

Improving partnerships with Aboriginal communities

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While Aboriginal peoples make up only 3 percent of Canada's population, they represent 17 percent of Canada's federal inmate population. Although these numbers raise serious concerns, they represent only the tip of the iceberg, as Aboriginal peoples are over-represented across all facets of the criminal justice system.

Many have characterized the present relationship between Aboriginal peoples and the justice system as trans-contextual. That is, "a problematic relationship between rubrics emerging from one culture and practices met in another."² The essence of the problem is that the Aboriginal peoples of Canada do not view justice in the same manner as do the Euro-Canadian colonizers. They view the current justice system as an alien system that has been imposed upon them by a dominant society.

Aboriginal peoples have long asserted that there is more than one effective system of justice for a community. Traditional Aboriginal justice practices are based on the philosophy that the entire community should address problems through the resolution of disputes, the healing of wounds and the restoration of social harmony.

In 1991, the Royal Commission on Aboriginal Peoples was established to address this and other issues facing Aboriginal peoples in Canada. The Commission concluded that Aboriginal peoples and communities should be given the resources that would provide them with the opportunity for self-fulfillment as individuals and as a First Nation. The Commission placed emphasis on the need for the development of skills in a full range of technical, commercial and professional fields. The Commission's five-volume report contained hundreds of recommendations touching on virtually every aspect of the lives of Aboriginal peoples in Canada. What this added up to was a comprehensive agenda and commitment for change that would benefit all Aboriginal people.

In response to recommendations of the Royal Commission, the federal government designed and launched the 'Gathering Strength' initiative in 1998. In essence, the Gathering Strength initiative was an action plan designed to renew the relationship

between the federal government and the Aboriginal people of Canada. The plan was built on the principles of mutual respect, mutual recognition, mutual responsibility and sharing. The report was to serve as a catalyst and an inspiration for the federal government to set a new course in its policies for Aboriginal people.

In compliance with the Royal Commission's recommendations and the principles set out in the federal government's 'Gathering Strength' initiative, the Correctional Service of Canada (CSC) reviewed its mandate to provide services for Aboriginal offenders under the Corrections and Conditional Release Act (CCRA),³ sections 79 to 84, inclusive. These clauses allow for Aboriginal inmates to benefit from the positive spiritual and healing power of their culture and also to invite Aboriginal communities and Elders to play a more active role as service providers and advisors on both policy formulation and policy implementation.

The Service, under the umbrella of a renewed partnership, examined ways to expand its services under the provisions of Section 81 and Section 84 of the CCRA. These sections focus on the release of Aboriginal offenders to Aboriginal communities.

Section 81 states that:

- (1) *The Minister, or person authorized by the Minister, may enter into an agreement with an Aboriginal community for the provision of correctional services to Aboriginal offenders and for payment by the Minister, or by a person authorized by the Minister, in respect of the provision of those services.*
- (2) *Notwithstanding subsection (1), an agreement entered into under that subsection may provide for the provision of services to a non-Aboriginal offender.*
- (3) *In accordance with any agreement entered into under subsection (1), the Commissioner may transfer an Aboriginal offender to the care and custody of an Aboriginal community, with the consent of the Aboriginal offender and of the Aboriginal community.*

Section 84 states that:

Where an inmate who is applying for parole has expressed an interest in being released to an Aboriginal community, the service shall, if the inmate consents, give the Aboriginal community

- (a) *adequate notice of the inmate's parole application; and*
- (b) *an opportunity to propose a plan for the inmate's release to, and integration into, the Aboriginal community.*

Section 84.1 states that:

Where an offender who is required to be supervised by a long-term supervision order has expressed an interest in being supervised in an Aboriginal community, the Service shall, if the offender consents, give the Aboriginal community

- (a) *adequate notice of the order; and*
- (b) *an opportunity to propose a plan for the offender's release on supervision, and integration, into the Aboriginal community.*

The Service's commitment in revitalizing and enhancing its partnership with Aboriginal communities is clearly reiterated in two of CSC's nine corporate objectives:

Corporate Objective #3

Significantly increase the number of Aboriginal offenders safely and successfully reintegrated.

Corporate Objective #7

Expand partnerships and promote consultations as a means to achieve our objectives more effectively and influence the development of, and public support for, criminal justice policy.

Over the past 5 years CSC has embarked on a new path in Aboriginal corrections. The creation of two new healing lodges for Aboriginal offenders in the Prairie region is seen as cutting edge in corrections and has brought Canada much international acclaim. The objective of these facilities is to assist

in the successful reintegration of Aboriginal offenders through holistic and culturally sensitive programming. The facility is meant to create a less threatening environment than those inmates are used to serving time in. While these facilities are still run and administered by CSC, they are designated as Aboriginal facilities and focus solely on the reintegration of Aboriginal offenders. To help achieve these ends, the staff of the facilities is mostly Aboriginal.

Even more remarkable has been new arrangements reached with Aboriginal communities under section 84 of the CCRA, which allow CSC to transfer Aboriginal offenders to communities for supervision. These progressive arrangements encourage Aboriginal communities to take direct responsibility for their own peoples. In turn, this will also allow the community to play a greater role in the rehabilitation of Aboriginal offenders.

Underlying the community corrections movement has been an attempt to reduce the over-reliance on the use of incarceration by providing less serious offenders with community program alternatives. Supporters of community corrections maintain that these programs are more humane, more cost effective and generally more successful than traditional incarceration. CSC has begun negotiation with several Aboriginal communities to facilitate both types of these arrangements.

For its part CSC must continue to educate Aboriginal communities on their options concerning sections 81 and 84 of the CCRA as well as work with Aboriginal communities to build the proper infrastructure they require for the care and custody of offenders. ■

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² Roger McDonnell, "Contextualizing the Investigation of Customary Law in Contemporary Communities", (The Canadian Journal of Criminology). July (1992) p. 299. Vol. 34, No. 3-4.

³ *Corrections and Conditional Release Act*, RSC, 1992 C. 20.