct the smoke around a person or around a space.

Healing circles are groups of people who gather together in the shape of a circle with the clear purpose of healing.

Ceremonies may include dancing, drumming and singing. They are used to encourage values such as respect, courage, strength, humility and trust. Restoring and maintaining these values is an important part of Indigenous traditional healing.

Traditional diets may be recommended by Indigenous healers. Many believe that typical Western diets are unhealthy because they are high in sugar, fat and white flour. In traditional diets, there is more emphasis on local foods, such as game, fish and wild nuts and berries. Many elders believe that a return to traditional diets will help restore harmony and balance.

Herbal medicines are widely used by traditional healers to treat physical conditions. Herbal medicines may be from a particular area and are rooted in local knowledge. Herbal medicines may be used in various forms such as teas, powders or ointment.

Source: www.cancer.ca/en/cancer-information/diagnosis-and-treatment/complementary-therapies/aboriginal-traditional-healing/?region=on#ixzz4WD117LN7



Humour is part of our medicine.

Barry Bernard, Mi'kmaq Legal
Support Network, Nova Scotia.

The Red Road

The path to wellness in Indigenous communities is often referred to as the Red Road; a journey people must travel in order to be truly well and healthy human beings. It frequently means living a traditional lifestyle: drug and alcohol free, participating in ceremony, and showing respect for others, respect for oneself, and respect for all of creation.



Restorative Justice

Restorative justice is a system of criminal justice that focuses on the rehabilitation of offenders through reconciliation with victims and the community at large. This approach is consistent with traditional Indigenous approaches to justice.

Restorative justice focuses on holding the offender accountable in a meaningful way, rather than simply imposing punishment. Restorative justice represents a return to the simple wisdom of viewing conflict as an opportunity for a community to learn and grow. It operates on the premise that conflict, even criminal conflict, inflicts harm and therefore requires individuals to accept responsibility for repairing the harm. Indigenous communities are empowered to choose their response to the conflict. Victims, offenders and communities actively participate in devising and implementing mutually beneficial solutions. Conflicts are resolved in a way that restores harmony in the community members' relationships and allows individuals to continue living together in a safe and healthy environment

Source: Mi'kmaq Confederacy of PEI Aboriginal Justice Program Resource & Best Practice Guide, p. 9

Restorative Justice has three main goals:

- 1. Repair the harm caused by the crime,*
- 2. Reintegrate the offender into the community,*
- 3. Achieve healing for the victim, perpetrator and greater community.*

The roots of restorative justice models stem from traditional Indigenous methods of conflict resolution which rely on community involvement and the implementation of holistic solutions. Like many traditional customs within Indigenous communities, conflict resolution is implemented through consensus and talking circles.

There are several benefits to restorative justice models. For victims, restorative justice offers individuals with a meaningful voice in the process, serving crucial human needs, including the need to be consulted, heard and understood. For offenders, the process can be therapeutic, taking responsibility for actions and repairing harm. For community members, the process humanizes the criminal justice system, providing a voice to the community within the criminal justice process. Restorative justice has been described as an empowering experience for all participants involved. Restorative justice also reduces the chances of recidivism because it provides offenders with the

opportunity to understand why they committed the offence, how it affected others and what they need to do to restore harmony and balance within themselves and within the victim.

Source: http://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr00_16/p3.html



Two peoples have made very specific and profound contributions to practices in the restorative justice field – the First Nations people of Canada and the U.S., and the Maori of New Zealand.

Source: “A New Kind of Criminal Justice”, Parade, October 25, 2009, p. 6.

For most Indigenous peoples, the traditional method of addressing wrongs committed against community members involved restoring or healing relationships rather than punishing. The offender and victim(s) discuss the harm caused by the offense; the offender is expected to understand the consequences and take responsibility for his or her actions, and together, they discuss appropriate ways to make amends.

Justice Circles

Indigenous people have traditionally used the structure of the talking circle for council meetings, spiritual ceremonies, healing, sharing and teaching.

Circles represent important principles in the Indigenous worldview and belief systems, namely, interconnectedness, equality, and continuity. According to traditional teaching, the seasonal pattern of life and renewal and the movement of animals and people were continuous, like a circle, which has no beginning and no end. Circles suggest inclusiveness and the lack of a hierarchy.

Talking circles symbolize completeness and equality. All circle participants’ views must be respected and listened to. All comments directly address the question or the issue, not the comments another person has made.

In the circle, an object, such as a stick, a stone, or a feather, can be used to facilitate the circle. Only the person holding the “talking stick” has the right to speak. Going around the circle systematically gives everyone the opportunity to participate.

The talking circle process has been adapted to the contemporary justice system and provides a framework to practice Indigenous restorative justice. There are a number of different types of justice circles.

Conflict Resolution Circles

This circle process provides willing individuals with the opportunity to actively address their conflict within a healing environment. This process will enable people to resolve conflict before it becomes a criminal activity, or to prevent conflict that is arising in the community. This Circle can be provided one-on-one or in a group setting.

Early Intervention Circles

This circle process is designed for offenders at the pre-charge and post-charge stages of criminal proceedings. It relies on the input from the community and victim to craft recommendations, which will provide a healing process for the offender, the victim and the community.

Healing Circles

A powerful circle is the healing circle. It provides to those who have gone through a crisis or feel they need support on their road to recovery. The person may be a victim of a crime, a person in the pre-charge stage or a person who is currently incarcerated. Healing circles are often led by Circle Keepers and will include a variety of participants, depending on who the offender feels they need within their healing process. This can include family, friends, support persons, the victim, and the victim's support persons.

A healing circle may deal with a specific issue, or a variety of problems that a person needs to discuss. Often, a simple chance to have a voice, to have problems heard within a sympathetic and supportive environment is all that a person requires to begin the healing journey. Sharing within a group allows everyone to take a piece of the burden off the person who requires healing, and often tightens the bonds between circle members.

Source: Atlantic Canada's Aboriginal Justice Programs Resources and Best Practices Guide

For more information on the healing circle and its process:

<http://www.dancingtoeaglespiritsociety.org/circles.php>

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4022550/>

<https://www.ceaa.gc.ca/050/documents/p63928/92023E.pdf>

<https://www.youtube.com/watch?v=ZmdPi7teVWM&t=1088s>

Sentencing Circles

Sentencing circles are used within a community-based model for justice in the post-charge stage for individuals who have already acknowledged their responsibility for the offence. Sentencing circle process ensures accountability, responsibility and deterrence of future offences. Good restorative justice programs have well-trained facilitators and circle keepers who are sensitive to the needs of victims and offenders, who know the community in which the crime took place and who understand the dynamics of the criminal justice system.



By tradition, sentencing circles usually take place on the Reserve, where members of the Aboriginal offender's community, such as the Chief, Elders, Band Councillors, the victim or his family, police, prosecution and defence gather and then recommend an appropriate sentence. A Judge is not bound by the recommendation, however, such recommendations are certainly persuasive.

Source: www.duhaime.org/LegalDictionary/S/SentencingCircle.aspx

Goals of a sentencing Circle:

- Promote healing for all affected parties;
- Provide an opportunity for the offender to make amends;
- Empower victims, community members, families, and offenders by giving them a voice and a shared responsibility in finding constructive resolutions;
- Address the underlying causes of criminal behaviour;
- Build a sense of community and its capacity for resolving conflict; and
- Promote and share community values.

A successful sentencing circle process depends upon a healthy partnership between the formal justice system and the community. Participants from both need training and skill building in the circle process, peacemaking and consensus building. The community can subsequently customize their circle process to fit local resources and culture. It is critically important that the community's planning process allows for sufficient time for strong relationships among justice professionals and community members to develop. Implementation procedures must be highly flexible, because the circle process will evolve over time based on the community's knowledge and experience.

The following is a list of recommendations that may be considered by a Sentencing Circle

- *AA Meetings*
- *Aboriginal Shield Program*
- *Anger management*
- *Attend a Sundance Ceremony*
- *Basket making*
- *Community Service*
- *Counselling*
- *Cultural camps*
- *Drawing paintings to give away*
- *Drumming*
- *Education and awareness*
- *Elder/peer mentorship*
- *Gathering sacred medicines*
- *Hunting and gathering*
- *Journaling*
- *Learning about traditional values*
- *Learning the seven sacred teachings*
- *Learning traditional games*
- *Letter to self*
- *Make a plan to prevent another offence*
- *Making Tobacco ties*
- *Medicine bundles*
- *NNADAP assessment*
- *Presentation at schools*
- *Researching their roots*
- *Restitution*
- *Self-care programs*
- *Smudging*
- *Spending time with and/or helping Elders*
- *Storytelling/sharing personal story with others*
- *Sweat lodge helper*
- *Sweats*
- *Traditional dance groups*
- *Traditional healing circles/talking circles*
- *Treatment plan*
- *Victim Restitution*
- *Volunteering at cultural events*
- *Write an apology letter*
- *Write an essay on the incident*

For more information on sentencing circles:

http://publications.gc.ca/collections/collection_2009/justice/J22-12-1997E.pdf

<http://www.justice.gc.ca/eng/csj-sjc/ccs-ajc/04.html>

<http://www.iirp.edu/eforum-archive/4250-circle-sentencing-part-of-the-restorative-justice-continuum>



Reintegration Circles

A reintegration circle is used to assist the individual who is coming out of custody and needs help reintegrating back into the community. It provides support and resources to ensure a successful transition.

Healing Lodges within the Correctional System

The disproportionate involvement of Indigenous persons in the Canadian criminal justice system has been recognized for some time. One of the initiatives used by Correctional Service of Canada (CSC) to address the issue of Indigenous overrepresentation is the establishment of healing lodges for offenders. Section 81 of the *Corrections and Conditional Release Act* (CCRA) provides legislation relating to the development of healing lodges. Healing lodges are meant to aid Indigenous offenders in their successful reintegration by using traditional healing methods, specifically holistic and culturally-appropriate programming. There are two types of healing lodges within the CSC framework: CSC-run lodges and section 81 healing lodges. CSC-run healing lodges focus on traditional Indigenous ideologies but are considered CSC facilities. Section 81 healing lodges are privately run by Indigenous communities in an agreement with CSC for the provision of correctional services.

For more information on Correctional Service of Canada's Healing Lodges:

www.ctvnews.ca/canada/what-is-a-healing-lodge-and-why-does-canada-s-prison-system-need-more-1.1187338

www.csc-scc.gc.ca/aboriginal/002003-2000-eng.shtml

www.csc-scc.gc.ca/research/r130-eng.shtml

<http://laws-lois.justice.gc.ca/eng/acts/C-44.6/section-81.html>

National Native Alcohol and Drug Abuse Program (NNADAP)

Substance abuse issues continue to be a priority issue for Indigenous people in Canada. The primary network to respond to these issues is the National Native Alcohol and Drug Abuse Program (NNADAP). NNADAP was one of the first programs developed in response to community needs. It evolved from the National Native Alcohol Abuse Program (a pilot project in 1974).

Health Canada supports First Nations and Inuit communities to establish prevention and treatment programming and interventions aimed at reducing and preventing alcohol, drug, and solvent abuse among on-reserve populations while supporting overall community wellness. Through NNADAP and the National Youth Solvent Abuse Program (NYSAP), Health Canada provides direct funding to First Nations addiction treatment centres to better serve First Nations and Inuit clients.

NNADAP and NYSAP treatment centres include a range of mainstream and culturally relevant approaches. Involving a traditional or cultural component is important for Indigenous-focused healing processes. Using a number of treatment approaches that include offering life-skill and self-care techniques has also proven to be beneficial. The Indigenous-specific programming offered at NNADAP treatment centres sets these facilities apart from mainstream treatment centres. When undergoing therapy, or following treatment at any facility, mental health support and traditional community supports, such as mentoring visits from Elders or traditional spiritual/cultural practices may be offered to clients.

Source: National Native Alcohol and Drug Abuse Program Treatment Centre Outcome Study Summary Report <http://www.cssspnql.com/docs/centre-de-documentation/summary-report---nnadap-treatment-centre-outcome-study---2011-pilot-project.pdf?sfvrsn=2>

For more information on NNADAP:

National Native Alcohol and Drug Abuse Program Treatment Centre Outcome Study Summary Report
www.cssspnql.com/docs/centre-de-documentation/summary-report---nnadap-treatment-centre-outcome-study---2011-pilot-project.pdf?sfvrsn=2
NNADAP Treatment Centre Directory
www.hc-sc.gc.ca/fniah-spnia/pubs/substan/ads/nnadap-pnlaada_dir-rep-eng.php

Indigenous Ceremony

Ceremony and rituals have long played an essential role in Indigenous culture. These beliefs and practices form an integral part of community and identity.



ME: What is the point of all this ceremony, this prayer, this damn hard work?

OLD WOMAN: To awaken from the dream.

ME: What dream is that?

OLD WOMAN: The illusion that what we see is all there is. That this physical world is the real one.

ME: Are there higher dreams, then?

OLD WOMAN: Yes. Dreams of unity over aloneness, blessings over fear, freedom over blame, unlimited spiritual possibility over limited material gain.

ME: You're telling me all that is possible?

OLD WOMAN: I'm telling you to choose to awaken. All is possible once you do that.

Richard Wagamese, *Embers: One Ojibway's Meditations*, p. 110

Dancing

Dancing is an uplifting experience of self-transformation designed to bring the spirits into one's life. The transformational energies received will help nurture intuition and awaken one's senses and inner wisdom for health and longevity.

It is an evocative, empowering process for self-renewal, to enrich creativity, spontaneity and revitalization of the dancer's being. This life-changing experience creates a new foundation for realizing his or her full potential. Most dances have a great religious or social significance.

Source: Dancing to the Eagle Spirit Society <http://www.dancingtoeaglespiritsociety.org/about.php>

Dreams and Visions

Dreams and visions are an important part of Indigenous spiritual life. Traditionally dreams were an essential conduit for communication with the supernatural world. Dreams served as a validation of one's spiritual condition. Therefore, from an early age, Indigenous children learned to remember their dreams. These dreams can then be interpreted by Elders. Spirits revealed in the dreams guide the dreamer to wisdom.

My elders say that the dream world is a reality, just as valid, just as vibrant, just as alive as the physical world. Dreams are not illusory things. They are meant to teach us, guide us. They ask us to use our intuition to interpret them. That's their biggest gift—returning us to our intuition, our highest level of thought. When we intuit, we think spiritually with a free, flowing energy. In the physical world, that's where compassion is born—the place where there are no differences. Dream big, bright and shining. Enjoy the images. Intuition will teach you meaning.

Richard Wagamese, *Embers: One Ojibway's Meditations*, p. 97



Drumming

Drumming is a sacred and traditional activity for Indigenous people. A study within the *Journal of Aboriginal Health* (2008) has noted:

The links between mental well-being and drumming:

- Gaining relief from mental stress;
- Creating a connection to cultural identity;
- Creating a positive atmosphere for making changes in one's life; and
- Creating self-confidence.

The links between spiritual well-being and drumming:

- The drum connects the person to the Creator, the Spirit World, Mother Earth and to members of their community
- The drum serves as a bridge between the spirit and earth worlds, by providing a tool to send out prayers
- The drumbeat connects to the drummer's heartbeat and helps guide people on their journeys.

Source: http://www.naho.ca/jah/english/jah04_01/10HandDrumming_72-83.pdf

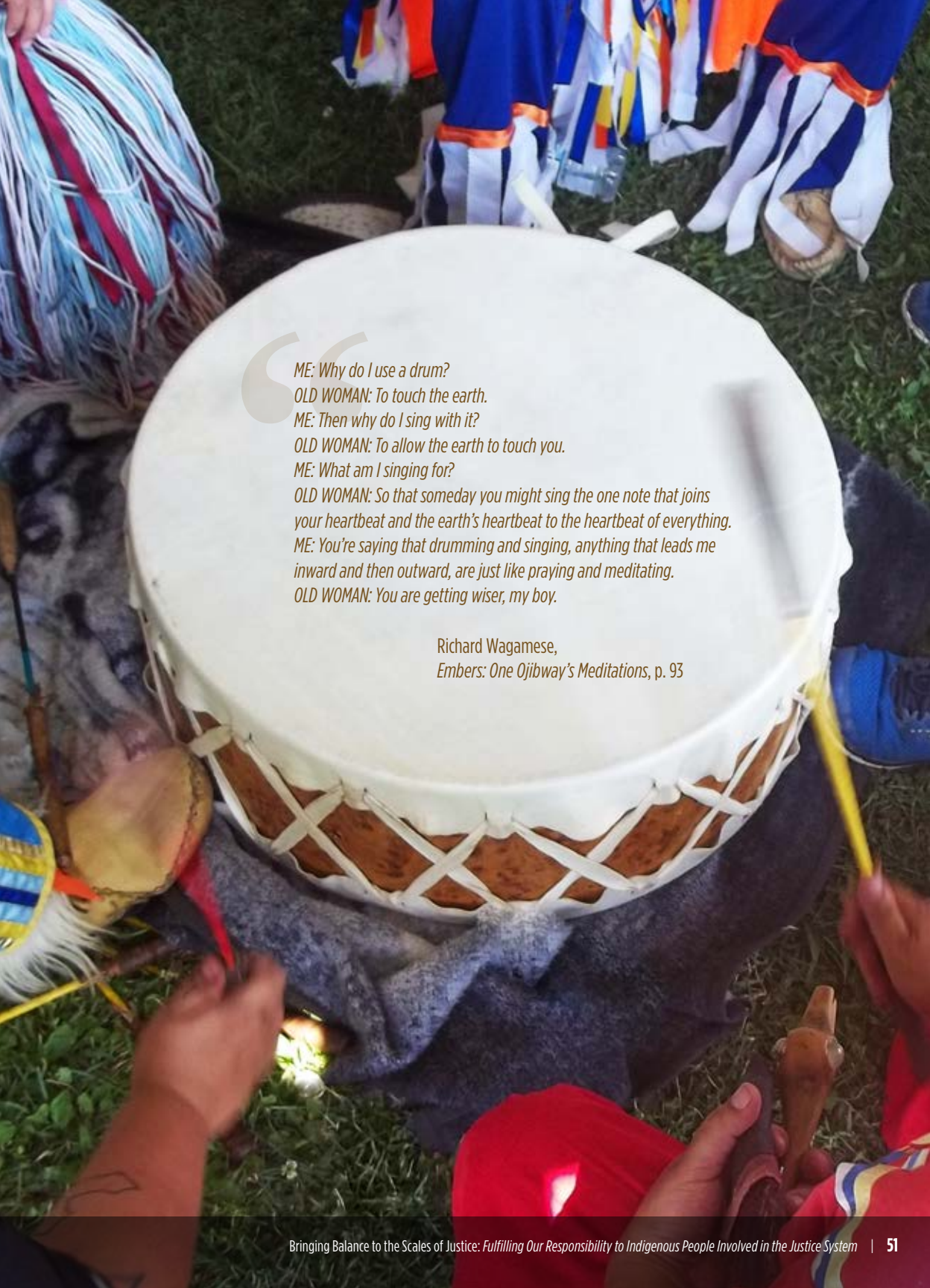
Fasting

In simplest terms, a fast is a period of time during which a person goes without food and, usually, water. However, as with most spiritual matters, the actual conditions of the fast will vary from person to person, and from fast to fast, depending on the reason for the fast and the requirements of the person. Because of this variability, the following are only some very general descriptions.

There are a number of different types of fasts, each with their own purpose:

Cleansing Fasts

A cleansing fast is done on a regular basis by men. The purpose of a cleansing fast is to allow the body to cleanse itself of impurities, which it does as a normal physical result of not eating for an extended period. At the same time, the man should be concentrating on prayer and meditation, to aid in spiritual cleansing. In olden times, a man would have done a cleansing fast once each season.



ME: Why do I use a drum?

OLD WOMAN: To touch the earth.

ME: Then why do I sing with it?

OLD WOMAN: To allow the earth to touch you.

ME: What am I singing for?

OLD WOMAN: So that someday you might sing the one note that joins your heartbeat and the earth's heartbeat to the heartbeat of everything.

ME: You're saying that drumming and singing, anything that leads me inward and then outward, are just like praying and meditating.

OLD WOMAN: You are getting wiser, my boy.

Richard Wagamese,
Embers: One Ojibway's Meditations, p. 93

Vision Quest

A vision quest fast can be done by men or women. The purpose of the vision quest is to seek guidance from the spirits in the form of visions or dreams. Seekers concentrate strongly on prayer and meditation, use a personal pipe if they have one, and request that the spirits provide the guidance they need. These fasts tend to be longer in duration than cleansing fasts.

Fasting for Ceremonies

In some cases, people will fast in honour of certain ceremonies. For example, before the spring or fall Bear Feast, people who have the Bear as their Spirit Guide, or who are part of the Bear clan, can fast in honour of the Bear and his long winter fast. This is generally a short fast, perhaps a day or two, and can often be done in the home or while going about daily life, since the point of this fast is simply to do without food in honour of the Bear. While a personal commitment is required, the fast is done without little or no ceremony.

Source: Mikmaw Spirituality <http://www.muiniskw.org/pgCulture2e.htm>

Naming Ceremony

A naming ceremony is a sacred religious event, performed by an Elder. The specific rituals and practices vary among different communities, however, the meaning and reverence given to the ceremony is universal.

Some people receive more than one name in their lifetimes to reflect significant changes. For example, in some communities a newborn baby will receive a name. When old enough to understand the meaning and importance of a name, he or she will receive another. Names often tend to reflect a certain trait or strength in the person, and are often represented by an animal symbolizing those strengths.

Pipe Ceremony

A pipe is a sacred item used by many different Indigenous nations. In Mi'kmaq culture, there are two types of pipes: a personal pipe that can be owned by anyone and used to pray on their own behalf, and the pipe of the people that can only be used by pipe carriers. A pipe carrier will use the pipe to pray for the people, for a gathering or ceremony, or for a healing or a teaching. By using the pipe, a person communicates with the spirits in prayer.

There is an entire ceremony for using the pipe. The sharing of the pipe represents friendship and respect.

Powwow

A powwow is a spiritual and social gathering that celebrates life and culture. Powwows are expressions of culture, pride and identity. Powwow singing, dancing and drumming are more than just a representation of traditional ways of life. A powwow brings together people in prayers and celebration. Throughout the Atlantic provinces, powwows are celebrated during the summer months.



Powwow is about celebrating the power of the earth. To dance is to bless it with each step. To sing is to honour it with each vocable, each sound I make.

Richard Wagamese, *Embers: One Ojibway's Meditations*, p. 150

The powwow begins each day with a Grand Entry entourage led by a flag bearer carrying the Eagle Staff and the Traditional Flag. The drumming begins and all must stand for the Flag Song and the Veteran's Song. Behind the Flag Bearer, comes the War Veterans parade, the lead female and male dancers, the traditional women, and then the host of the event. After the host, comes the male traditional dancers, the Fancy Shawl dancers, and finally the children dancers. This process is similar at all powwows, but can be different depending on the location of the event and the traditions of the Nation that is celebrating.

No drugs or alcohol are permitted at the powwow because it is a sacred spiritual ceremony.

Source: Aboriginal Cultural Connections: Child Protection Resource Guide

Smudging

Smudging is a spiritual tradition in Indigenous culture. Smudging is similar to blessing oneself with holy water in the Catholic faith. Smudging is done before all ceremonies but can also be done when a person feels it is necessary. To smudge, one burns sacred grasses, such as sweet grass or sage, and pulls the smoke over the head, heart and body. This is done to cleanse the person's mind, body and spirit of all negativity. A smudge can be used to cleanse an object or area of negative energy as well. The smoke of medicines is a way of sending prayers to the Creator. The good thoughts during a smudging ceremony are carried up by smoke. The Great Eagle captures all of the prayers in the smoke, on its feathers, then carries it up higher to one of the Creator's helpers.

Source: Aboriginal Cultural Connections: A Child Protection Resource Guide



I could tell you many things about the sundance. That it is a ceremony of thanksgiving, and that after fasting for four days we pierce our flesh. I could explain that we do this because we believe the only meaningful thing we can offer to the Creator of all that exists is a little piece of ourselves. I could tell you those things, but nobody really tells it like that to us when we are growing up. Instead, we watch. We learn. We participate.

Wab Kinew, *The Reason You Walk: A Memoir*

Sundance

The sundance is a sacred ceremony. It was one of the traditional ceremonies that were banned by the Canadian government until 1951.

Typically, the sundance is a grueling ordeal for the dancers, a physical and spiritual test that they offer in sacrifice for their people.

Sundances usually involve dances and songs passed down through many generations, the use of a traditional drum, a sacred fire, praying, and fasting from food and water before participating in the dance. Often the sundance includes the ceremonial piercing of skin and a trial of physical endurance, as a source of sacrifice.



Sunrise Ceremonies

The sun is the Creator. Each morning the ancient Mi'kmaq gave thanks to the rising sun for the beginning of each day (and again each evening to the setting sun for the bounty given that day). This time of day is considered perfect for communicating with the Creator, the spirit world, and the ancestors. Today the sunrise ceremony is used on special occasions through a series of prayers, chants, drumming and smudging. Thanks is given to all aspects of life: their spirits, their minds, their bodies and the world in which they live. It is an opportunity to be reminded to always respect each other and protect the environment.



Sage, cedar, sweet grass, tobacco. The sacred medicines. When you start your day with them, along with a prayer of gratitude, your energy becomes joined with the creative energy of the universe—and you may become a creator yourself if you choose and allow. That's the power of medicine.

Richard Wagamese *Embers: One Ojibway's Meditations* p. 154

Sweats and Sweat Lodges

A sweat lodge is a sacred place designed for the purpose of cleansing the mind, body and spirit. The sweat ceremony is conducted in many different ways and it depends on the location, beliefs and traditions of the person holding the sweat, and their culture. A sweat lodge is a very powerful structure to Indigenous people. Sweats vary from purification and cleansing, to healing, to a clan sweat and to spirit name sweats. The sweat lodge ceremony is very humble and begins with giving thanks to Mother Earth. The sweat teaches how to respect, be patient, show endurance and to speak one's mind freely.

Talking Circles

Talking circles originated with First Nations leaders. The process was used to ensure that all leaders in the tribal council were heard, and that those who were speaking were not interrupted. Traditionally, the Chief would initiate conversation, with other members responding and sharing their ideas and opinions. The nuance of subtle energy, created from using this respectful approach to talking with others, provides a sense of communion and interconnectedness. The most common type of talking circle is a sharing circle, where people share whatever they have to say. There is often no particular purpose or theme to the discussion and is an excellent introduction to Indigenous ceremonies.

Source: <https://firstnationspedagogy.ca/circletalks.html>

Ceremonial Items

Drum

The drum is the heartbeat of the Creator, the heartbeat of life, and the heartbeat of Indigenous people. The drumstick used to beat the drum is sometimes referred to as the arm of the Creator who is breathing life into the ceremonies. The drum, as the central element in all ceremonies, sits in a place of honour, its drumbeats calling to the spirits and ancestors for their intangible participation in the ritual.

Source: Qalipu Cultural Centre <http://qalipu.ca/culture-heritage/qalipu-cultural-information/#>



Eagle Feather

The Eagle is considered to be a messenger to the Creator. It was given the honour of carrying the prayers of man and woman between the World of Earth and the World of Spirit, where the Creator and grandfathers/grandmothers reside. To wear or hold an Eagle feather causes the Creator to take immediate notice. With the Eagle feather, the Creator is honoured in the highest way.



For Indigenous people, an Eagle feather is used in ceremonies to call upon the Creator and to command respect and focus on the situation at hand.

To receive an Eagle feather is a great honour.

Four Sacred Medicines

There are four sacred medicines that are used for ceremonial purposes: tobacco, sage, cedar and sweet grass. In general, these medicines are used for purification purposes, prior to ceremony, or for daily spiritual cleansing. Many medicines can be used as offerings as well. In Indigenous culture, an offering is provided anytime someone is requesting something from another person or in thanks for a service provided.

Medicine Pouch

The medicine pouch/bag is sometimes referred to as an offering bag and is seen as a sacred object. The pouch has various purposes. It can be used for protection and/or to carry significant stones, herbs, or medicines for offering. Everyone has different items in their pouch, and it can be worn around the neck, waist or in a pocket. It is very disrespectful to touch or open someone else's pouch without their permission.

Sacred Bundle

Indigenous people who follow their traditional teachings will have sacred items to help and guide them through life. These sacred items form part of their sacred bundle.

A sacred bundle can consist of one or many items. It can be the little tobacco or medicine pouch that someone wears around their neck, or it can be the items that the spirits have given to a person to carry for the people.

Talking Stick

The talking stick, used in many Indigenous cultures, is an ancient and powerful “communication tool” that ensures a code of conduct of respect is followed. The person holding the stick, and only that person, has the right to speak and all others must listen quietly and respectfully.

Talking sticks are most frequently used in circles, ceremonies and at the beginning of cultural events. Sometime the “talking stick” may not be an actual stick, but an eagle feather, a fan or a staff.

Tobacco and Tobacco Ties

Tobacco is one of the most important sacred medicines and is often carried in a small bundle called a tie. Tobacco is used for cleansing or purification. While it can be smoked in pipes, it is used primarily for offerings. Early Mi'kmaw pipes were said to be made from twisted strips of birch bark which, once used, could be thrown away. The ancestors also smoked indigenous dried plant material such as “kinnikanik” the dried inner bark of the red willow or dried roots of the Michelmas daisy.



It is traditional to offer tobacco to an Elder when making a request as a demonstration of respect.

Indigenous Justice Resources in Atlantic Canada

New Brunswick

Elsipogtog Restorative Justice Program
205-2 Big Cove Road
Elsipogtog, New Brunswick
E4W 2S1
Phone: 506-523-4747
Fax: 506-523-3791
Justice@ehwc.ca

Nova Scotia

Mi'kmaw Legal Support Network
48 Spencer's Lane
Eskasoni, NS
B1W 1B7
Phone: 902-379-2042
Toll free: 1-877-379-2042
Fax: 902-379-2047
www.mlsn.ca

Newfoundland and Labrador

Miawpukek First Nation
PO Box 39
Conne River, NL
A0H 1J0
Phone 709-882-2470 Ext 1242
Fax: 709-882-2401
www.mfngov.ca

Prince Edward Island

MCPEI Indigenous Justice Program
199 Grafton Street, Suite 501
Charlottetown, PE
C1A 1L2
Phone: 902-367-3681
Fax: 902-367-3779
www.mcpei.ca

Appendix A

TRC Calls to Action that relate to the justice system

- 25.** We call upon the federal government to establish a written policy that reaffirms the independence of the Royal Canadian Mounted Police to investigate crimes in which the government has its own interest as a potential or real party in civil litigation.
- 26.** We call upon the federal, provincial, and territorial governments to review and amend their respective statutes of limitations to ensure that they conform to the principle that governments and other entities cannot rely on limitation defences to defend legal actions of historical abuse brought by Aboriginal people.
- 27.** We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. It will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.
- 28.** We call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. It will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.
- 29.** We call upon the parties and, in particular, the federal government, to work collaboratively with plaintiffs not included in the Indian Residential Schools Settlement Agreement to have disputed legal issues determined expeditiously on an agreed set of facts.
- 30.** We call upon federal, provincial, and territorial governments to commit to eliminating the overrepresentation of Aboriginal people in custody over the next decade, and to issue detailed annual reports that monitor and evaluate progress in doing so.

31. We call upon the federal, provincial, and territorial governments to provide sufficient and stable funding to implement and evaluate community sanctions that will provide realistic alternatives to imprisonment for Aboriginal offenders and respond to the underlying causes of offending.

32. We call upon the federal government to amend the Criminal Code to allow trial judges, upon giving reasons, to depart from mandatory minimum sentences and restrictions on the use of conditional sentences.

33. We call upon the federal, provincial, and territorial governments to recognize as a high priority the need to address and prevent Fetal Alcohol Spectrum Disorder (FASD), and to develop, in collaboration with Aboriginal people, FASD preventive programs that can be delivered in a culturally appropriate manner.

34. We call upon the governments of Canada, the provinces, and territories to undertake reforms to the criminal justice system to better address the needs of offenders with Fetal Alcohol Spectrum Disorder (FASD), including:

i. Providing increased community resources and powers for courts to ensure that FASD is properly diagnosed, and that appropriate community supports are in place for those with FASD.

ii. Enacting statutory exemptions from mandatory minimum sentences of imprisonment for offenders affected by FASD.

iii. Providing community, correctional, and parole resources to maximize the ability of people with FASD to live in the community.

iv. Adopting appropriate evaluation mechanisms to measure the effectiveness of such programs and ensure community safety.

v. We call upon the federal government to eliminate barriers to the creation of additional Aboriginal healing lodges within the federal correctional system.

35. We call upon the federal, provincial, and territorial governments to work with Aboriginal communities to provide culturally relevant services to inmates on issues such as substance abuse, family and domestic violence, and overcoming the experience of having been sexually abused.

36. We call upon the federal government to provide more supports for Aboriginal programming in halfway houses and parole services.

37. We call upon the federal, provincial, territorial, and Aboriginal governments to commit to eliminating the overrepresentation of Aboriginal youth in custody over the next decade.

38. We call upon the federal government to develop a national plan to collect and publish data on the criminal victimization of Aboriginal people, including data related to homicide and family violence victimization.

39. We call on all levels of government, in collaboration with Aboriginal people, to create adequately funded and accessible Aboriginal-specific victim programs and services with appropriate evaluation mechanisms.

40. We call upon the federal government, in consultation with Aboriginal organizations, to appoint a public inquiry into the causes of, and remedies for, the disproportionate victimization of Aboriginal women and girls. The inquiry's mandate would include:

i. Investigation into missing and murdered Aboriginal women and girls.

ii. Links to the intergenerational legacy of residential schools.

41. We call upon the federal, provincial, and territorial governments to commit to the recognition and implementation of Aboriginal justice systems in a manner consistent with the Treaty and Aboriginal rights of Aboriginal peoples, the *Constitution Act, 1982*, and the *United Nations Declaration on the Rights of Indigenous Peoples*, endorsed by Canada in November 2012.









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