

Annual Report 2019: Oregon Department of Corrections Native American Services

This annual progress report is intended to capture the state of affairs of American Indian/Alaska Native Adults in Custody (AI/AN AICs) at Snake River Correctional Institution (SRCI), and some broader challenges in the Oregon Department of Corrections (ODOC) that exacerbate obstacles to equity on a state department level.

This is written to honor the more wholistic truth not systematically offered to the public or non-government organizations, and other stakeholders who have an interest in the treatment of AI/AN AICs. A written record tracking the constellation of challenges this statistically over-incarcerated demographic faces is integral to supporting progress and maintaining the public trust in Oregon's state department. Most importantly, this report is written in the spirit of cooperation with the ODOC in the hope that Oregon's First Peoples do not once again become neglected or forgotten during their incarceration.

In June of 2017, I, AIC Joshua Ga-lo Vann SID20594954, wrote an open letter to address and identify service disparities imposed upon SRCI's AI/AN AICs. Topics were inaccurate demographic accounting, institutional racism, unsubstantiated suspension of AI/AN programs, denial of religious service in special housing units, lack of religious service frequency, cultural insensitivity, religious observance restraints, and a prevailing culture of hostility toward AI/AN AIC programs and services. Chief among these disparities are a lack of knowledge about currently incarcerated AI/AN AICs, an awareness of cultural and spiritual needs this population faces, and systems providing accountability for meeting those needs. In order to identify disparities and address unique needs AI/AN AICs encounter, a community count is needed to compare to the general population. The process for developing the profile substantiated this need and brought focus to previously ignored and department-endorsed institutional racism.

The primary obstacle of compiling a profile for AI/AN AICs is discerning who identifies as AI/AN. The ODOC consistently undercounts the AI/AN population in custody by half or more. On May 1, 2017, the ODOC website published its inmate population profile. In this profile, ODOC counted AI/AN AICs in SRCI at 67 total. That same month, 112 self-identified AI/AN AICs were on the combined sweat lodge callout lists for SRCI's Complexes 1,2, and 3. In addition, there were about 38 self-identified AI/AN AICs who were not on the callouts for sweat lodge. This brings the combined numbers and the approximated AI/AN AIC population to 150 at SRCI. The ODOC inmate population profile placing inmates at 67 asserts that of the 2,684 inmates making up SRCI's total population, AI/AN AICs made up 2.5% of the population. The more accurate community count using the sweat lodge callout lists in addition to hand-counting overall native population places AI/AN AICs at 5.58% of the population total. This means that for May 1, 2017, the ODOC undercounted AI/AN AICs by at least 55.4%.

On June 1, 2018, the ODOC published its inmate population profile and counted the AI/AN AICs at SRCI at 81 persons. At the same time, another community count put the population at approximately 140 AI/AN AICs. The ODOC's 81-person accounting put

supplemental food, clothing and other base necessities). TS accounts are newly added accounts available for us by AICs upon release by ODOC. Five percent of each deposit to an AIC's primary Inmate Trust Account for daily necessities will be redirected to the TS account until that account reaches \$500. After \$500, additional deposits are optional. AICs serving life sentences without the possibility of parole are exempt from these accounts.

Court Ordered Financial Obligations (COFO):

Court-ordered financial obligations are comprised of court fees, restitution, child support, back taxes, institutional legal fees (inmates do not get free legal support) and disciplinary fines.

The garnishment structure guidelines on COFO accounts are as follows:

- For TS Accounts under \$500: 10% of every deposit to an AICs Inmate Trust Account
- For TS Accounts at or above \$500: 15% of every deposit to an AICs Inmate Trust Account

The Problem:

Using SB 844, Oregon state and ODOC were garnishing federally protected monies. These monies were VA Disabled Veterans benefits and Native American Tribal funds.

USC Title 38, 5301 (a) defines the guidelines for protected monies. ***These monies cannot be garnished by any third party, including any state entity, for any reason whatsoever.*** No state law shall supersede this Federal rule. Oregon state's own ORS 423.105 recognizes these as federally protected monies that are deposited in Inmate Trust Accounts. In order to appear in compliance, the ODOC had issued yet another account for AICs who received federally protected money. These protected reserve money accounts were not directly garnished by the ODOC, but they were also ineligible for use by inmates for discretionary spending. In order to access their money, an inmate had to fill out a CD-28 (Inmate Request of Withdrawal of Funds) and send it to their institution's business office to transfer the funds out of their inmate trust account. At this point of transfer of protected monies into the AICs inmate trust account, both TS and COFO garnishments were automatically applied. In an attempt to legalize the garnishment of federally-protected funds after the fact, the ODOC enacted "Temporary Department of Corrections Administrative Policy 291-158-0015." This additional ruling was written to allow the garnishment of federally protected monies. This temporary policy was new, enacted after the establishment of SB 844.

The Key Issue:

USC Title 38, 5301 (a) was specifically set out in recognition of the funds to be as close to sacred as anything can be in a secular government. Indigenous people enlist at higher levels than any other group in the United States. Disabled veterans and indigenous recipients of federal funds are unfairly targeted in this instance, disabled native veterans doubly so.

This instance of oppression visited institutionally upon AI/AN AICs is interrelated with the lack of cultural and spiritual services provided a population rendered statistically invisible and therefore voiceless. It is documented that AI/AN people volunteer for military service at the highest rate of any racial group. The unique profile of Native American volunteerism in the United States Armed Forces and receipt of federally protected tribal funds is an intersectionality of oppression that is compounding when partnered with lack of appropriate cultural and spiritual services behind bars. The fact that Whetstone/Vann were able to share this assertion with Brown made clear the compelling necessity that SB 844 be immediately reversed.

Through this advocacy work and community engagement, two potential volunteers have been identified with a desire to support AI/AN services at SRCI. One is the director of a mental health facility. He has registered and passed a background check through ODOC volunteer services. In order to be a fully carded volunteer for SRCI, he needs to attend mandatory training specific to the facility. His desire as a director of a mental health facility and certified drug and alcohol counselor is to provide Talking Circles and supervise sweat lodge ceremonies. Despite multiple planning requests and one site visit during which he was told he would receive his first training session, the religious services chaplain in charge of Native American services has neglected to respond, let alone schedule or complete required trainings. This inaction has resulted in the loss of potential volunteer services the ODOC does not provide by a professional willing to drive 8+ hours multiple times yearly. The other volunteer resource is an elder who has extensive volunteer and professional experience in the Idaho DOC. This elder attended the 2018 annual pow wow and is known to the chaplain in charge of Native American services. Despite introductions, no follow up has been made. Both are members of AI/AN communities.

Community engagement and inmate feedback to NGOs and civilian population are key in providing transparency to ODOC reporting. Quality information with measured outcomes can allow people and organizations to hold the ODOC accountable for its reporting inaccuracies and absent corrective actions. Within the past year, only one of the three commitments made by the ODOC was met. The only department within the ODOC that acted as an advocate in Native American interests without being directed to do so, and that volunteered to address the ODOC willingly and knowingly falsely reporting inmate population demographics, was dissolved. The ODOC in the words of Oregon state health representatives "obfuscated and misled law makers" resulting in the illegal garnishment federally protected monies, stealing from already marginalized groups. Exacerbating the issue were ODOC's finance office representatives lying to inmates, inmate families, state and federal agents and NGOs about the effects and legality of its unlawful garnishments. These disparities comprise only part of the discrimination against us as AI/AN AICs. They are outcomes that have been observed and measured by only one inmate over the span of two years. More AIC reporting without systematic obstruction would undoubtedly present a well-defined structure of institutional racism endemic to the ODOC.

January 14, 2019 update: at this time there are no AI/AN services of any kind being provided at SRCI. Four weeks ago, tobacco was discovered in the possession of non-

native inmates on SRCI's Complex 2. Native American religious services use pipe tobacco mixed with traditional herbs commonly referred to as "kinnik kinnik" as needed to observe prayer services using the facility canunpa (sacred pipe). Upon discovery tobacco, SRCI sweat lodge services were cancelled for the month of January with no defined timeline of resumption of services.

The evening of Sunday, January 6, 2019, a Native American office chapel clerk was assaulted while leaving his job assignment. The aggressor was a recently added attendee of SRCI's weekly Native American drum service. Since its inception, this service has never seen a disciplinary infraction or non-compliance of facility rules or policies on the part of its attendees. This success can be attributed to common sense security procedures and attendee eligibility requirements. No inmate possessing a red-tinted ID indicating disciplinary infractions within six months' time had ever been admitted to the Native American drum service. A balance of diversity amongst inmates attending the service was maintained. After SRCI's 2018 annual pow wow the drum callout membership was reconstituted by the Christian chaplain in charge of AI/AN religious services. The new cohort of drum service attendees were self-identified and institutionally documented gang members with the exception of four men, three of whom would request to be removed from the callout before the assault and security suspension. Some of the new attendees possessed red-tinted IDs indicating a recent history of disciplinary non-compliance. The complete abandonment of historical security precedent and unbalancing of perspectives and social influences in membership created the perfect environment to empower prison gang members to victimize and inmate unaffiliated to any gang while working in the service of his community. It is alarming that prison security did not regard the requested removals by the three non-gang affiliates as red flags. The weekly drum service membership is a coveted privilege not lightly abandoned by any native inmate. This unfortunate event is the result of neglect and lack of reasonable oversight by staff who do not value or understand Native American religious services or culture.

Author's Note: *I arrived at SRCI in early November 2015. From that time until now I have not transgressed a single ODOC rule or policy, I have no history of disciplinary infractions of any kind, and I have taken every opportunity to engage in aiding my fellow inmates. I participate in prosocial activities and groups by working at the Oregon Corrections Enterprises call center, attending Toastmasters, completing the "Getting Out By Going In" program, participating in the quilting program, working with the African American club as an ally, advising the Veterans' Group, and as a program committee member of the Multicultural Group. I have attempted to contribute funding through grant awards and community volunteers to this facility and state department only to be rebuffed. My race guarantees I will be subject to religious and cultural disparities not experienced by other racial groups while in the custody of the ODOC. The disparities I have measured have previously been acknowledged by ODOC administrations and executive officers as truthful and problematic. I believe the individuals making up the ODOC want to mitigate and heal these harms to which they are complicit. This requires courage and accountability, the absence of which I feel every day. I believe as a community ODOC*

agents will not prioritize the equal treatment of AI/AN AICs until the native communities of Oregon demand outcomes in place of excuses.

We pray.

Ga-lo Vann

Enrolled member of Cherokee Nation of Oklahoma

Attached: 2 letters from AICs regarding meals in special housing; initiating letter of 2017

Transcribed by Rebecca Whetstine, 1/18/2019

Sent out on Martin Luther King, Jr. Day, in his memory's honor

**Inmate Letter Regarding Lack of Native Spiritual
Services in Special Housing: letter one**

.....Thunder.....

What's up bro bro? Your letter got through with good time. I'm just over here koolin. ... (unnamed) is... my neighbor. Not much is new really. I get my level 4 on Tuesday so Im hoping to be out of here in 3 weeks. I should be landing out here unless they try to fuck me over. I guess more and more fam been showing up! I'll probably hate all of them ha ha. Hey can you try and get Heidi and Holly address and #'s for me please? Whats the news with you fam. You out of here soon? I hope so. Get yourself some fresh air and movement. Yeah, I've heard of W.... I've heard some shit bout him but I'll give him benefit of the doubt. Y is... a good bro. I don't see him as Bangin fam, but with all of this shift to spiritual I guess he's good enough. Ha ha bro I drink 6-10 shots of coffee every day. We go hard over this way! Did you get a bag of food from Pow wow? All of us were supposed to but punks never brought it to us. The head of religious services approved it. These Chaplains are so fucking annoying to me. They look down on us and screw us over.

Well fam Ima keep this short. You are in my prayers. You know.

--- name held confidentially

transcribed from hand-written letter, all grammar and spelling maintained as received, letter available for review upon request – Rebecca Whetstine

Inmate Letter Regarding Lack of Native Spiritual Services in Special Housing: letter two

Ga-lo

Your leaf blew in off the wind like that. Good to hear from you bro. Itz crazy the strugglez we still facing are the realest formz to this day with the same attitude of kill the Indian and save the man. No my brother I didn't receive any meal from pow-wow nor did the other broz. So check it out. We as NDN have zero religious interactions back here in isolation. They only allow us one medicine bag and one eagle feather in our cell. They provide us with the option of buying medicine from a outside vendor with inflated prices and shipping and handling. When did that become a part of our customz, culture and religion where we purchase our medicine from the whiteman?

We cannot smudge or have pipe ceremonie inless a blood relative has passed away. Last year my Great Uncle from marriage passed away. My family contacted Chaplain Shu and he denied me the opportunity to hold ceremonie for my Uncle who I grew up with that took me hunting every year cause the Chaplain said he ain't my mediate family. Bro it discusses me when I watch the Jewz get kosher mealz every day back here. The Muslimz get sack lunches and a feast for Ramadan and as a native man I know the importance of connection with my tribe and brotherz. But I can't receive mealz. Broz on mainline have given the chaplain feathers to bring me and they never make it down here. I've had featherz stolen out of my property and the CO that took it taunt me on the tier in front of the whole unit how she stole my feather and planed to sell it.

Bro COz have in the past thrown eagle feathers on the floorz of our cellz during cell searches. The strugglez are real and seem to never end. But we continue to ask for equality and we told that we at already get enough.

I keep fighting my brother. I'm waiting for them to send me out of state. I was given a LWO8 and they doing a interstate compact to get rid of me. So keep my name alive in the lodge. Always your brother and friend.

Tokesa Aka Wac Anpetu Waste

....Thunder....

--- name held confidentially

transcribed from hand-written letter, all grammar and spelling maintained as received, letter available for review upon request – Rebecca Whetstine

June 2017

Open complaint to the Oregon Department of Corrections, delivered to leadership, administration and the Governor's Office and Governor's Counsel

I write to you today to introduce you to the American Indian/Alaska Native (AI/AN) community residing within the Snake River Correctional Institution's (SRCI) walls. SRCI is the largest prison operated by the Oregon Department of Corrections (ODOC). The facility houses around 3,000 inmates at any given time. The Oregon Department of Corrections website hosts a report about the demographic makeup of the entire department and its individual institutions. The most recently published of these reports indicates there are 66 AI/AN men at SRCI (website last checked April 2017). An average of 150 SRCI's inmates identify as Native Americans, though the number is often higher. Nationally, AI/AN people suffer undercounts due to the inadequate classification methods of state and federal agencies, including the exclusion of those who identify as mixed-race with Native American ancestry accounting for part of their racial makeup in combination with another race or more. Our conservative accounting of about 150 puts AI/AN inmates at making up around 5% of the inmate population at SRCI on average. It is safe to assume that the number is consistently higher. In Oregon, AI/AN people make up less than 1% of the population. It can be reasonably concluded that Native American men at SRCI are statistically over-represented.

Although my access to the demographic and sentencing information of inmates in the ODOC is largely lacking, I am aware of the institutional racism present in government agencies. As recently as 2011, the Coalition of Communities of Color Report titled "The Native American Community in Multnomah County: An Unsettling Profile" cited the Oregon Progress Board's finding that Native Americans were charged for crimes at 37% higher than whites in 2008. Taking into account the significantly inaccurate accounting of AI/AN people it is truly impossible to know whether Native criminality warrants such a disparity. The recoded prevalence of racial profiling in policing and judicial bias coupled suggest that our statistical over-representation in SRCI is not justified.

The AI/AN men who are incarcerated in SRCI are responsible for the actions that brought them there. We are serving out our sentences in constant awareness of the consequences of our actions and their impact on our communities. While here, we attempt to find what it means to us respectively to be Native American men. We develop our personal codes of ethics, reasoning, and principals. Over two years ago the Native American office at SRCI oversaw a Newsletter, Sweat Lodge Ceremony, Canupa Ceremony, Ceremonial Drum practice, annual Pow-Wow, Native Theater, Art Program, Traditional Medicines Education, Educational Multi-Media, and a Beading Program (paid for by inmates). These culturally indigenous-specific programs provided holistic enrichment for the spiritual, emotional, physical and mental health of our people and others. The positive influences of these activities provided a healthy guide for the development of the cultural identities of AI/AN men in prison. The access to these positive cultural activities

were open to anyone not considered a security risk by the prison administration, not just AI/AN inmates.

We are just about at the two-year anniversary of almost complete suspension of these programs. It was suspected by SRCI administration that the introduction of contraband to the facility was being conducted through beading program shipping packages. The administration investigation produced no proof of non-compliance with ODOC policies on the part of inmates. The individuals identified by confidential information as suspects in conspiring to smuggle contraband were removed to other facilities operated by the ODOC. The services that resumed after the investigation were sparse compared with the array of programs offered before. Today we have once-monthly Sweat Lodge Ceremony, a weekly drum practice restricted to 12 participants, and an annual Pow Wow. That means that the average AI/AN inmate is engaged as a Native American 13 days out of the year if there is no snowfall. 12 for the monthly Sweat Lodges (weather permitting), and 1 time for the day of the Pow Wow. The remaining 352 days of the year, the contact our men have with prison life is punitive in nature. The programs that were removed were programs that used materials the AI/AN inmates paid for themselves.

It is significant that a group of programs associated with a race of people were stopped, not solely the program posing a reasonably-suspected security threat. This model of discriminatory targeting has not been applied to other institutionally-recognized groups at SRCI. This is overt institutional racism.

Every recognized religious group has a once-yearly feast in some form or another at SRCI. During those observances the prepared foods were allowed to be shared with the associated inmates housed in Special Housing Units (SHU) which consists of the Disciplinary Segregation Unit (DSU), the Intensive Management Unit (IMU), and the Administrative Segregation Unit (AdSeg), except for in the case of AI/AN inmates. We cannot share food from our Pow-Wow Ceremony.

Inmates recently released from SHUs are given red-tinted IDs indicating their status and conditional loss of privileges. These inmates lose privileges to attend special feeds, recreation time, eligibility for designated job assignments, and other opportunities the general population enjoys. However, they cannot be barred from practicing their religion or observing religious activities in the prison. That is unless they are AI/AN inmates. Our Native brothers who earn their time out of SHUs are deemed ineligible to attend a ceremonial drum callout or our once annual Pow Wow. No other race in SRCI faces this discrimination. No other religion in SRCI faces this discrimination.

I feel it important to point out that every recognized religious group at SRCI is given time to meet for weekly prayer services. The AI/AN men here are allowed only once monthly prayer services at Sweat Lodge. While our Native circle reasonably acknowledges the logistic hardship of weekly Sweats, we would like to achieve that option at some point. This is in order to be on par with nearly every other correctional facility in Oregon. In the mean time we want to be allowed to at least meet for a weekly prayer circle.

Currently, each of the 3 complexes at SRCI use one Friday of the month to conduct Sweat Lodge ceremonies. The schedule is as follows: Complex 1 uses the first Friday of the month, Complex 2 uses the second, and Complex 3 uses the third Friday. The fourth Friday is unused. The explanation offered for not continuing programming is that from 8:45am-1pm on each of those Fridays, AI/AN inmates can use that time to sing, dance, drum, conduct Canupa ceremony and conduct Sweat Lodge ceremony. Traditionally, each of those ceremonies are stand-alone observances. They do not get mixed together to fill time limits. The current practice is not respectful of Native American cultural practices.

In past years, inmates on the ODOC institutional Sweat Lodge Ceremony call-outs were allowed to attend annual Pow Wow Ceremonies. Their listing on the Sweat Lodge Ceremony call-outs were the only condition to be able to attend. Currently, AI/AN inmates are required to have been on Sweat Lodge Ceremony call-outs for a minimum of 6 months. At SRCI, other religious groups do not have this requirement applied to their adherents. It is also culturally offensive to implement this non-traditional condition upon inmates who have committed no disciplinary infractions.

We acknowledge the past needs to suspend programming during the administrative investigation. The majority of the AI/AN brothers respected and held precious the benefits of these programs. As a community, we assert that a man who puts his wants before the group's interests will lose his place in our community. The men who decided to do this were socially ostracized. During the investigation our convictions aligned with that of the SRCI administration. What has happened is that the actions of a few people have been used to mete out punishments that ultimately make re-offense more likely. We were punished and continue to be punished for their actions, while they are in another place.

In our prolonged punishment, we find a perfect environment for prison gangs to recruit and admit new inmates. The vacuum that was created by the lack of positive programming has left new inmates with a higher likelihood of susceptibility to be groomed for gang initiations. Lack of activities for inmates to engage in increase susceptibility to drug abuse, violence and other harmful behaviors. This problem threatens the health and happiness of our people. The problems that brought our AI/AN brothers to prison were born outside where you are. When we return to you, we want to be in a better place. The lack of positive programming makes that nearly impossible.

In an effort to promote health and healing in our community, we seek a strategic partnership with ODOC administration to alleviate the disparities we find amongst our people and community. We have some recommendations to help spiritual /ceremonial access for AI/AN inmates. The goal of this cultural engagement is to mitigate deviant behaviors during incarceration and reduce recidivism after incarceration.

Community Recommendations:

- 1. Allow red-tagged inmates to observe/practice religious ceremonies**
- 2. Remove the 6-month Sweat Lodge Ceremony Call-Out requirement for Pow-Wow Ceremony attendance**
- 3. Ceremonies be conducted separately, not together**
- 4. Allow once-yearly religious feast foods to be shared with AI/AN inmates in SHUs**
- 5. Reinstate the suspended Native American programs**
 - Beading Program**
 - Native Theater**
 - Art Program**
 - Canupa Ceremony**

Institutional racism is when an organization implements a system of operations and policies which do not provide equal access to services for users. This makes the institution better-suited to serve one group over another. It's often inherited and unintentional. Often, it does not reflect the personal convictions of the individuals that make up an organization. The elusive nature of institutional racism can make it difficult to discern and easy to ignore. In our case, the policies which produce our enumerated inequalities are not hidden or subtle. Historically, the state and its workers are the last to amend their practices to serve social equality. The proposed improvements are opportunities for prisoner engagement and rehabilitation through proven, centuries-old modalities.

They are recommendations that serve religious freedom and the ODOC Mission:
"The mission of the Oregon Department of Corrections is to promote public safety by holding offenders accountable for their actions and reducing the risk of future criminal behavior."

The views and opinions expressed in this letter are solely my views. I accept full responsibility for them.

Ga-lo Vann aka
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If you have any questions or concerns, please direct them to me at the address given above.