

“SUCCESS”

Whose failure are we fixing?



Whose Success/Failure Do We Measure?

The SCC in ***Gladue, Ipeelee, Barton***, and ***Sharma*** confirmed the findings in the ***Royal Commission on Aboriginal Peoples*** and ***Aboriginal Justice Inquiry*** that the criminal justice system had “failed the Aboriginal people in Canada.”

Office of the Correctional Investigator Annual Report 2022-2023

*“The over-representation of Indigenous peoples in federal penitentiaries has been an area of **documented concern** since the creation of the Office **fifty years ago.**”*

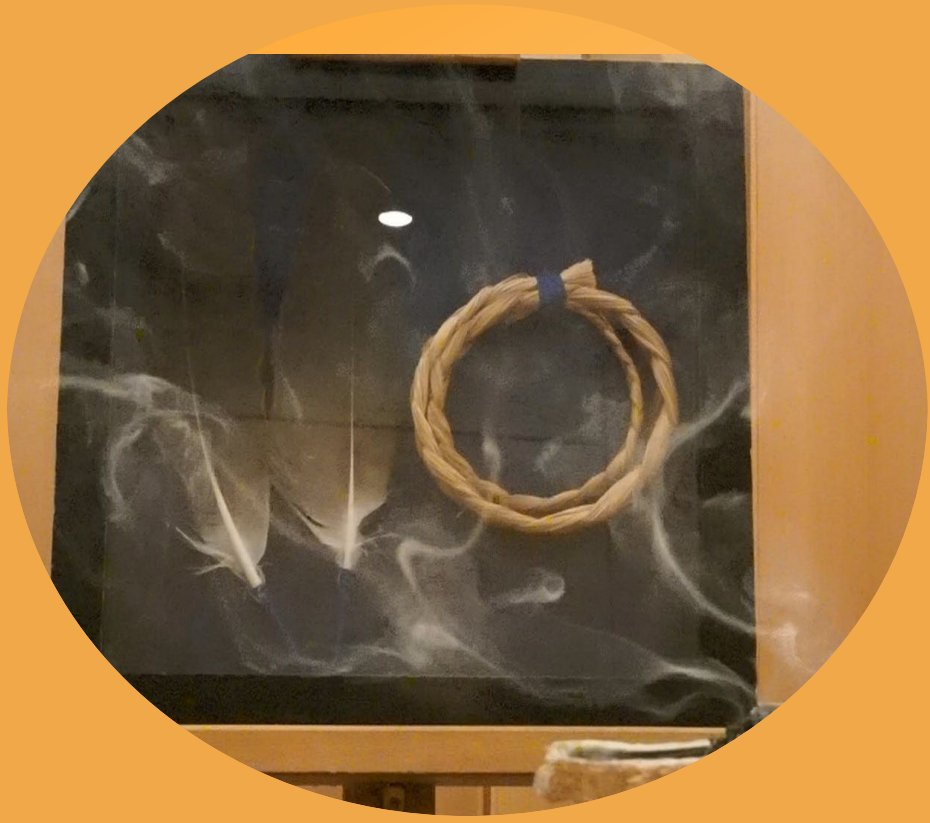
*“The steady and unabated increase in the disproportionate representation of Indigenous peoples under federal sentence is **nothing short of a national travesty** and remains one of Canada’s **most pressing human rights challenges.**”*

Without the Necessary Resources, What Are We Left With?

- Denunciation
- General and specific deterrence
- Separation of the offender from society
- “Rehabilitation”
- Reparations to victims and the community
- Promote a sense of responsibility in the offender

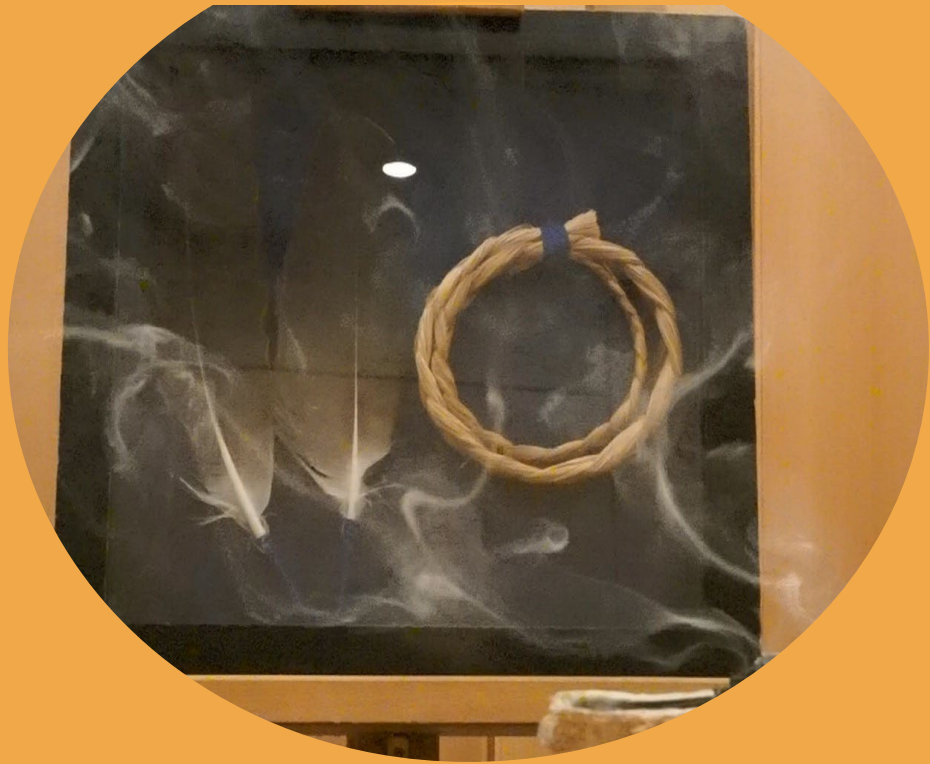
OUR EFFORTS AT RECONCILIATION





The Toronto Gladue Court

A 360° Approach

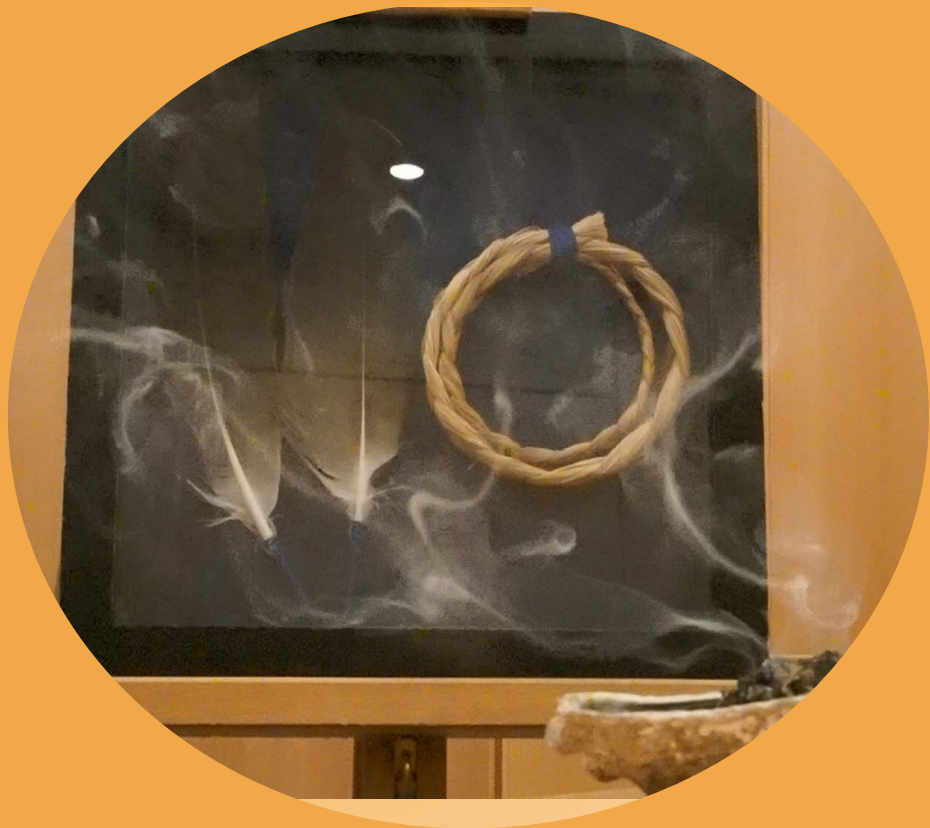


- ✓ Bails
- ✓ Set dates
- ✓ Disclosure
- ✓ Reporting
- ✓ Case management
- ✓ Sentencings
- ✓ Setting trial dates



A New Look

- ✓ Circle table
- ✓ Screen conceals the dais & coat of arms
- ✓ Artwork on permanent display



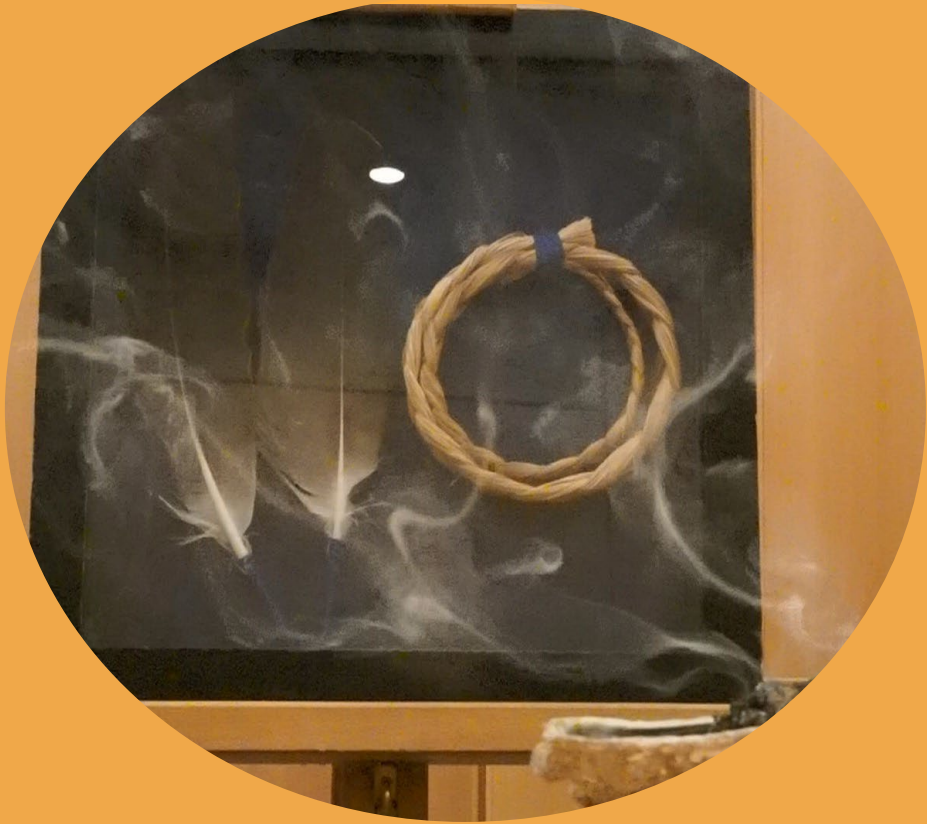
- ✓ Open Smudge at 9:50
- ✓ Smudge as needed
- ✓ Seasonal Ceremony Circle (quarterly)
- ✓ Grief Circles
- ✓ Focus on restorative & healing processes

Incorporation of Indigenous Traditions



- ✓ Food
- ✓ Hygiene needs
- ✓ Access to resources
- ✓ RELATIONSHIPS & COMMUNITY ARE KEY!

Addressing
Other Needs



- ✓ Sentencing Circle
- ✓ Elders make a difference
- ✓ Process
- ✓ Gladue Reports
- ✓ Restorative
- ✓ Positive tone
- ✓ Be bold and imaginative
- ✓ Call out colonialism & oppression

Thoughts on Sentencing

The overrepresentation of Indigenous people in Canada's prisons is a present-day product of this country's colonial past. . . . [S]ome have compared Canadian correctional facilities to residential schools. . . . Like residential schools before it, this overincarceration is an ongoing source of intergenerational harm to families and communities. It is a striking sign of the discrimination that Indigenous peoples experience in "all parts of the criminal justice system" (*Ewert v. Canada*, at para. [57](#)). And it remains a poignant obstacle to realizing the constitutional imperative of reconciliation.

Sentencing law cannot erase this country's colonial past. Nor can it remove the causes behind an offender's crime. **But it is uniquely positioned to ameliorate — or aggravate — the racial inequalities in our criminal justice system.**

R. v. SHARMA, 2022 at paras 114 & 115

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Thank You