



YUKON GLADUE



**RESEARCH & RESOURCE
IDENTIFICATION PROJECT**



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The Yukon Gladue Steering Committee was comprised of representatives of: The Council of Yukon First Nations Justice Programs, The Carcross/Tagish First Nation Community Justice Office, The Kwanlin Dün First Nation Justice Department, The Public Prosecution Service of Canada Yukon Region, Yukon Legal Services Society and the Government of Yukon Department of Justice.

Numerous representatives from various organizations throughout the Yukon contributed to the project in the form of providing information or interpreting information including: Chütsi Vision Research and Consulting, Stevens Justice Consulting, Gerry Ewert from the Yukon First Nations Statistics Agency, at least one representative from each of the 14 Yukon First Nations and other community support representatives. A number of Yukon Territorial Judges provided insight or commentary on the Gladue efforts in the Yukon to date including: Chief Judge Ruddy, Judge Cozens, Judge Chisholm and Deputy Judge Luther.



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INTRODUCTION



One evening an old Cherokee Indian told his grandson about a battle that goes on inside people. He said, ‘My son, the battle is between two ‘wolves’ inside us all.

One is evil. It is anger, envy, jealousy, sorrow, regret, greed, arrogance, self-pity, guilt, resentment, inferiority, lies, false pride, superiority, and ego. The other is good. It is joy, peace, love, hope, serenity, humility, kindness, benevolence, empathy, generosity, truth, compassion and faith.’

*The grandson thought about it for a minute and then asked his grandfather: ‘Which wolf wins?’
The old Cherokee simply replied, ‘The one you feed.’*



Since 2010, approximately 50 Gladue-type reports have been filed with Yukon Courts. All of the reports were provided on an ad hoc basis by report writers who have received little or no formal training and who took on the responsibility with no additional funding or support to supplement their existing positions. This approach proved to be unsustainable as the demand for reports increased. As a result, in 2014, a proposal was submitted (and subsequently granted) to Canada’s Aboriginal Justice Strategy to conduct research to try and determine if a formal Gladue program would be feasible and to create some basic protocols that could help support such a program. In order to help with the project, a ‘Yukon Gladue Steering Committee’ was formed comprised of a representative from the Yukon Public Prosecution Service Office, the Yukon Government’s Department of Justice, Yukon Legal Services Society, the Council of Yukon First Nations Justice Programs Office, the Carcross/Tagish First Nation Community Justice Office, and, the Kwanlin Dun First Nation’s Justice Department.

Members of the Steering Committee agreed that it was important to advocate for the creation of a funded Gladue program that could provide Yukon Courts with Gladue reports in a professional, timely and consistent fashion. Informal discussions with various members of the judiciary showed strong support of any initiative that would provide Yukon courts with Gladue reports or Gladue information. A number of Judges have said the Gladue reports they received to date have been very valuable in helping them understand the accused’s life circumstances and provided information that helped them craft a “fit and proper” sentence.¹

The Steering Committee agreed with the following objectives set out in the proposal: conduct research to assess what has been done thus far related to the provision of Gladue reports in the Yukon territory; conduct a cross jurisdictional analysis to look at what other jurisdictions in Canada have done to date with respect to the provision of Gladue reports; collect and review available data to

determine whether or not a Gladue program in the Yukon would be feasible; and, draft some basic protocols and procedures that could help a Gladue program operate.

Much of the interest to date in seeing the creation of a formal Gladue program in the Yukon has been driven by the efforts of the former Manager of Justice Programs for the Council of Yukon First Nations and the former Community Justice Coordinator for the Carcross Tagish First Nation. Their common vision was sparked by similar work experiences with Aboriginal clients in the Justice system and a desire to see things done differently and in a more holistic way. That is a major aim of this project. In order to do that, a brief look at the historical and current realities of First Nations involvement with the Canadian Criminal Justice system is necessary. To that end, the following is a potted history of the over-representation of Aboriginal people in the Canadian criminal justice system which eventually led to the creation of the Gladue sentencing principles.

¹ Feedback received during a lunch-time meeting with Territorial Court Judges Karen Ruddy, Michael Cozens, Peter Chisholm, and Deputy Judge Donald Luther in November 2014.

In 1996, the Canadian Parliament proclaimed Bill C-41 which, for the first time in Canadian history, formally identified the purposes, principles and objectives of sentencing. Included in Bill C-41 was a provision to the Criminal Code designed to reduce the disproportionate number of Aboriginal people who received custodial sentences. Section 718.2(e) states that "... 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."

This amendment to the Criminal Code was the culmination of more than 30 years' concern about the disproportionate numbers of Aboriginal people who were being locked up in jails and penitentiaries across Canada. In 1965, the Ouimet Report was one of the first to make recommendations to reform sentencing and address systemic discrimination against Aboriginal people in the justice system. Throughout the 1970s and 1980s, numerous reports on sentencing were also published, including the Hugesson Report (1973) and the Goldenberg Report (1974). These were followed by the publication of a report produced by the Law Commission of Canada in 1976 that ultimately led to a government review of sentencing three years later.²

It was not until the late 1980s that attempts were made to address the over-representation of Aboriginal offenders in correctional institutions. There were three significant reports published back-to-back that renewed calls for sentencing reform: the Archambault Report, Locking up Natives in Canada, and, The Justice System and Aboriginal People. Incidentally, the last of these reports, which came out of public inquiry in Manitoba, helped shape the wording of s.718.2(e).³

In the early 1990's, the Royal Commission on Aboriginal Peoples (RCAP) also released their report on criminal justice titled "Bridging the Cultural Divide". The first major finding of the report stated that:

The Canadian criminal justice system has failed the Aboriginal peoples of Canada – First Nations, Inuit and Métis people, on-reserve and off-reserve, urban and rural-in all territorial and

*governmental jurisdictions. The principal reason for this crushing failure is the fundamentally different world views of Aboriginal and non-Aboriginal people with respect to such elemental issues as the substantive content of justice and the process of achieving justice.*⁴

In 1994, Bill C-41 was introduced and passed which ultimately led to s.718.2(e) being added to the Criminal Code two years later in 1996.

At first, judges and others in the criminal justice system had little idea how to incorporate s.718.2(e) in sentencing. It was not until the Supreme Court of Canada's landmark decision *R. v. Gladue* in 1999 that some clarity was provided about how s.718.2(e) should be used at sentencing.

In 1997 a young Aboriginal woman named Jamie Gladue pled guilty to manslaughter for the killing of her common law partner. At the time of sentencing, the Judge said there were no special circumstances arising from the Aboriginal status of the accused because she was living in an urban area off reserve and not "within the Aboriginal community as such." As a result, she received a sentence of three years imprisonment and a ten year weapons prohibition.

Ms. Gladue appealed her sentence of three years imprisonment to the British Columbia Court of Appeal. One of the grounds she relied on was whether the trial judge failed to give appropriate consideration to her circumstances as an Aboriginal offender as set out in s.718.2 (e). The majority of the BC Court of Appeal found that the Judge correctly applied s.718.2 (e) and the appeal was dismissed.

It was then appealed to the Supreme Court of Canada. As a result, the Supreme Court of Canada analyzed and set out how s.718.2(e) should be interpreted and applied.

The analysis concluded that Judges must undertake the sentencing of an Aboriginal offender "individually" and "differently" because of the unique circumstances of Aboriginal people. At the time of sentencing, the Judge must consider:

a) *The unique systemic or background factors which may have played a part in bringing the particular Aboriginal offender before the courts; and*

b) *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.*

In order for the trial Judge to take these factors into consideration, case specific information about the offender could come from their counsel who could in turn receive information from community representatives.

It also concluded that s.718.2(e) applies to all Aboriginal people, regardless of whether they live on reserve or off, in a city centre or rural area, whether they are status or non-status and that Aboriginal offenders retained the right to waive the gathering of this type of information.⁵

The Director of Aboriginal Legal Services in Toronto, Jonathan Rudin, in his commentary on *R. v. Gladue*, made the following observations:

*Gladue provides some opportunities to take some meaningful steps to counter the increasing reliance on incarceration as the response of choice of the courts to the sentencing of Aboriginal offenders. In order to make the promise real however, sentencing judges must be presented with realistic assessments of offenders and of non-jail community options. This need provides a challenge to the Aboriginal Courtworker program and to Aboriginal alternative justice programs. If these programs are not to be found wanting, serious consideration must be given to both training and resource needs. It would be unreasonable to expect that the same number of people currently delivering services can suddenly deliver significantly increased and enhanced services at a moment's notice. The opportunity is here to start to make real changes to what the Court describes as a "crisis" in the criminal justice system in Canada. These changes however will require a concerted effort from a variety of sources to ensure that the promise of change is not lost.*⁶

² There is an excellent summary of the legislative history of s.718.2(e) in Tamie Helena Fennig's Master's thesis "Sentencing Aboriginal Offenders: Section 718.2(e) of the *Criminal Code of Canada* and Aboriginal Over-Representation in Canadian Prisons", Simon Fraser University, 2001.

³ In 1987, the Royal Commission on Sentencing published the *Archambault Report*. This was followed a year later by Michael Jackson's "Locking Up Natives in Canada" which was published by the Canadian Bar Association. But perhaps the most significant report came out of a public inquiry in Manitoba. "The Justice System and Aboriginal People" published in 1991 had a huge impact on the development of s.718.2(e).

⁴ Royal Commission on Aboriginal People, *Bridging the Cultural Divide: A Report on Aboriginal People and Criminal Justice in Canada* (Ottawa: The Commission, 1996), at 309.

⁵ See *R. v. Gladue*, [1999] 1 S.C.R. 688.

⁶ Jonathan Rudin is the Program Director of Aboriginal Legal Services in Toronto. His commentary on *R. v. Gladue* was published in May 1999, a month after the Supreme Court of Canada's decision.

However, after nearly 16 years after this landmark decision, it is arguable that not much has changed for Aboriginal people in the justice system. In fact, more Aboriginal people are being locked up in Canadian correctional facilities than they were back in 1999. This sad statistic was not overlooked by the Supreme Court of Canada in its Ipeelee Decision in 2012, which reaffirmed the principles set out in Gladue. It noted that between 1996 and 2001, Aboriginal incarceration rates increased by three per cent while non-Aboriginal incarceration rates declined by 22 per cent. And that between 2001 and 2006, there was a nine percent decrease in prison admissions overall, but Aboriginal incarceration rates increased by four per cent.⁷

A 2012 report by Public Safety Canada provided some alarming statistics as well. It noted that while Aboriginal people only made up roughly four percent of Canada's population, they accounted for more than 20 per cent of offenders in federal penitentiaries. The situation is worse for Aboriginal women. In 2010, Aboriginal women made up nearly a third of the total number of female federal offenders, and in the past 10 years, the number of female federal offenders has increased by 90 per cent.⁸

According to the Canadian Bar Association, the recent imposition of mandatory minimum sentences for certain offences has resulted in more people of all ethnicities going to jail in spite of the fact that crime rates are the lowest they have been for 40 years.⁹

Yet in spite of these statistics and judicial encouragement coming from the Supreme Court of Canada and other lower courts, Canada's provinces and territories have been slow to embrace the "promise of change" that Jonathan Rudin wrote about immediately following the Gladue Decision in 1999.

Ontario however, has actually led the way through Aboriginal Legal Services Toronto with the creation of a Gladue Program that pioneered the use of Gladue Reports¹⁰ which ultimately led to the creation of Gladue Courts in Toronto, Brampton, Sarnia and St. Catherine's. The cross-jurisdictional summary section of this report takes a look at what other jurisdictions have done in relation to Gladue, but it is fair to say that overall, little has been provided in terms of formal funding or resources to make it easy for judges to meet their s.718.2(e) obligations.

For certain, in the Yukon, very little has happened in terms of establishing a Gladue program or even funding Gladue reports in any formal sense. There have been other sentencing initiatives explored in the past, most notably circle sentencing, which have gone a long way towards helping judges understand the importance of community involvement in sentencing. Territorial Court Judges Barry Stuart and Heino Lilles strongly believed that a "fit and proper" sentence could only be handed down after careful consideration of an accused's life history placed in a culturally-appropriate context. More importantly, as Judge Lilles said in *R. v. Schafer*, the decisions of the courts cannot address the root causes of crime—only the community can do that.¹¹

That said, prior to 2010, not much happened to ensure that judges had the information necessary to meet their Gladue obligations. There were some attempts by Aboriginal Court Workers to provide Gladue type information verbally as well as some long-serving Probation Officers with good community connections who provided pre-sentence reports (PSR's) that reflected some of the Gladue principles—but no formal Gladue Reports had been filed.

Then, in 2010, a request for a Gladue report was made in preparation for a sentencing hearing in Carcross. The accused was an older Aboriginal woman with a lengthy and violent criminal history. Her lawyer, who had become aware of the accused's tragic life history in preparation for sentencing felt that her client would benefit from a Gladue Report. The Community Justice Coordinator who worked for the Carcross/Tagish First Nation, who had known the accused and some members of her family for many years, agreed to try and write the report. It proved to be easier said than done. Because no formal Gladue Reports had been filed in the Yukon before, there were no examples of what they looked like and what information they were supposed to contain. Fortunately, Jonathan Rudin at Aboriginal Legal Services in Toronto was willing to provide a number of "sample" reports that were filed in Ontario as guiding documents and to offer some very helpful advice to the Community Justice Worker.

At the accused's sentencing, the judge made reference to the report that was prepared by the Community Justice Coordinator. While the Judge described it as "well balanced and thoughtful", he expressed some concerns about its origins and referred to it as a "community report" rather than a Gladue Report. The accused ended up appealing her sentence on the grounds that the sentencing judge did not fully consider her Aboriginal status pursuant to s.718.2(e). Further, she maintained that her sentence was excessive and unfit because the judge over-emphasized deterrence and denunciation to the exclusion of the objectives of rehabilitation and restorative justice.

Although the Yukon Court of Appeal dismissed the appeal, it raised some concerns about the weight given to a "non-statutory" court report at sentencing. The decision

⁷ Ipeelee, para 62

⁸ Mandy Wesley, "Marginalized: The Aboriginal Women's Experience in Federal Corrections", Public Safety Canada, Aboriginal Corrections Policy Unit, Ottawa, 2012

⁹ C.C. Barnett and William Sundhu, Canadian Bar Association National Magazine, 15 April, 2014.

¹⁰ A Gladue Report is a pre-sentence report (not usually written by a probation officer) which provides a very detailed examination of an accused's life history, paying special attention to factors of systemic racism, while at the same time providing cultural and community context to the accused's biography. These reports also provide a list of community resources that could support the accused if there is to be a community component to the sentence.

¹¹ *R. v. Schafer*, YKTC 2000, para 92

included the following comment:

“Importantly, these included the Gladue Report produced by her First Nation for the purposes of this sentencing, which was comprehensive and sensitive to both Ms. Good [the accused] and her community. It is fair to say that it focused entirely on her Aboriginal background and the support available to her from both Aboriginal and non-Aboriginal sources in Carcross. I disagree with Ms. Good’s view that the judge exhibited skepticism about this report during the proceedings. He did raise a concern about its genesis and the fact that it did not have a statutory basis as do pre-sentence reports. He went on to say, however, that he found nothing objectionable about the report, described it as thoughtful and well-balanced, and assured the parties that he would “certainly have regard to it”. In my view, this exchange arose from a generic concern about the routine acceptance of “private pre-sentence reports”, and was not a criticism of this report.”¹²

Coincidentally, around the same time, the Justice Manager for the Council of Yukon First Nations (CYFN) had also begun occasionally preparing Gladue Reports for clients and filing them with the courts despite not having a specific mandate to do so. The C/TFN Justice Coordinator and CYFN Justice Manager began to compare their approaches, reports and experiences in order to improve their efforts. Initially, the reports provided by C/TFN were only for its own citizens.¹³ However, as the demand for reports grew, C/TFN made the Justice Coordinator available to provide reports for citizens of other First Nations. A few judges commented on this saying it was unusual that the burden of funding the reports fell on a First Nation which did not even have an interest in the outcome of the proceedings.¹⁴ The CYFN Justice Manager would provide reports for First Nations’ citizens irrespective of their First Nation affiliation. It bears repeating

that no extra money was being provided to support the production of these reports. In essence, the reports were being provided pro bono by the two employees of C/TFN and CYFN supplemental to their pre-existing job requirements. This also meant that not all requests for reports could be met.

In time, it became clear that this approach was not sustainable. No governmental agencies were offering to provide financial support for the production of Gladue Reports in the territory over and above the in-kind contributions through salary dollars that were already being made by the C/TFN and CYFN employees or even offering to discuss the possibility of creating a Gladue Program. In 2012, in an effort to raise more awareness and foster interest of other potential report writers, CYFN and C/TFN jointly submitted a proposal to Canada’s Aboriginal Justice Strategy (AJS) Capacity Development Fund. While the AJS was not willing to provide program dollars, it was willing to support a capacity development initiative that would hopefully result in other Community Justice Workers receiving some training so that they could potentially start providing reports through their respective organizations.

In order to increase their knowledge about Gladue, the proponents of the project invited a Yukon Legal Aid staff lawyer to join them to travel to Toronto to spend time with program director Jonathan Rudin and his staff at Aboriginal Legal Services Toronto (ALST) to learn about their Gladue Program and Gladue Courts. Mr. Rudin and his team spent a full day meeting with the Yukon contingent and arranged for visits to both downtown Gladue Courts where Crown prosecutors, defence lawyers, Aboriginal Court workers and judges shared their experiences working with the Gladue Courts.

Upon return to the Yukon, the project proponents then traveled to four Yukon

communities which had expressed interest in Gladue training and provided a mentorship opportunity to 4 Community Justice Workers who expressed interest in writing Gladue reports. Three of the participants went on to write reports as part of a mentorship program immediately following the training. A total of six reports¹⁵ were produced by the trainees and filed with Yukon courts.

In total to date, around 50 Gladue Reports have been prepared and filed with the courts by Yukon report writers. Two were filed with British Columbia’s Provincial Court; the rest were submitted to either the Yukon Territorial or Supreme Court. Six of the reports were requested by the Northern Tutchone Tribal Council; One by the Carcross/Tagish First Nation; One by the Kwanlin Dun First Nation in Whitehorse; and, One by the Public Prosecution Service of Canada. The rest were all requested by defence counsel and/or the Yukon Courts. Based on this information, roughly 82 per cent of referrals for reports were made by defence counsel. That could create an expectation that it is defence’s responsibility to ensure that Gladue information is available to the court. That would be incorrect however, because it has been re-affirmed in numerous court decisions that it is incumbent on all parties to ensure that Gladue information is provided at sentencing.

This point was highlighted by then-Yukon Chief Territorial Court Judge Michael Cozens during a 2011 sentencing hearing:

[25] I note that the onus of ensuring sufficient information about an aboriginal individual’s particular circumstances rests on all of us, Crown, defence, and the sentencing judge. In the absence of a true Gladue Report, it is critical that pre-sentence reports contain some details about an offender’s aboriginal status and circumstances. Where the pre-sentence report does not contain sufficient relevant

¹² Written reason by Madame Justice Neilson, *R. v. Good*, 2012 YKCA, para 31

¹³ Strictly speaking, the accused (and the requesting agency, unless it is the court) is not the “client”. This seems to be a common misunderstanding. The reports are being written to help judges meet their obligations under s. 718.2(e), so ultimately the judges are the clients.

¹⁴ See *R. v. Townsend*, 2013 YKSC 5, para 45

¹⁵ Two of these reports fell short of the standards required. One was riddled with factual inaccuracies and assumptions and caused judicial concern. Although the sentencing went ahead unimpeded, the report could have derailed the sentencing process. Fortunately, the judge was aware that the report was being provided by a “trainee” and consequently did not sanction the report writer. The other report, which was being provided for a high profile offender’s sentencing, resulted in the sentencing hearing being adjourned until a re-worked report could be completed.

information, defence and Crown should be prepared to make submissions and, where necessary, call relevant evidence. In *R. v. Kakekagamick* 2006, 81 O.R. (3d) 664, the Ontario Court of Appeal stated in paragraphs 52 and 53:

The original pre-sentence report in this case was deficient in that it failed to address adequately aboriginal circumstances and alternative approaches (as described in the second report ordered by this court after the appeal was heard). I would note that the Criminal Code was amended in 1996 to include s. 718.2(e) and Gladue was decided in 1999. One would expect that Corrections Services, Probation and Parole would be now fully appreciate the nature and scope of the information required in a pre-sentence report for an aboriginal offender.

Given the deficiencies in the pre-sentence report, counsel and the trial judge should have considered the desirability of another report or further evidence. Counsel, and perhaps especially the Crown, could and should have raised the issue in this case. They did not, and it fell to the sentencing judge to consider whether further inquiries were either appropriate or practicable. No such inquiry took place.¹⁶

Whether or not the reports filed to date in the Yukon have contributed to a reduction in recidivism is hard to say. Using information obtained from the Yukon Court Registry Information System, which has data on 47 Gladue Report recipients, the indications are that only 24 percent of report recipients have re-offended. Only 16 percent of these have been accused or convicted of more serious offences involving threatening or assaultive behaviour. These figures are somewhat skewed because of the small target group. Further, five of the 47 are serving lengthy custodial sentences and as a result should be exempt from the survey group, thus reducing the number of offenders surveyed to 42. Even with this re-calculation, there is only a 26 percent recidivism rate. Given the Yukon's high recidivism rate¹, these are encouraging

figures. Of course, it is difficult to say how much of a role the preparation of a Gladue Report contributed to that figure.

The current reality in the Yukon is that many Aboriginal offenders are still being sentenced with only a superficial summary of their life circumstances and little to no information about community or culturally relevant resources at their disposal. Pre-sentence reports (PSR's) are not always ordered for every sentencing and probation officers are not always able to meet the demand for PSR's in a timely fashion. Adult Probation also requires six to eight weeks' notice to provide a PSR, which can create a long delay for remand inmates that are in jail awaiting sentencing and possible release. The recent Yukon Court of Appeal decision *R. v. Chambers* now also means that remand inmates who have breached their release conditions can no longer earn time and a half remand credit.¹⁷

There is no question that PSR's provided by Adult Probation are often replete with valuable information about an accused's life circumstances. There are many long-serving probation officers who have deep and meaningful connections with the communities they serve and consequently are well-situated to provide sufficient details about their clients' life histories. Similarly, they are also aware of the community resources that could be made available to an accused if there is to be a non-custodial component to the sentence.

However, that is not always the case as was demonstrated during a 2012 sentencing for an Aboriginal man that had been provided with a PSR prepared by Adult Probation Services. It was found that the Probation Officer did not actually speak directly with the accused (as he was on remand at the Whitehorse Correctional Centre) or any of the collateral contacts provided by the accused during the preparation of the PSR. The report was based entirely on information obtained from the RCMP and from Adult Probation files. The report writer subsequently recommended a lengthy period of incarceration for the accused. This sentencing judge made the

following comments in his decision:

[12] Firstly... such a recommendation is wholly inappropriate in a pre-sentence report. The Court, in ordering a Pre-Sentence Report, is not interested in what the author of the Pre-Sentence Report's opinion as to what sentence should be imposed. What the Court wants is information regarding the personal circumstances of the offender, both historical and present; information related to the offender's ability to comply with terms of community supervision, both historical and present and including available supports; recommended terms of community supervision; and information regarding any risk assessments that are available.

[13] Secondly, the lack of information regarding Mr. Atkinson's Aboriginal heritage falls far short of that required by law...

[15] A Gladue Report was not requested or prepared for Mr. Atkinson's sentencing hearing, to my knowledge. While I am not sure why that was the case, I recognize that there are only limited personnel and resources available to prepare such reports, noting that these do not emanate from the Adult Probation office.

At present, there is a high level of uncertainty around the provision of Gladue Reports for Yukon Courts despite the fact that it is an Aboriginal persons legal right to have Gladue information provided to the court and a demonstrated demand for Gladue Reports. Both of the former report writers who provided the bulk of reports in the past are no longer in the position to continue to provide reports with any certainty in spite of continued requests. Offender Supervision Services has attempted to help fill the gap by having some of their Probation Officers provide pre-sentence reports with a "Gladue Considerations" section however they have indicated that this solution is not ideal.

¹⁶ See *R. v. Blanchard*, 2011 YKTC 86

¹⁷ See *R. v. Chambers*, 2014 YKCA 13

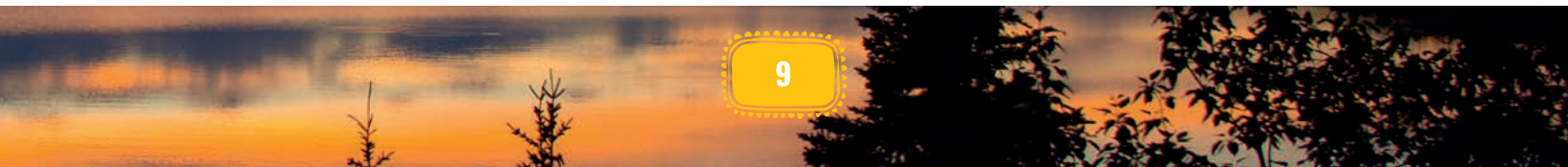


The recent release of the Auditor General's Report on Corrections in the Yukon also raises a number of concerns including: a lack of core rehabilitation programs available in the communities; unmet obligations under the Corrections Act to incorporate the cultural heritage and needs of Yukon First Nations into programs and services; inadequate management of offenders on probation; and, support and training for probation officers. These issues are especially concerning given that the report also notes "The majority of offenders in the Yukon are First Nations male and more than half are from communities outside of Whitehorse."

The Department of Justice does indicate that it intends to address these issues by developing a strategy with a targeted implementation of initiatives to address the shortfalls in providing programming to offenders under community supervision.¹⁸ Perhaps one of these targeted initiatives could include the establishment of a formal Yukon Gladue Program.

As indicated earlier in this introduction, this project's aim is to look at the potential for establishing a formal Yukon Gladue Program that could provide Gladue reports to Yukon courts. To assist with this, the project looked at a number of different areas and includes sections that will present: a summary of data related to aboriginal incarceration rates in the Yukon; a cross jurisdictional summary of Gladue related efforts in Canada to date; sample operational documents that could support a Yukon Gladue Program; a sample aftercare Directory that could support a Yukon Gladue program; and, findings and recommendations for next steps.

¹⁸ See the Report of the Auditor General of Canada to the Yukon Legislative Assembly-2015 Corrections in Yukon-Department of Justice



GLADUE REPORT PRACTICES: SUMMARY



Currently, seven jurisdictions in Canada have a funded Gladue Report program. Those Gladue report programs are summarized below. Outside of the below jurisdictions, if Gladue information is provided, it is provided orally, through PSRs, or through unfunded Gladue reports.¹

1. Alberta

In April 2014, the Alberta government provided \$200,000 to the Native Counselling Services to fund a one-year Gladue Report pilot program. In the first seven months of the program, 247 Gladue Reports requests have been approved, and these reports are in various stages of writing. The program utilizes the writer-roster model, and writers are remunerated \$1,200/report plus mileage. The Native Counselling Services coordinates the program including the referral process, and provides on-going training and mentorship to the report writers. Prior to being filed with the court, each report is reviewed by four managers at the Native Counselling Services.

2. British Columbia

The program out of British Columbia is funded by the Law Foundation of British Columbia, and administered by BC Legal Aid. This program grew out of a pilot program funded by the Law Foundation from July 2011 to July 2013. Between April and November 2014, sixty reports were approved, with an average cost of approximately \$2,300/report. British Columbia also uses the writer-roster system, with writers spread out across the province. Absent special circumstances, BC Legal Aid requires potential writers to complete the Gladue Report writing course offered through the JIBC prior to being added

to the roster. Each report is reviewed by an editor and legal reviewer before being filed with the court. Legal Aid also pays a program manager to coordinate report requests, check-in with writers throughout the writing process, and review the first three reports completed by each writer once they join the roster. Defense lawyers are responsible for forwarding all of the necessary starting materials to the report writer, including the Crown synopsis, prior reports, and client contact information.

3. Manitoba

Historically, Manitoba had a Gladue Report program wherein Legal Manitoba Aid funded an Aboriginal organization, Onashewewin, to write reports. However, as program costs rose, Legal Aid's program has contracted. Currently, most clients receive blended reports where Gladue considerations are incorporated into PSRs. However, Legal Aid Manitoba does continue to fund approximately 10 Gladue Reports per year in cases where it is deemed that the blended Gladue/PSRE model wouldn't be appropriate. In those instances, certificate lawyers identify a private contractor to write the Gladue Report, and Legal Aid pays disbursement costs for the report. The disbursement costs range from \$750 - \$1,500/report.

4. Nova Scotia

From 2010 or 2011 onwards, the Nova Scotia department of justice has funded a Gladue Report program administered by the Mi'kmaw Legal Support Network. The program has grown steadily since its inception, and in 2013, 55 reports were filed with the courts through the program. The Mi'kmaw Legal Support Network has a roster of 10 writers who reside throughout the province, and are contracted by the Mi'kmaw Legal Support Network to write the reports. Writers are compensated \$2,000/report, and may also receive a travel allowance of up to \$500/report. The Coordinator of Court Reintegration Services: Mi'kmaw Legal Support Network reviews each report before it is filed with the court, provides on-going training and support to writers, and manages the referral process. The latter includes gathering all of necessary documents and disclosure from the Crown, and forwarding these to the report writers. The time spent by the Mi'kmaw Legal Support Network to coordinate the program is not currently compensated, and the organization is examining options to fund a part-time coordinator for this program.

¹ April, S. and Orsi, M.M. (2013). *Gladue Practices in the Provinces and Territories*. Ottawa: Department of Justice: Research and Statistics Division. Note: 2013 DOJ report says Gladue Reports are available in NWT. However, the Law Society of NWT's Summer 2014 newsletter says that none are available. The Quebec government is currently considering a proposal to fund a Gladue Report program through the Department of Justice. A decision on that is expected to be made by April 1, 2015.



5. Ontario

Ontario has a multi-faceted Gladue Caseworker program. Major funding is provided by Legal Aid Ontario, who recently announced \$1 million over two years to Aboriginal Legal Services of Toronto (ALST) to administer the program. The Ministry of the Attorney General of Ontario provides some additional program funding for the aftercare workers associated with the program. Ontario is unique in that it doesn't rely on the roster model. Rather, they employ nine full-time Gladue Report writers. With the recent funding increases from Legal Aid Ontario, it is expected that the program will grow to employ 13 writers. The bulk of the writers are based in the Toronto area, but an increasing number are now located in other parts of the province. In addition, ALST has three aftercare workers. The aftercare generate shorter reports which focus solely on service or sentence options which are appropriate in light of the client's Aboriginal circumstances, and also help clients follow up with the recommendations contained in the Gladue Reports. Another

distinction of ALST's program is that, in addition to the Gladue Reports prepared for sentencing, the program also generates reports for specialized Gladue bail courts. Finally, ALST also employs staff to coordinate, administer, and support the program; namely, the Director, Senior Gladue Specialist, and Gladue Report Coordinator. The total the average cost/report is \$2,500.

6. Prince Edward Island

This spring Prince Edward Island launched a Gladue Report program which resulted in three report writers being trained, and one Gladue Report being filed with the courts. The program is administered by the Mi'kmaq Confederacy, and the writer's wages are also paid for by the Mi'kmaq Confederacy. Report requests are transmitted from the court to the Mi'kmaq Confederacy, who subsequently subcontracts a report writer. The director of Aboriginal justice of the Mi'kmaq Confederacy reviews and finalizes the reports before they are filed with the courts. The writers are remunerated \$2000 - \$2500 per report plus up to \$500 in travel costs.

7. Saskatchewan

In summer 2014, Legal Aid Saskatchewan began a pilot Gladue Report program. Legal Aid Saskatchewan pays BC-based Aboriginal lawyers to complete Gladue reports for their clients, and to mentor 'learner' report writers whom are based out of Saskatchewan. Including the writer's travel costs, each report costs \$3,600 plus disbursements. This cost includes editing, which is completed by another Gladue report writer. The program places priority on younger men and women whose criminal record and index offence are such that a community-based disposition is a possibility.

PROVINCIAL AND TERRITORIAL GLADUE REPORT PROGRAMS



Currently, seven jurisdictions in Canada have a funded Gladue Report program. Those Gladue report programs are summarized below. Outside of those jurisdictions, if Gladue information is provided, it is provided orally, through PSRs, or through unfunded Gladue reports.¹

1. Ontario

Who Delivers	Funding	# Reports Annually	Writers	Average Cost/ Report	Other Notes
ALST - Gladue Caseworker program	- Pilot phase funded by LAO over 3 year period (2004 – 2007). Total cost for this period: \$500,940. ² MAG funded some additional components of project	- prior to 2014, ALST averaged 250 reports/year. ⁴ - ALST's goal is that the new, increased funding, will allow them to double reports in order to help meet demand ⁵	- As of 2014: nine Gladue Report writers are employed by ALST in Southern Ontario. It is anticipated that 4 more writers will be added in 2014/2015 in the 'near north' i.e. Sudbury, etc. ⁶	\$2,500/report ¹⁰	- In addition to the writers, their program employs the following staff: 1. Gladue Report Coordinator: follow up with writers, catalogues report requests, assigns reports, collects all of the required information and court documents required by the writer to begin the writing process, and confirms the client's contact number 2. Aftercare workers This position created 2006/2007 to assist the offender in carrying out the conditions of sentence by making the necessary arrangements, facilitating contacts, etc. Initially, it was funded by Miziwe Biik, and then ultimately by the Ontario Ministry of the AG. ¹¹ There are now 3 aftercare workers. If the clients are in custody, the aftercare workers connect with the clients on the day they are sentenced.

¹ April, S. and Orsi, M.M. (2013). *Gladue Practices in the Provinces and Territories*. Ottawa: Department of Justice: Research and Statistics Division. Note: 2013 DOJ report says Gladue Reports are available in NWT. However, the Law Society of NWT's Summer 2014 newsletter says that none are available. The Quebec government is currently considering a proposal to fund a Gladue Report program through the Department of Justice. A decision on that is expected to be made by April 1, 2015.

² Campbell Research Associates (March 2008). *Evaluation of Aboriginal Legal Services of Toronto Gladue Caseworker Program, Year Three*. Retrieved from ALST website: http://media.wix.com/ugd/fcfa63_9b8e7d25b20f4c9bb8c1deabc28c8a7f.pdf. This amount covered salaries and benefits for two caseworkers, supervision by the director, training, mileage, computers, evaluation, rent, and administration.

³ Legal Aid Ontario. 2014, June 27. Gladue report services to expand in Ontario [press release]. Retrieved from: http://www.legalaid.on.ca/en/news/newsarchive/1406-26_gladuereportservices.asp

1. Ontario (cont.)

Who Delivers	Funding	# Reports Annually	Writers	Average Cost/ Report	Other Notes
	-On June 26, 2014 Legal Aid Ontario announced an additional \$1 million over two years to ALST for the program ³		<p>- report writers attend court when the sentencing is scheduled to occur. Feedback from the judiciary was that this practice was positive, as it enabled the judiciary to ask the writers questions if necessary.⁷</p> <p>- There is no formal training for writers, or training materials.⁸</p> <p>- However, all writers receive a couple of day^s training upon being hired, and then receive on-going training. ALST usually holds 3 training sessions/ year⁹</p>		<p>If the clients are not in custody, the aftercare workers connect with them before the sentencing date. The judiciary indicated that the existence of these positions increased the judge's confidence that the offender's plan would be followed up on.¹² ALST provides funds to offenders to assist them in obtaining post-sentence treatment.¹³</p> <p>In addition to the above, aftercare workers also write short reports for individuals who do not qualify for full Gladue Reports. These reports focus solely on recommendations, and don't go into the individual's personal circumstances.</p> <p>3. Senior Gladue Specialist: reviews all reports before they're filed with court</p> <p>4. Director of ALST: reviews report requests with the Senior Gladue Specialist</p> <p>- Requests:</p> <p>Either judge, Crown, or defense completes a Gladue Report Request Form and submits this to ALST.¹⁴ In practice, most requests are approved. The only guideline ALST uses to screen out requests is that reports won't be prioritized where the offender is facing a sentence of less than 90 days jail.¹⁵ The Director is finding, however, that the request process often falls apart as people don't want to take responsibility for filling out the form. In his experience, it works the smoothest when, at the time of ordering the report, the judge assigns responsibility for filling out the form to either Crown or defense.</p> <p>- timeframes:</p> <p>program objective: to complete reports in six weeks, if the client is in custody.</p>

⁴ Spray, H. (2014, July 9). Saskatchewan lags in Gladue Reports. *Saskatoon Star Phoenix*. Retrieved from <http://www2.canada.com/saskatoonstarphoenix/news/local/story.html?id=0fb9efc8-7cae-49bf-9c19-944732e0c343&p=1>. This number grew steadily through the program i.e. in 2007, only 100 Gladue Reports were prepared. Note that ALST director estimates that each writer writes approximately 35 to 40 reports per year.

⁵ Spray, H. (2014, July 9). Saskatchewan lags in Gladue Reports. *Saskatoon Star Phoenix*. Retrieved from <http://www2.canada.com/saskatoonstarphoenix/news/local/story.html?id=0fb9efc8-7cae-49bf-9c19-944732e0c343&p=1>

⁶ Interview with Jonathan Rudin, December 11, 2014

⁷ Campbell Research Associates (March 2008). *Evaluation of Aboriginal Legal Services of Toronto Gladue Caseworker Program, Year Three*. Retrieved from ALST website: http://media.wix.com/ugd/fcfa63_9b8e7d25b20f4c9bb8c1deabc28c8a7f.pdf.

⁸ Campbell Research Associates (March 2008). *Evaluation of Aboriginal Legal Services of Toronto Gladue Caseworker Program, Year Three*. Retrieved from ALST website: http://media.wix.com/ugd/fcfa63_9b8e7d25b20f4c9bb8c1deabc28c8a7f.pdf. Training includes: education on legal issues, Gladue decision, sentencing principles, types of programs and services available to Aboriginal offenders. In addition, caseworkers spend time shadowing experienced workers in court and practice the way that the reports are written and how to write them. Finally, caseworkers attend on-going conferences and staff meetings.

⁹ Interview with Jonathan Rudin, December 11, 2014

¹⁰ It is not known whether this includes the cost of the re-integration workers

¹¹ Campbell Research Associates (March 2008). *Evaluation of Aboriginal Legal Services of Toronto Gladue Caseworker Program, Year Three*. Retrieved from ALST website: http://media.wix.com/ugd/fcfa63_9b8e7d25b20f4c9bb8c1deabc28c8a7f.pdf.

¹² ALST evaluation 2007

¹³ Campbell Research Associates (March 2008). *Evaluation of Aboriginal Legal Services of Toronto Gladue Caseworker Program, Year Three*. Retrieved from ALST website: http://media.wix.com/ugd/fcfa63_9b8e7d25b20f4c9bb8c1deabc28c8a7f.pdf.

¹⁴ Campbell Research Associates (March 2008). *Evaluation of Aboriginal Legal Services of Toronto Gladue Caseworker Program, Year Three*. Retrieved from ALST website: http://media.wix.com/ugd/fcfa63_9b8e7d25b20f4c9bb8c1deabc28c8a7f.pdf. The information includes: whether the client is in custody, for how long, the date for which the report is being requested, and if a synopsis of the offence and CPIC report is attached. Note that the 2006 ALST evaluation notes that prior to this standardized process for referrals, the ALST program director reported that a lot of time was wasted at the referral stage.

¹⁵ Interview with Jonathan Rudin, December 11, 2014. The 2006 evaluation suggested that other criteria which might be helpful in determine eligibility include: nature of the charges, the minimum sentence attached to the charges, any mandatory sentence requirements, and time spent in remand custody.

1. Ontario (cont.)

Who Delivers	Funding	# Reports Annually	Writers	Average Cost/ Report	Other Notes
					<p>If the client is in the community, the report writer will usually request more time to complete the report.</p> <p>Some justice system participants (judges etc.) provided feedback that the reports took too long to complete.¹⁶ ALST, however, was reluctant to set an arbitrary cut-off date as it is very time-consuming to contact everyone, and cut-off dates would result in important information being lost.</p> <p>Reports are provided to all parties by noon the day before sentencing. Feedback from the judiciary was that this did not allow them enough time to review the report.¹⁷</p> <p>- Some justice system participants suggested that the program should produce expedited Gladue Reports. Response by ALST: this would take away from the very thing that makes Gladue useful, particularly as compared to PSRs i.e. providing in-depth information about the offender's background and concrete, detailed plans for rehabilitative programs post-release.¹⁸</p> <p>- <i>sealing reports</i>: ALST does not have any policies in place re sealing reports. Rather, they provide the reports to Crown, defense, and the court, and don't release the report to anyone else without the offender's express consent. To their knowledge, there's never been an attempt from a member of the public to obtain a Gladue report from a court file.¹⁹</p> <p>- <i>victim input</i>: ALST does not seek victim impact unless there is likely to be an on-going relationship between the victim and offender. Victim witness is protective of victim, and not amenable to 'sharing' their witness. Specifically, victim witness want to avoid the victim saying one thing to the Gladue writer, and another thing in their victim impact statement.²⁰</p> <p>- <i>advice for our program</i>: it is necessary to build supervision and support into the report-writing process. Otherwise, you're setting your writers up to fail. Their writers can check-in throughout for guidance, debriefing regarding vicarious trauma, etc.</p> <p>- <i>qualities/experience look for in writer</i>: writing and ability to organize material coherently, research skills, empathy, and an ability to maintain boundaries</p>

¹⁶Campbell Research Associates (March 2008). *Evaluation of Aboriginal Legal Services of Toronto Gladue Caseworker Program, Year Three*. Retrieved from ALST website: http://media.wix.com/ugd/fcfa63_9b8e7d25b20f4c9bb8c1deabc28c8a7f.pdf.

¹⁷Campbell Research Associates (March 2008). *Evaluation of Aboriginal Legal Services of Toronto Gladue Caseworker Program, Year Three*. Retrieved from ALST website: http://media.wix.com/ugd/fcfa63_9b8e7d25b20f4c9bb8c1deabc28c8a7f.pdf.

¹⁸Campbell Research Associates (November 2006). *Evaluation of Aboriginal Legal Services of Toronto Gladue Caseworker Program, Year Two*. Retrieved from: http://media.wix.com/ugd/fcfa63_f05894563a3e49079308dd28c7490282.pdf.

¹⁹Interview with Jonathan Rudin, December 11, 2014

²⁰Interview with Jonathan Rudin, December 11, 2014

2. British Columbia

Funding	# Reports / year	Writers	Average Cost/ Report	Other Notes
<p>- Major funding for the pilot (July 2011- July 2013) and continuation thereof was provided by a grant from the Law Foundation of British Columbia.</p> <p>Also, a small number of reports are currently funded by a research project through UBC. Contact: Dr. Shelly Johnson. 604.827.248</p>	<p>- current: 60 reports approved from April to November 2014²¹</p> <p>- from July 2011 to April 2013, 171 cases were approved for Gladue Report disbursements, and 111 of those occurred in the last year of program.²²</p> <p>- the number of reports ordered</p>	<p>- History: prior to 2011, LSS was delivering training for Gladue Report writers. The Law Society built upon this initiative by launching a disbursement fund to pay writers to complete the reports.²⁵ LSS then collaborated with the JIBC to offer Gladue Report writing training as a regular course option at JIBC.²⁶</p>	<p>Costs during the pilot phase: \$2,337.40</p> <p>Breakdown (per report):</p> <ul style="list-style-type: none"> - \$832 program manager; - \$200 program coordinator³⁴; - \$1080 report writer wages; - \$16: average writer's travel; - \$200: editing and mentoring³⁵ 	<p>- In determining who is eligible for a Gladue Report disbursement, the program prioritized Aboriginal women and youth. Reason: these groups are the most marginalized and over-represented in the system³⁶</p> <p>- A few BC court decisions criticized the quality of the Gladue Reports produced under this program. One of the steps LSS took to address these concerns was to attach a form letter to all Gladue Reports submitted to the courts. The letters described the program, writer training, review process, and role of Gladue Reports in sentencing.³⁷</p> <p>- justice system participants identified the following problem areas or weaknesses of the reports:</p> <ul style="list-style-type: none"> a. inconsistent; b. unverified information;³⁸ c. inappropriate advocacy; d. unrealistic sentencing options;³⁹ and e. thin on specifics and details regarding the recommended rehabilitative and restorative programs (i.e. missing information on costs, wait times, etc.) f. some reports contain boiler-plate descriptions of Aboriginal communities, and little detail linking the offender to that community. This takes away from the components which make Gladue Reports distinct from PSRs⁴⁰

²¹ All information regarding the post-pilot phase of the program was provided through an interview with Joleen Steininger, program assistant on BC Legal Aid's Gladue Program December 11 2014

²² Legal Services Society of British Columbia (June 2013). *Gladue Report Disbursement: Final Evaluation Report*.

Retrieved from: <http://www.lss.bc.ca/assets/aboutUs/reports/aboriginalServices/gladueReportDisbursementEvaluationJune2013.pdf>. This is not clarified in the evaluation; however, in order to be eligible for this program, clients most likely have to also be eligible for LSS

²³ Based upon the Gladue Report Disbursement: Final Evaluation Report, it appears that the project received approximately \$400,000 over a little less than two years. This funding covered the program manager, program coordinator, writers fees, and editing and mentoring fees

²⁴ April, S. and Orsi, M.M. (2013). *Gladue Practices in the Provinces and Territories*. Ottawa: Department of Justice: Research and Statistics Division.

²⁵ Legal Services Society of British Columbia (June 2013). *Gladue Report Disbursement: Final Evaluation Report*.

Retrieved from: <http://www.lss.bc.ca/assets/aboutUs/reports/aboriginalServices/gladueReportDisbursementEvaluationJune2013.pdf>

²⁶ Legal Services Society of British Columbia (June 2013). *Gladue Report Disbursement: Final Evaluation Report*.

Retrieved from: <http://www.lss.bc.ca/assets/aboutUs/reports/aboriginalServices/gladueReportDisbursementEvaluationJune2013.pdf>

²⁷ Legal Services Society of British Columbia. (2012). *Gladue Report Writer Roster Policy*. Retrieved from: <http://www.lss.bc.ca/assets/aboriginal/gladueReport>

²⁸ Interview with Joleen Steininger, program assistant on BC Legal Aid's Gladue Program December 11 2014

²⁹ Legal Services Society of British Columbia (June 2013). *Gladue Report Disbursement: Final Evaluation Report*.

Retrieved from: <http://www.lss.bc.ca/assets/aboutUs/reports/aboriginalServices/gladueReportDisbursementEvaluationJune2013.pdf>

³⁰ Interview with Joleen Steininger, program assistant on BC Legal Aid's Gladue Program December 11 2014

³¹ Interview with Joleen Steininger, program assistant on BC Legal Aid's Gladue Program December 11 2014. Legal Aid defines a conflict as having a conflict with the offender or with the offender's family.

³² Legal Services Society of British Columbia (June 2013). *Gladue Report Disbursement: Final Evaluation Report*.

Retrieved from: <http://www.lss.bc.ca/assets/aboutUs/reports/aboriginalServices/gladueReportDisbursementEvaluationJune2013.pdf>

³³ Legal Services Society of British Columbia (June 2013). *Gladue Report Disbursement: Final Evaluation Report*.

Retrieved from: <http://www.lss.bc.ca/assets/aboutUs/reports/aboriginalServices/gladueReportDisbursementEvaluationJune2013.pdf>

³⁴ The coordinator was initially budgeted as a .25 FTE, but their actual duties near the end of the program were reaching .5 FTE. It was recommended that a full-time coordinator be established to administer and coordinate the program. This would further add to the cost of the program, beyond the existent \$2,337/report.

³⁵ Legal Services Society of British Columbia (June 2013). *Gladue Report Disbursement: Final Evaluation Report*.

Retrieved from: <http://www.lss.bc.ca/assets/aboutUs/reports/aboriginalServices/gladueReportDisbursementEvaluationJune2013.pdf>. Note that the evaluation suggests this fee may not be sustainable. Specifically, report writers reported were spending 2* the amount of hours paid for to write the report

³⁶ Legal Services Society of British Columbia (June 2013). *Gladue Report Disbursement: Final Evaluation Report*.

Retrieved from: <http://www.lss.bc.ca/assets/aboutUs/reports/aboriginalServices/gladueReportDisbursementEvaluationJune2013.pdf>

³⁷ Legal Services Society of British Columbia (June 2013). *Gladue Report Disbursement: Final Evaluation Report*.

Retrieved from: <http://www.lss.bc.ca/assets/aboutUs/reports/aboriginalServices/gladueReportDisbursementEvaluationJune2013.pdf>

2. British Columbia (cont.)

Funding	# Reports / year	Writers	Average Cost/ Report	Other Notes
	grew steadily throughout the life of the program, as awareness of the program grew - the limited funding ²³ was found to have directly limited the number of reports completed ²⁴	<p>- <i>training and qualifications</i></p> <p>a. once an individual has completed the JIBC course, they may be added to LSS' writer roster. The JIBC course requirement is waived in some circumstances. An additional requirement is that the writer be Aboriginal, or closely connected to the Aboriginal community that the offender is connected to²⁷</p> <p>b. for their first three reports, beginner writers provide their reports to the program manager, who reviews them and mentors them.²⁸</p> <p>- in respect of the quality issues raised in respect of the reports (see "Other Notes"), one of the recommendations from the pilot evaluation was to involve other justice stakeholders (especially Crown and judiciary) in training Gladue Report writers, and to provide forums for stakeholders to provide their on-going feedback to Gladue Report writers regarding the reports</p> <p>- self-care and continuing training was also requested by the writers²⁹</p> <p>- there are approximately 20 writers on the BC roster. For some of them, this program is their sole source of income. For others, it's something they do on the side.³⁰</p>	LSS is unsure of current report costs. However, they would be somewhat lower as the program no longer has a program coordinator.	<p>g. insufficient information⁴¹</p> <p>- in addition, one participant raised the concern that, if this is to be a restorative justice tool, the victim's perspective should be included in the reports⁴²</p> <p>- lack of follow-up in some cases was said to have undermined the legitimacy of the reports. To address this, one of the program evaluation recommendations was to hire an aftercare worker.⁴³ That has still not happened.⁴⁴</p> <p>- an additional function for the aftercare workers was to help clients process the Gladue report process, as this itself can re-traumatize clients⁴⁵</p> <p>- timelines:</p> <p>i) defense lawyer has a few weeks to get the necessary materials (Crown particulars, prior reports, contact information, etc.) to the writer;</p> <p>ii) from the date that they receive the above information, the Gladue Report writer has seven weeks to complete the report;</p> <p>iii) the report writer provides the report to an editor and legal reviewer (who is a lawyer) one week before the report is due. LSS is copied on all correspondence between the writer, editor, and legal reviewer;</p> <p>iv) the report writer incorporates all of the changes suggested by the editor and legal reviewer, and provides the finished report to the defense lawyer and LSS</p> <p>- In January 2014, LSS produced a detailed guide outlining tips on how to write objectively, how to accurately source statements, and what to include in a report. LSS also developed a checklist for report writers outlining topics to explore in the reports, and questions to ask when conducting interviews for the report</p> <p>- Program manager's current responsibilities in respect of the program: assigns reports to writers based on location and familiarity with region, check-in with writers throughout the process, and mentor writers through their first few reports</p> <p>- LSS does not have any policies in place as to sealing Gladue reports⁴⁶</p>

³⁸ This was a concern that either writer took no steps to verify statements made by subject of report (i.e. residential school records) or because the information in reports was contrary to other information possessed. In R. v. Florence (2013), Judge Watchuk suggested that the report should have included information from other organizations such as CPIC, pre-trial records, or Family and Children's services documents. Barriers to getting that information include inability to access the information (it was suggested this might be partially addressed through inter-agency agreements) and time constraints.

³⁹ Legal Services Society of British Columbia (June 2013). *Gladue Report Disbursement: Final Evaluation Report*.

Retrieved from: <http://www.lss.bc.ca/assets/aboutUs/reports/aboriginalServices/gladueReportDisbursementEvaluationJune2013.pdf>

⁴⁰ Legal Services Society of British Columbia (June 2013). *Gladue Report Disbursement: Final Evaluation Report*.

Retrieved from: <http://www.lss.bc.ca/assets/aboutUs/reports/aboriginalServices/gladueReportDisbursementEvaluationJune2013.pdf>

⁴¹ Specific areas highlighted included: depth about offender's background and options for sentencing, empirical research and statistics to establish socio-economic circumstances and systemic discrimination in the specific communities, and more information about effects of dislocation from communities and how that is directly connected to colonialism and the intergenerational harms of residential schools

2. British Columbia (cont.)

Funding	# Reports / year	Writers	Average Cost/ Report	Other Notes
		<ul style="list-style-type: none"> - report writers reside throughout province, and are appointed to cases based on residence. At times, conflicts have made it more challenging to assign a writer.³¹ - The 'roster model' found to be one of the programs' biggest strengths, as it means the program isn't just concentrated in large urban centers³² - however, the roster model also led to isolation amongst writers. Recommendation from the program evaluation: identify and implement writer communication networks.³³ 		<ul style="list-style-type: none"> - LSS doesn't provide the writers with any protection in respect of libel or slander suits. The writers are not LSS employees, so LSS doesn't see them as their responsibility.⁴⁷ - LSS currently only does full Gladue reports; however, they are looking at the possibility of doing truncated reports. - Advice for those looking at starting up Gladue programs: <ol style="list-style-type: none"> a. Don't underestimate the amount of personpower/time required to support the program b. Even educated writers will require hands-on training to meet program expectations

3. Nova Scotia

Who Delivers	Funding	# Reports /year	Writers	Average Cost/ Report	Other Notes
Mi'kmaw Legal Support Network	Provincial department of justice ⁴⁸	2013: 55 reports ⁴⁹	<ul style="list-style-type: none"> • Mi'kmaw Legal Support Network receives the requests from the courts, and then assigns the reports to writers • They have 10 people on a writer roster. There is no formal recruitment process; rather, it is all by word of mouth. Job requirements: degree, other writing experience, and Aboriginal identity • Residence: writers are spread out throughout the province 	\$2000 + up to \$500 travel allowance ⁵⁰	<ul style="list-style-type: none"> • <i>Supporting documents</i>: in addition to the request for a report, the Mi'kmaw Legal Support Network receives the necessary documents (disclosure etc.) from the Crown. They then forward those to the report writers • <i>Timing</i>: <ol style="list-style-type: none"> a. Reports take 10 to 12 weeks to complete. This can prove challenging for the writers to meet the deadlines, if they are having difficulty tracking people down b. One week before the sentencing date, Mi'kmaw Legal Support Network gets the report and sends it out to the court, Crown, defense and client. • <i>Protection from libel</i>: their organization has never had this issue arise. They put heavy emphasis on corroborating everything which is in report • <i>Format</i>: they follow a set format for the reports.

⁴² Legal Services Society of British Columbia (June 2013). *Gladue Report Disbursement: Final Evaluation Report*. Retrieved from: <http://www.lss.bc.ca/assets/aboutUs/reports/aboriginalServices/gladueReportDisbursementEvaluationJune2013.pdf>

⁴³ Legal Services Society of British Columbia (June 2013). *Gladue Report Disbursement: Final Evaluation Report*. Retrieved from: <http://www.lss.bc.ca/assets/aboutUs/reports/aboriginalServices/gladueReportDisbursementEvaluationJune2013.pdf>

⁴⁴ Interview with Joleen Steininger, program assistant on BC Legal Aid's Gladue Program December 11 2014

3. Nova Scotia (cont.)

Who Delivers	Funding	# Reports /year	Writers	Average Cost/ Report	Other Notes
			<ul style="list-style-type: none"> • Training: at the outset, the writers have a one-on-one meeting with Mi'kmaw Legal Support Network Staff to explain the process. The Coordinator of Court Reintegration Services is in touch with the writer throughout, and checks in every couple of weeks with the writers. • some writers have full or part-time jobs, and do the reports on the side. Nevertheless, the organization has good writer retention. 		<ul style="list-style-type: none"> • <i>Quality control</i>: Mi'kmaw Legal Support Network's coordinator of court reintegration services reviews each report, and also sends them to her Executive Director, who may also review the report. • <i>Priority client groups</i>: to date, it has not been necessary to establish this, as the Mi'kmaw Legal Support Network has been able to get reports done each time there was a court request. The one exception to this was one individual who had no connection to any Aboriginal communities in Nova Scotia • Do not offer truncated reports • Do not incorporate victim's input • Don't do reports for bail • <i>Aftercare</i>: there is not currently any aftercare positions. Rather, a copy of the report recommendations goes to the probation officer, who is supposed to monitor and assist with follow-through. In practice, this hasn't been happening, and the Mi'kmaw Legal Support Network is looking to their Aboriginal Courtworkers to fill this gap. However, they do recognize that this is not a realistic expectation, given the present demands on ACW time

4. Alberta

Who Delivers	Funding	# Reports /year	Writers	Average Cost/ Report	Other Notes
Native Counselling Services	The provincial government provided \$200,000 for April 2014 to April 2015. An evaluation of the pilot project will determine the future direction of this program ⁵¹	June to December 2014: 294 requests, of which 247 are in various stages of writing (159 completed, 53 in the writing process, and 35 completed but unsigned) ⁵² 2012: 100 ⁵³ 2011: 14	<ul style="list-style-type: none"> • Have roster of 35 community writers, spread out across the province • Once a writer is secured, the Native Counselling Services completes a contract with them for the report. Three deliverables: \$400 for making contact with the client, \$400 for the draft report and \$400 for the final report 	\$1,200 + some mileage + overhead in form of some component of regional director's salary	<ul style="list-style-type: none"> • Prior to this pilot project, the bulk of Gladue reports were prepared by probation officers.⁵⁴ • <i>Quality assurance</i>: each report is reviewed by four people; namely, the regional manager, director of operations, and two other managers • <i>Sealing reports</i>: there are no procedures for this in place yet. However, the Native Counselling Services is working with the judiciary to develop a protocol to ensure that each report will be sealed. It is noted that even once this protocol is in place, Crown and defense will each have a copy of the report. • <i>Referral process</i>: upon receiving the referral sheet (which includes information like contact information, date requested, etc.), the regional manager contacts the writer and follows up with the contract. Although the regional manager can attach Crown synopsis etc. to the referral, it isn't something which they put a lot of emphasis on collecting or forwarding.

⁴⁵ Legal Services Society of British Columbia (June 2013). *Gladue Report Disbursement: Final Evaluation Report*. Retrieved from: <http://www.lss.bc.ca/assets/aboutUs/reports/aboriginalServices/gladueReportDisbursementEvaluationJune2013.pdf>

⁴⁶ Interview with Joleen Steininger, program assistant on BC Legal Aid's Gladue Program December 11 2014

⁴⁷ Interview with Joleen Steininger, program assistant on BC Legal Aid's Gladue Program December 11 2014

4. Alberta (cont.)

Who Delivers	Funding	# Reports /year	Writers	Average Cost/ Report	Other Notes
			<ul style="list-style-type: none"> Qualities looking for in writers: understanding of residential school and foster care, and good writing and interview skills Staff training: <ol style="list-style-type: none"> meet one-on-one, go over a Gladue Report including a list of questions to ask whenever doing a report, and explain to the writer what is expected of them; and Regional manager provides on-going support to the writers, who call him daily. 		<ul style="list-style-type: none"> <i>Timeframes</i>: initially, due to the backlog in the program, they were committing to a four week turn-around. Now, they ask for 8 to 10 weeks to complete a report. <i>Priorities for reports</i>: they have not developed any criteria which can be used to identify ‘priority clients’. At this stage, they have only had to refuse a request in those cases where the request doesn’t include updated contact information for the client. Libel/slander: they are currently working on this issue with their insurance company. Where they are headed: once a writer concludes a contract, they are covered by Native Counselling Services’ insurance. Native Counselling Services assumes liability for the report once they submit it to the court; however, the insurance will cover Native Counselling Services as well. Other measures taken to address legal risk include the fact that once the report is completed, the writer goes over the report with the offender and the offender signs off on the report. Release of information: as part of the first step of the process, clients sign a consent to release all information to the Gladue Report writer Truncated versions: tried a 2-page summary option, but the court didn’t like it. They’re no longer pursuing that option Victim input: not included Bail: don’t do reports for bail courts Aftercare: no aftercare workers or partnerships Record keeping: Native Counselling Services keeps a copy of every report. Ultimately, their plan is to use the portions of the reports which include “options available in the community” to create aftercare directories Advice to our program: make sure you have writers identified before start taking referrals. Use a Gladue report referral sheet which is filled out in court

5. Saskatchewan

Formal program	Who Delivers	Funding	# Reports /year	Writers	Average Cost/ Report	Other Notes
Pilot program	Legal Aid	Legal Aid	3 completed since summer 2014	<ul style="list-style-type: none"> No trained Gladue Report writers in Saskatchewan⁵⁵ Legal Aid contracts with BC-based Aboriginal lawyers to do reports and mentor learners⁵⁶ 	Each report \$3,600 plus disbursements.	<ul style="list-style-type: none"> No procedures in place as to who can gain access to Gladue reports once they’re filed with the Courts Referrals are made through Legal Aid

⁴⁸ All information regarding Nova Scotia’s program drawn from an interview with Cheryl Fritz, Coordinator of Court Reintegration Services - Mi’kmaw Legal Support Network December 3, 201448

⁴⁹ The program has been in operation 3 to 4 years now, and the requests for reports have grown steadily during that time.

⁵⁰ Note: this money goes directly to the writers. Currently, none of the coordinator’s time spent to assign writers, collect the necessary documents, train writers and proof-read the reports is funded. The organization is looking at a part time position to coordinate those reports.

5. Saskatchewan (cont.)

Formal program	Who Delivers	Funding	# Reports /year	Writers	Average Cost/ Report	Other Notes
				<ul style="list-style-type: none"> • <i>Training:</i> <ol style="list-style-type: none"> a. Saskatchewan-based learners spend paid time learning and being mentored. As part of this process, experienced writers might ask learners to write a portion of a report for inclusion after its review and critique. b. After this, the learner will be offered sessional instruction by a Gladue trainer. After completing the training, the learner does a report with the writer or editor assuming ultimate responsibility for the report 	Note this includes travel costs from BC	<ul style="list-style-type: none"> • <i>Priority clients:</i> younger men and women whose criminal records and charges are such that defense isn't precluded from asking for a community-based sentence • <i>Libel/slander:</i> no steps have been taken to address this issue. However, Legal Aid deems the risk to be minimal if the facts collected are verifiable and the observations reasonable. • <i>Quality control:</i> this is achieved through experienced writers and editors. Editing is part of the contract, and is done by another trained Gladue writer • <i>Victim input:</i> none • <i>Truncated Gladue reports:</i> Legal Aid is exploring the possibility of having Aboriginal Courtworkers make oral reports to the court. • <i>Bail:</i> they don't do Gladue reports for bail • <i>Aftercare:</i> they don't have an aftercare worker. • <i>Timing:</i> the writers usually ask for no less than 8 weeks to complete a report

6. Manitoba

Formal program	Who Delivers	Funding	# Reports /year	Writers	Average Cost/ Report	Other Notes
No	Legal Aid	Legal Aid. In the past, Legal Aid carried a larger Gladue Report program. However, as the program costs rose, they were no longer able to afford it. ⁵⁷	Approx. 10	Private contractors identified by the certificate lawyers	\$750-\$1,500 (disbursement costs)	
	probation Services	Government		Probation officers. They receive 2 weeks training prior to writing their first report, and then a 1 week 'refresher' every year after that		<ul style="list-style-type: none"> • Probation officers don't do Gladue Reports. Rather, they do blended PSR/Gladue Reports. The 'Gladue considerations' are typically found in 3 headings: community background, specific family factors, and individual's connection to the community • For the first few years after probation started doing blended reports, there were serious concerns around the quality of the reports. Legal Aid resolved those concerns through the court (cross-examining PO's). Ultimately, probations instituted better training and the reports improved

7. Prince Edward Island

Who deliver	Funding	# Report /year	Writer	Average Cost/ Report	Other Notes
Mi'kmaq Confederacy ⁵⁸	The province assumes all costs for reports ordered by the courts.	In spring 2014, 3 writers trained through ALST. ⁵⁹ Since then, one report has been ordered and filed	Writers are subcontracted through the Mi'kmaq Confederacy. The director of Aboriginal justice contacts the writers upon receiving a report request. If the writer agrees to do the report, then the Mi'kmaq Confederacy concludes a contract with them in respect of the report.	\$2000 - \$2,500 + \$500 travel Note: currently, the director of Aboriginal justice's time on this project is unpaid. The above cost also does not include researchers time	<ul style="list-style-type: none"> Referral request is communicated to the Mi'kmaq confederacy by either Crown or defense. *Gladue writers receive the agreed statement of facts as well as other pertinent documents (client's criminal record, medical record, etc). Time: usually about 8 weeks to complete a report. The director of Aboriginal justice reads each report draft with the writers. Everything in the report is footnoted, and the writers quote extensively and directly from the people they interview. The writers rely on a research team to track down academic articles backing up statements about the effects of residential school abuse, for instance. The client has two opportunities to review the report: <ol style="list-style-type: none"> After the first draft of the report is complete, absent the recommendations portion Once the recommendations portion is complete, the client reviews the report again. The director of Aboriginal justice finalizes the report and submits to court For the recommendations part, the writers spend a lot of time doing the groundwork to get the particulars of treatment, and include names of who they contacted and dates of treatment etc. in the report They don't follow a template for the report; rather, the report is organized chronologically, or topically Mi'kmaq Confederacy only receives the agreed statement of facts prior to starting a report, and doesn't gather a bunch of additional documents such as the client's criminal record, etc. Their reports don't include victim input in respect of their perspective. They may be interviewed in order for the writer to learn more about the history of the offender.

⁵¹ Government of Alberta. (2014, April 16). Funding for Gladue Reports will support Aboriginal people in the justice system. [Press release]. Retrieved from: <http://alberta.ca/release.cfm?xID=3622935A30888-9683-46A4-976F0BE002AD6C73>

⁵² Interview with Colin Campbell, Regional Director with the Native Counselling Services, December 18 2014

⁵³ Makin, K. (2012, Nov. 19). Aboriginal Sentencing Rules Ignored Due to Lack of Interest. *Globe and Mail*. Retrieved from: <http://www.theglobeandmail.com/news/politics/aboriginal-sentencing-rules-ignored-due-to-lack-of-funding-interest/article5459491/>

⁵⁴ Makin, K. (2012, Nov. 19). Aboriginal Sentencing Rules Ignored Due to Lack of Interest. *Globe and Mail*. Retrieved from: <http://www.theglobeandmail.com/news/politics/aboriginal-sentencing-rules-ignored-due-to-lack-of-funding-interest/article5459491/>

⁵⁵ Spray, H. (2014, July 9). Saskatchewan lags in Gladue Reports. *Saskatoon Star Phoenix*. Retrieved from <http://www2.canada.com/saskatoonstarphoenix/news/local/story.html?id=0fb9efc8-7cae-49bf-9c19-944732e0c343&p=1>

⁵⁶ Correspondence from Craig Goebel, Executive Director of Saskatchewan Legal Aid dated December 14 and December 29, 2014

⁵⁷ All information in this column from an interview with Peter Kingsley, Senior Area Director for Manitoba Legal Aid on December 11, 2014

⁵⁸ All information drawn from an interview with Lori St. Onge, director of Aboriginal justice with the Mi'kmaq confederacy, December 18, 2014

⁵⁹ MacLean, C. (2014, March 13). Gladue Reports now available to Island First Nations People. *The Chronicle*. Retrieved from <http://www.journalpioneer.com/News/Local/2014-03-13/article-3646733/Gladue-reports-now-available-to-Island-First-Nations-people/1>

QUESTIONS POSED re GLADUE REPORT PROGRAMS



i) Funding

- Who funds your program?

ii) Procedures

- Do you have any procedures or rules in place as to who can gain access to Gladue Reports once they're filed with the Courts?
- What is the process by which Gladue Report requests get transmitted to the writers?
- Have you developed any criteria or policies governing which clients may receive a Gladue Report?

iii) Writers

- Who writes the reports?
- What protection, if any, do you offer your Gladue writers from libel/slander lawsuits?

iv) Miscellaneous

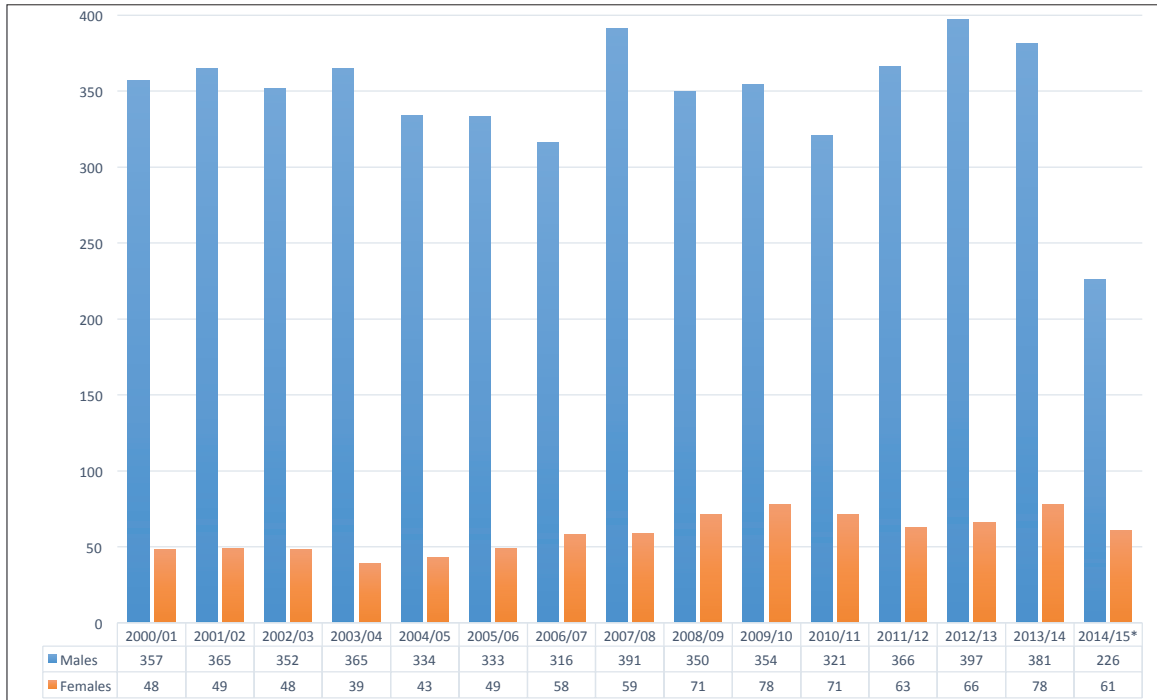
- Who are the other players, if any, in the program beyond your organization, and what role do they play?
- How do you ensure the quality of the report (i.e. do you have any quality control processes in place?)
- How long, on average, does it take to write a report?
- Does your jurisdiction only offer full Gladue Reports, or do you also offer truncated versions?

v) Evaluations/Lessons Learnt

- Has the program been evaluated and, if so, would you be willing to share that evaluation with us?
- What have been the biggest challenges to the success of your program?

DATA TABLES

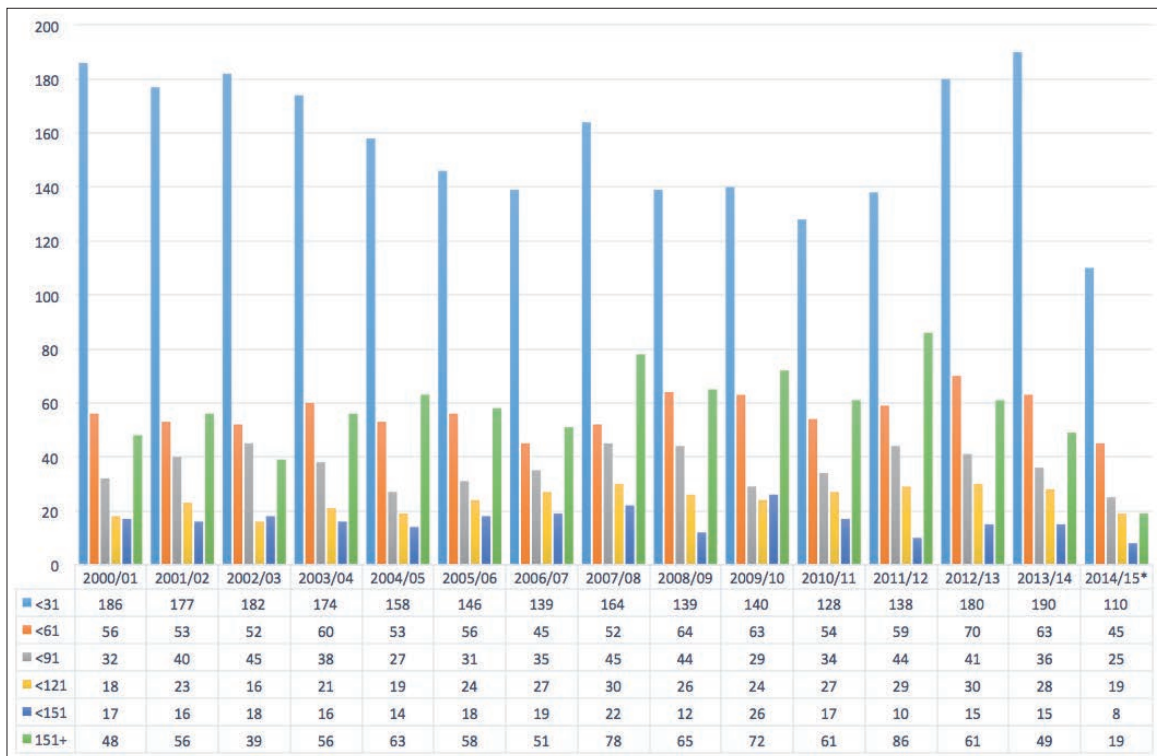
Number of Male and Female Aboriginal Sentences by Fiscal Year



Includes all sentence types including: Conditional combined remand and sentence days; federal sentencing combined remand and sentence days; jail sentencing combined remand and sentence days; conditional sentencing days; federal sentencing days; intermittent conditional sentencing days; remand days; jail sentencing days. Data provided by Yukon Government Department of Justice.

* 2014/15 is incomplete to December 23, 2014.

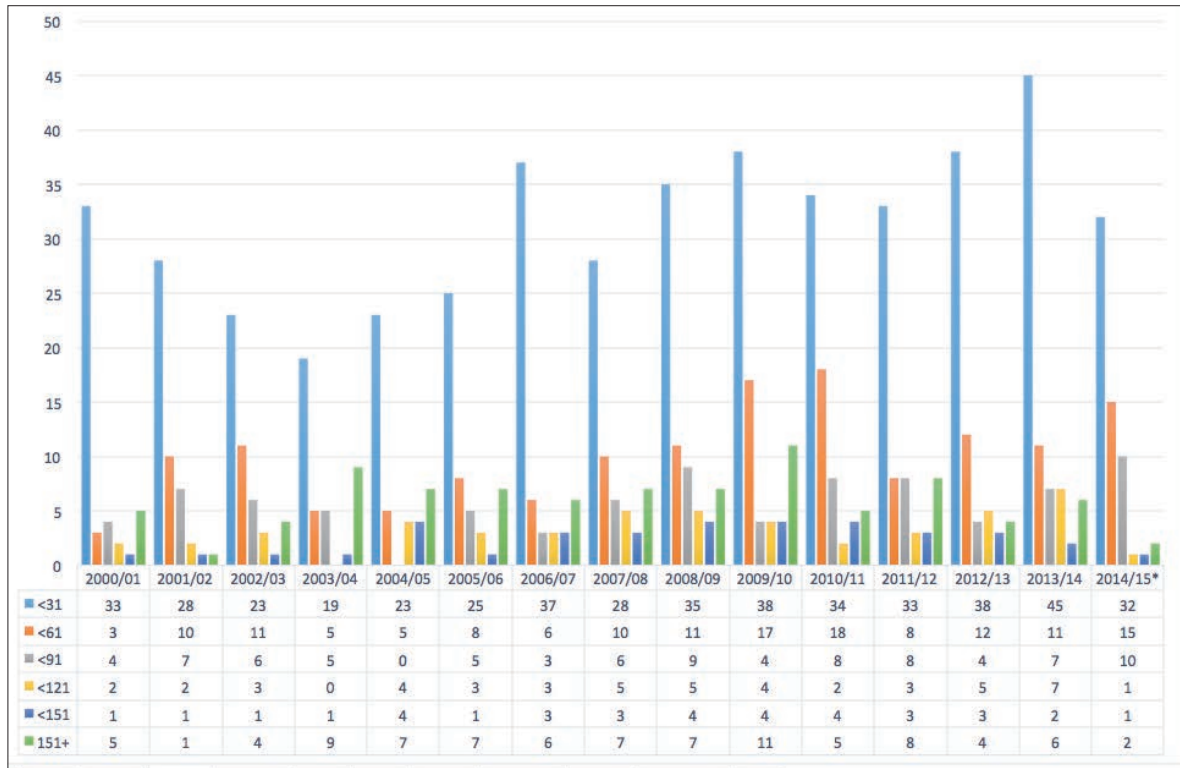
Number of Males Sentenced by Fiscal Year by Days of Sentence



* 2014/15 is incomplete to December 23, 2014.

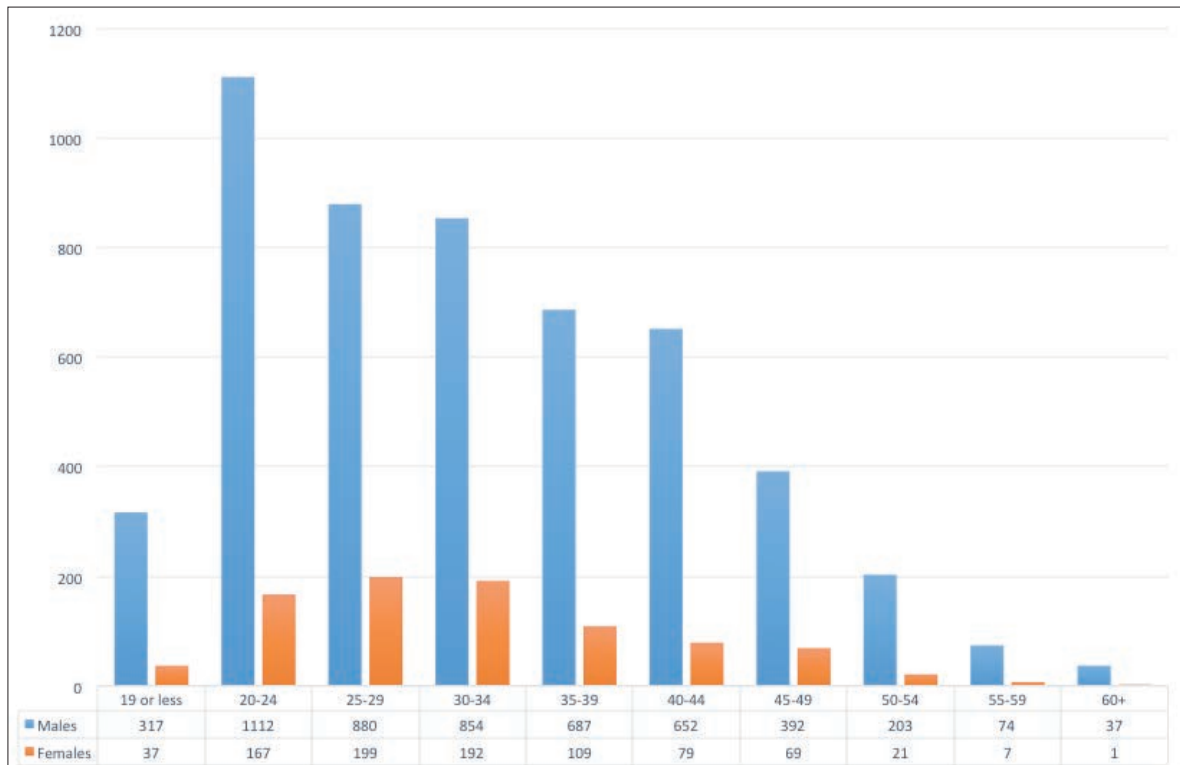
DATA TABLES

Number of Females Sentenced by Fiscal Year by Days of Sentence



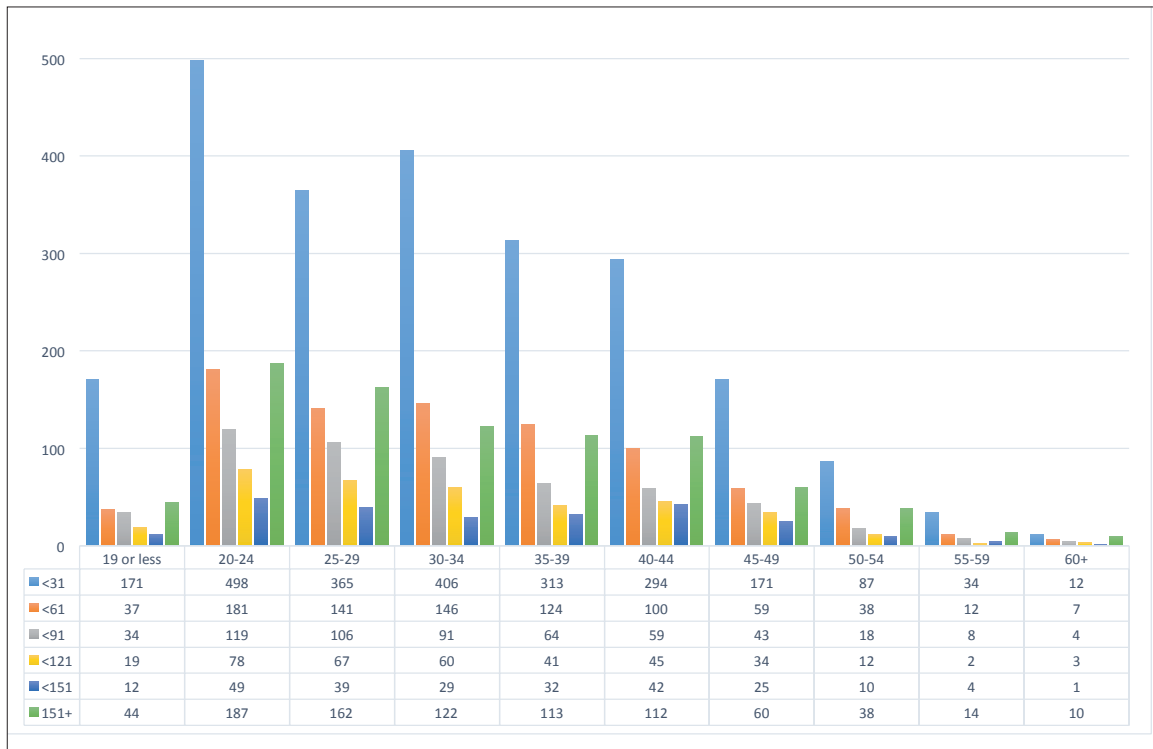
* 2014/15 is incomplete to December 23, 2014.

Age at Sentencing

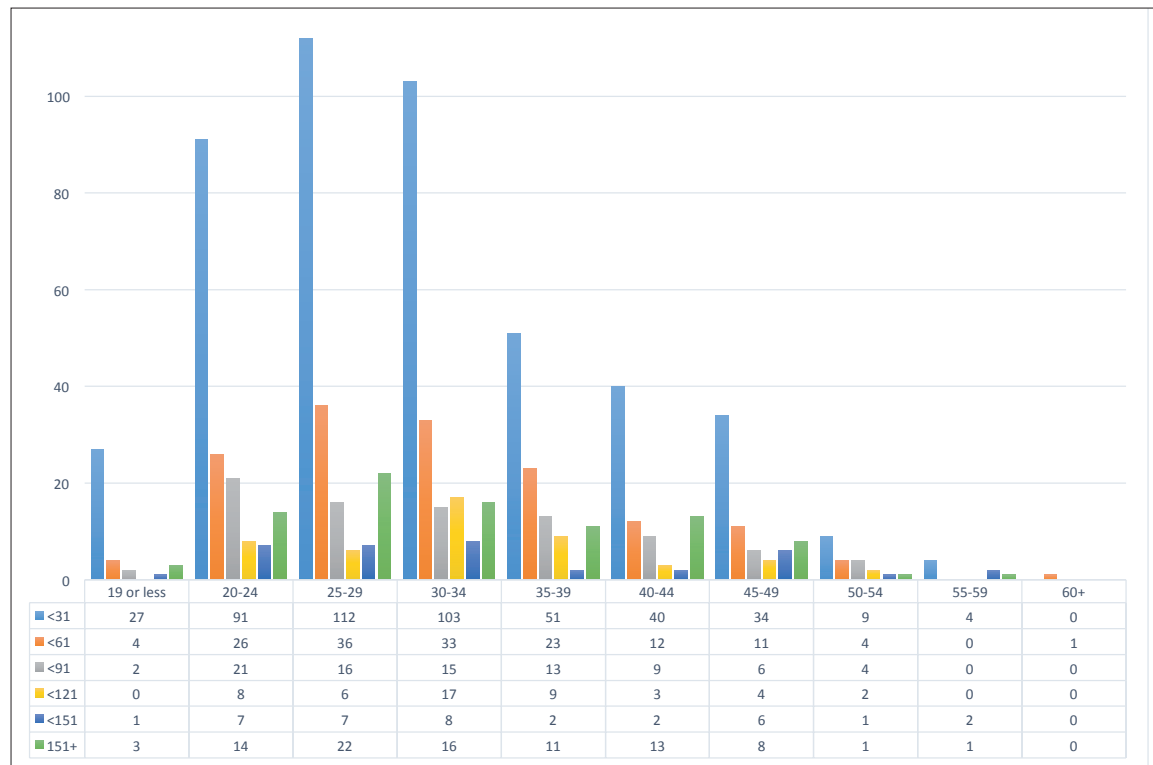


DATA TABLES

Males by Age at Sentencing and Length of Sentence in Days



Females by Age at Sentencing and Length of Sentence in Days



GLADUE REPORT REQUEST FORM

Date of Request: _____ **Court Location:** _____

Purpose: ☐ Sentencing ☐ Appeal **Sentencing Date:** _____

Court Information(s) and charges pled to: _____

Name of Client: _____ **D.O.B.:** _____

Current Address: _____

Home: _____ **Cell:** _____ **Email:** _____

Is Client in Custody? ☐ Yes ☐ No **If yes, how long:** _____

Defense Counsel: _____

Phone: _____ **Email:** _____

Defence Counsel's Sentencing Position: _____

Crown Prosecutor: _____

Phone: _____ **Email:** _____

Crown Counsel's Sentencing Position: _____

Judge: _____

Attached Documentation:

- ☐ Report to Crown Counsel/RCMP Summary of Offence ☐ Criminal Record ☐ Court Order
☐ Client's consent to complete Gladue Report

_____ **has agreed to complete report:** ☐ Yes ☐ No

_____ will only consider preparing a Gladue Report if **requested or ordered** by a Judge after an offender has pled guilty or was found guilty after Trial.

If _____ has not agreed in advance to prepare a Gladue Report in this matter, it cannot be held to produce the report on the date requested. _____ will endeavor to notify all parties as soon as possible, if it is not possible to complete the report the date requested.

PLEASE SUBMIT REQUEST FORM AND DOCUMENTATION TO:

AUTHORIZATION FOR RELEASE OF INFORMATION & RECORDS

I _____ (date of birth: _____), hereby consent to the release of information pertaining to the below areas:

- ☐ medical
- ☐ psychiatric
- ☐ psychological
- ☐ legal
- ☐ educational
- ☐ family children's services history

to _____, Gladue Report Writer, for the purposes of completing my Gladue Report. This consent and authorization includes but is not limited to all records, reports, progress notes, assessments, and/or any other knowledge or information which you may possess, and for so doing let this be your good and sufficient authority.

This consent commences on _____ and expires on _____

DATED at the town/city of _____, in the Yukon Territory, this __ day of _____, 20__.

SIGNED in the presence of

Witness

)
)
)
)
)
)
)

Client

CONSENT FOR COMPLETION OF GLADUE REPORT

My lawyer and/or other support people have told me what a *Gladue* Report is and how it might help the judge come up with a sentence that takes into consideration my personal and cultural history, as well as the supports my community can offer me.

If I agree to do this Report, I agree to keep my appointments with the report writer and answer his/her questions as truthfully as I can. I am aware that I may not like all the information contained in the report.

I also understand:

- a) That I don't have to agree to a *Gladue* Report if I don't want one;
- b) That information about me, my offence, my criminal history, and past reports filed with the Courts may be given to the *Gladue* Report writer by the RCMP, the Crown, and others who work with the Court;
- c) That my *Gladue* Report will contain deeply personal information about me and my family;
- d) That some of this information might be upsetting to talk about, and may trigger some painful memories and emotions;
- e) That the report writer will talk to others who know me well or who can provide information that will be useful to the Court;
- f) That I will be able to review the report before its filed with the Court so I can check the facts;
- g) That the completed report will be provided to my lawyer, the prosecutor and the judge, as well as others who may be involved in my case after sentencing including parole or probation officers; and
- h) Unless the judge who sentences me says otherwise, the media or members of the public might go to the court registry, get my file, and read the completed report

Client initials _____

GLADUE REPORT CHECKLIST

Events that have impacted Aboriginal people

- ☐ *Canada*
 - ☐ Indian Act
 - ☐ Bill C-31 (Re-instatement of Indian Status)
 - ☐ Outlawing of ceremonies & traditional practices
 - ☐ Enfranchisement to get a job, join the army or vote
 - ☐ Canada Act 1982
 - ☐ Missing and Murdered Aboriginal Women and Girls
- ☐ *Yukon*
 - ☐ Gold Rush
 - ☐ World War II and the building of the Alaska Highway
 - ☐ Residential Schools
 - ☐ The 60s Scoop
 - ☐ Land Claims and Self Government Agreements
 - ☐ Community specific events (i.e. creation of National parks on traditional territories, settlement relocation, mining and industrial development, Band amalgamation, etc.)

Personal life experiences

- ☐ Childhood home life
- ☐ School experiences (elementary, middle, high school, post-secondary)
- ☐ Foster care experience
- ☐ Group home experience
- ☐ Past criminal activity/involvement
- ☐ Substance abuse and/or addiction(s)
- ☐ Health issues (TB, FASD, other)
- ☐ Treatment and/or counselling efforts (past and current, attempts and successful completion)
- ☐ Mental Health Issues

AFTERCARE DIRECTORY



WHITEHORSE (KWANLIN DÜN FIRST NATION)

Community History

Kwanlin Dün First Nation (KDFN) is the larger of two Whitehorse-based First Nations.

The people who traditionally occupied the area that now includes the City of Whitehorse were known as the Tagish Kwan. It shares much of its traditional territory with the Ta'an Kwach'an Council. KDFN is different than most other First Nations in the Yukon in that its citizenship is made up of people from numerous First Nations across the Yukon. Southern Tutchone, Northern Tutchone and Tlingit are just some of the languages that might be spoken by Kwanlin Dün citizens.

The KDFN's administrative history is complicated. In 1900, in response to the growing population of outsiders, Chief Jim Boss of the Tagish Kwan petitioned the Commissioner of the Yukon for a 1,600 acre reserve at Ta'an Man (Lake LaBerge) for the First Nations people. They were granted a reserve of only 320 acres. Between 1915 and 1921, the reserve was moved four times to accommodate the growth of the city and to separate the First Nations people from the non-First Nation community. In 1948, Ottawa withdrew their status as a reserve under the Indian Act and, as a result, the First Nation people had no claim to their traditional land. Then, in 1956, the Department of Indian Affairs unilaterally decided to merge six Indian Bands into one and created the 'Whitehorse Indian Band'.

After years of displacement within the City of Whitehorse, in the early 1980s, the Kwanlin Dün village was relocated to the McIntyre sub-division of Whitehorse. In 1998, Kwanlin Dün split into two distinct groups, the Ta'an Kwach'an Council and the KDFN. The KDFN signed Land Claims and Self Government Agreements in 2005. Implementation of their Agreements is a priority for the First Nation and on ongoing process. All of KDFN's government offices

are located in the sub-division and include the: Governance Secretariat, Heritage, Lands and Resources, Health, Justice, Economic Development, Community Services, Finance, and, Administration.¹

Because of its central location, KDFN provides a variety of services for citizens of other First Nations' people who find themselves in Whitehorse and gravitate towards the "village". This places a significant burden on KDFN's programs and services, especially justice and health.

KDFN is currently also negotiating its Administration of Justice Agreement under the provisions of its self-government agreement. While it is being negotiated, KDFN hopes to enact interim provisions to pilot some of the programs and services that may be included in the AJA.

Resources available to offenders on non-custodial sentences (as of March 2015)

Formal Supports

The KDFN is perhaps the best-resourced First Nation in the Yukon to support offenders on non-custodial sentences. Part of the reason for that is geographic. Being located in Whitehorse, KDFN and its citizens have access to a variety of programs and services that are made available by a number of KDFN's partner agencies. In addition to the Community Wellness Court and the Domestic Violence Treatment Options Court, KDFN citizens can access Whitehorse-based alcohol and drug detoxification and treatment services; counseling through a variety of counseling agencies including the Yukon government's Offender Supervision and Services; and consistent probation and bail supervision services made possible in part by having an "embedded" probation officer who spends one afternoon a week working out of

KDFN's justice office on O'Brien Street in the McIntyre sub-division.

In addition to these services and supports provided by KDFN's partner agencies, KDFN has a number of internal resources to support offenders on community-based sentences. Jackson Lake, KDFN's on-the-land healing camp, has offered programming and support to numerous offenders. In addition to the summer men's and women's camps run at Jackson Lake on the Fish Lake Road just north of Whitehorse, the Jackson Lake healing team works with people year round providing culturally-based counselling and support. In May 2014, KDFN signed a three-year one million dollar funding agreement with the Yukon government to support land-based healing programming. The camp itself has been operating since 2010. The Jackson Lake healing camp is available to all First Nation people regardless of First Nation affiliation.

- KDFN has a Director of Justice (Jeanie Dendys) and a justice support worker (Mark Stevens). In addition, there are two family support workers (Ray Sidney and Viola Papequash) who primarily work on child-welfare related files but sometimes provide justice-related support as well.
- The Jackson Lake Wellness team (Colleen Geddes, Johnny Brass, Yvonne Jack, and Joe Migwans) provide year-round support to potential and former Jackson Lake clients. They frequently work to support both sentenced offenders and clients on release conditions. In addition to the above-mentioned team members, Jackson Lake also has access to consultants Gaye Hansen, Phil Gatensby and Andy Nieman.
- Johnny Brass and Phil Gatensby run a men's support group every other Wednesday.
- Viola Papequash runs a women's group every other Tuesday.

¹Information retrieved from KDFN's website and the Yukon First Nation Cultural Orientation and Protocols Toolkit. This toolkit was developed by the Council of Yukon First Nations Health Department in consultation with Yukon First Nations and copyrighted in 2011.

- Probation officer Dan Boudreau is presently KDFN's "embedded" probation officer. He spends one afternoon a week (Tuesday) meeting with clients in the O'Brien Street justice office.
- KDFN's Health Centre has five counselors who frequently help offenders with grief, trauma and addictions issues. Evann Lacosse spends one day a week meeting with offenders at the Whitehorse Correctional Centre.

- KDFN works closely with the Council of Yukon First Nations' Aboriginal Court worker Program and Re-integration worker Charles Eschelman. The offender re-integration fund can provide short-term financial resources to assist remand prisoners or sentenced inmates return to their communities.
- KDFN is also connected with federal parole officer Erin Dewar who can assist with the reintegration of federal offenders.

Informal Supports

KDFN has a number of community citizens who continue to make themselves available to support offenders. The level of community engagement, especially with justice clients, is encouragingly high.

WHITEHORSE (TA'AN KWÄCH'ÄN COUNCIL)

Community History

Ta'an Kwäch'än Council (TKC) is one of two Whitehorse-based First Nations. TKC shares much of its traditional territory with the Kwanlin Dün First Nation.

People of the TKC are of Southern Tutchone, Tagish and Tlingit descent. The TKC forms part of the Southern Tutchone Tribal Council along with the Champagne Aishihik First Nation in Haines Junction and the Kluane First Nation in Burwash Landing. About half of TKC citizens reside in the Whitehorse area while the other half is disbursed throughout the rest of Canada, Alaska and abroad.

In 1900, in response to the growing population of outsiders, Chief Jim Boss of the Ta'an Kwäch'än petitioned the Commissioner of the Yukon for a 1,600 acre reserve at Ta'an Man (Lake LaBerge) for the First Nations people. They were granted a reserve of 320 acres. Chief Boss was not satisfied with this so he asked a lawyer to help him write a letter to the Superintendent General of the Department of Indian Affairs in Ottawa. He demanded that over hunting be controlled and asked for compensation for

the TKC people for lost land and impact on the wildlife. The only response he received was that the police would protect the people and their land.

In 1956, the Department of Indian Affairs unilaterally decided to merge six Indian Bands, including the TKC, into three and created the Whitehorse Indian Band, known today as the Kwanlin Dün First Nation. After years of displacement within the City of Whitehorse the Kwanlin Dün village was relocated to the McIntyre sub-division of Whitehorse in the 1980s. In 1998, Kwanlin Dün split into two distinct groups, the TKC and the Kwanlin Dün First Nation. The TKC signed Land Claims and Self Government Agreements in 2002. Implementation of their Agreements is a priority for the First Nation and on ongoing process. All of TKC's government offices are located in Whitehorse and include the following departments: Administration, Finance, Human Resources, Lands, Resources and Heritage, Housing, Health and Education, Implementation.¹

TKC is currently also negotiating its Administration of Justice Agreement under the provisions of its self-government agreement. While it is being negotiated,

TKC hopes to enact interim provisions to pilot some of the programs and services that may be included in the AJA.


Resources available to offenders on non-custodial sentences (as of March 2015)

Formal Supports

Because the TKC is located in Whitehorse, it is perhaps better able to support TKC offenders on non-custodial sentences than other First Nations in the communities. The TKC and its citizens have access to a variety of programs and services that are made available by a number of TKC's partner agencies. In addition to the Community Wellness Court and the Domestic Violence Treatment Options Court, TKC citizens can access services offered through KDFN's Health Centre; Whitehorse-based alcohol and drug detoxification and treatment services; and, counseling through a variety of counseling agencies including the Yukon government's Offender Supervision and Services.

TKC citizens can also apply for programs offered at Jackson Lake, KDFN's on-the-land

¹ Information retrieved from TKC's website and the Yukon First Nation Cultural Orientation and Protocols Toolkit. This toolkit was developed by the Council of Yukon First Nations Health Department in consultation with Yukon First Nations and copyrighted in 2011.



healing camp. In addition to the summer men's and women's camps run at Jackson Lake on the Fish Lake Road just north of Whitehorse, the Jackson Lake healing team works with people year round providing culturally-based counselling and support.

- TKC's Health Department is comprised of: Health Manager, Lynn Sparks; Health and Wellness Coordinator, Roberta Behn; Home Care Worker, Patti Boss; Family Support Worker, Chantelle Blackjack; Social Assistance Intake Worker, Gail Anderson; and, Case Manager, Heather Griffiths.
- The Home Care Worker provides support to Elders and citizens with a disability. Rides to appointments may be provided with advance notice.
- Cultural workshops such as drum making, cedar hat weaving and traditional sewing classes are offered to TKC citizens regularly.
- The Family Support Worker works in collaboration with Family and Children Services staff to help families navigate the Child Welfare system and assists with referrals.
- The Family Support Worker also assists citizens with substance abuse issues with referrals, information and assistance with applying for treatment support.

- Income assistance/Social assistance is available to eligible citizens. The Enhanced Service Delivery Program assists young people between the ages 18-24 who are receiving or applying for Income Assistance to gain the skills necessary to enter the workforce.
- TKC's Education Department is comprised of an Education Support Worker, Linnea Rudachyk and Education and Employment Training Coordinator, Annie Bernard.
- An Aboriginal Skills Employment Training Strategy (ASETS) fund is accessible to TKC Citizens residing in Whitehorse. The program funds Trades training; short courses needed for employment; College Preparation/Entry Programs and Certificate Programs. Funding may also cover living allowances and travel expenses.
- The Post Secondary Student Support Program provides financial assistance to eligible TKC citizens.
- TKC citizens can seek the support of the Jackson Lake Wellness team (Colleen Geddes, Johnny Brass, Yvonne Jack, and Joe Migwans) which provides year-round support to potential and former Jackson Lake clients. They frequently work to support both sentenced offenders

and clients on release conditions. In addition to the above-mentioned team members, Jackson Lake also has access to consultants Gaye Hansen, Phil Gatensby and Andy Nieman.

- TKC citizens can also attend the men's support group every other Wednesday and the women's group every other Tuesday.
- KDFN's Health Centre has five counselors who frequently help offenders with grief, trauma and addictions issues. Evann Lacosse spends one day a week meeting with offenders at the Whitehorse Correctional Centre.
- TKC citizens can access services provided by the Council of Yukon First Nations' Aboriginal Court worker Program and Re-integration worker Charles Eschelman. The offender re-integration fund can provide short-term financial resources to assist remand prisoners or sentenced inmates return to their communities.

Informal Supports

TKC has a number of community citizens and Elders who make themselves available to support offenders.

HAINES JUNCTION (CHAMPAGNE AND AISHIHIK FIRST NATION)

Community History

The Department of Indian Affairs amalgamated two Southern Tutchone Nations and formed the Champagne & Aishihik. Descendants of the Champagne & Aishihik include people from Hutsi, Champagne, Klukshu, Neskatahin and Dalton Post. They are heavily influenced by their close association with the coastal Tlingits of Alaska.

The first trading post in the area was

established in 1894 along the Tatshenshini River. Other trading posts followed including one at Champagne in 1902. The Government of Canada created a boundary between the Yukon and British Columbia and the Aboriginal people from Dalton Post and Neskatahin were forbidden to hunt on their traditional territories on the BC side. This forced them to move more to the north.

In 1900, the small gold rush brought an influx of outsiders. Then, in 1942, the construction of the Alaska Highway in 1942

brought more people and the community of Haines Junction began to form out of a construction camp.

The community was located on well used trade routes. The Aboriginal people of the area began settling in Haines Junction in the 1940s and 1950s. The federal government began relocating families from Champagne and Aishihik to the community in the 1960s.

Like many others in the Yukon, Champagne and Aishihik children had to

attend Residential School away from the community.

In 1993, the Champagne and Aishihik First Nation (CAFN) signed their Land Claims and Self Government Agreements. Implementation of their Agreements is a priority and ongoing. CAFN is comprised of the following departments: Health and Social, Secretariat (Economic Development, Human Resources, Negotiations & Implementation, Community Justice, Administration Appeals Tribunal), Finance/Administration, Housing/Municipal, Heritage Lands and Resources, Education.

The Southern Tutchone Tribal Council was also formed to work on common issues and is comprised of the Champagne and Aishihik, the Ta'an Kwäch'än Council and the Kluane First Nation.¹

Resources available to offenders on non-custodial sentences (As of March 2015)

Because of its close proximity to the territorial capital, many of the resources available to Whitehorse-based offenders are also available to people in Haines Junction. This includes both the Domestic Violence Treatment Options Court and the Community Wellness Court, neither of which are typically available to residents of other Yukon communities unless they are willing to relocate to Whitehorse. However,

transportation can be challenging—sometimes after regular office hours—for offenders who need to attend programming and counseling appointments in Whitehorse. The Justice Coordinator, Miles Morton advised that Haines Junction generally has a relatively small docket for court matters. He feels that a Gladue report writer is not necessarily required to be based in Haines Junction given their low court numbers. He also indicated that the supports currently in the community represents only a snapshot and is subject to shift over time, with different people offering different skills and the First Nation accessing different resources.

Formal Supports

- The CAFN Wellness Department is comprised of a Manager, Community Justice Worker, Child and Family liaison worker, Social Support Worker, Family Health Promotion Worker, Community Care Coordinator and Worker, Community Outreach Support Worker, Family Health Promotion Worker, Case Manager in Haines Junction and in Whitehorse, Housing Support Worker and a Social Support Worker.
- There is a Youth Centre in Haines Junction with a Youth Coordinator and a Youth Centre Worker.
- Many organizations have representatives that travel to the

community regularly to offer services and supports including: Many Rivers, Alcohol and Drug Services, Challenge, FASSY, Emergency Medical Services, Community Conferencing Coordinator, Rural Mental Health nurses, Clinical Mental Health services, CATS, Council of Yukon First Nations Aboriginal Courtworker, Victim Services, Second Opinion Society and Offender Supervision and Services.

Informal Supports

- There are many informal and indirect supports in the community including: counselling through the Minister of the Anglican Church, visits with Elders, Employment Development Society, The 4H Club, Junior Rangers, Life Coaching, Youth Circles, the Greenhouse Society, Lions Club and the Seniors Centre.
- There are traditional and cultural opportunities also regularly offered including: On the land healing camp at Christmas Creek, Klukshu, Southern Tutchone language lessons, sewing classes, Dakawada Dancers, and the Reawaking our Wellness Society (presently dormant).
- Other activities in the community include: JAM (Junction Arts & Music), hockey arena, swimming pool, curling, annual bike race, St. Elias music club, library, quilting, yoga and crafting.

CARMACKS (LITTLE SALMON CARMACKS FIRST NATION)

Community History


Carmacks is a small community with a population of roughly 500 First Nations and non-First Nations' people located

approximately 180kms north of Whitehorse on the North Klondike Highway. The village is home to people of the Little Salmon/Carmacks First Nation (LS/CFN), who traditionally had fish camps along the

Yukon River near its confluence with the Nordenskiöld River. Caribou were also harvested here as they crossed the river.

The location of modern-day Carmacks

¹ Information retrieved from CAFN's website and the Yukon First Nation Cultural Orientation and Protocols Toolkit. This toolkit was developed by the Council of Yukon First Nations Health Department in consultation with Yukon First Nations and copyrighted in 2011.



was also where the Northern Tutchone people would trade with the Tlingit and their Southern Tutchone neighbours. The village itself is named after prospector George Carmack, who is better known for his discovery of gold on Bonanza Creek that sparked the Klondike Gold Rush. Years before striking it rich on the Klondike, George found a seam of coal near Five Finger Rapids and at Tantalus Butte. He made an effort to establish a mine there, but it wasn't until an American coal miner staked a claim on one of the coal deposits that mining started in earnest. The coal was being sold to the riverboats that were transporting people heading down the Yukon River to Dawson City on steamboats. Coal was later sold to heat homes and generate electricity in Dawson City. The mine closed in 1935. It re-opened sporadically on and off until the mine caught fire and was sealed permanently.

Carmacks was also a stop along the way for the winter Overland Trail to Dawson City. A sign painter at the Rowlinson warehouse mistakenly added an "s" to Carmack, and the name stuck.

In 1950, an all-weather road was built to Mayo with a branch to Dawson added in 1955. The construction of the road meant that many First Nations' people who had been living in some of the other villages around Big Salmon and Little Salmon began to move to and settle in Carmacks so that they could take advantage of the highway. Many LS/CFN citizens supported themselves by cutting wood for the steamboats, working in the mines, or on road construction. In 1958, a bridge was built over the Yukon River. The First Nation people were moved to the north side of the river to accommodate the development of commercial and residential buildings. The development disrupted First Nations graves, which continues to be an issue with the First Nation people today.

As was the case in almost all Yukon

communities, First Nation children from Carmacks and the surrounding area were sent to residential schools in either Whitehorse or Carcross. Many families in Carmacks are still struggling to deal with the inter-generational effects of residential schools.

Citizens of the LS/CFN are part of the Northern Tutchone language and cultural grouping and are closely affiliated with the Na Cho Nyak Dun First Nation in Mayo and the Selkirk First Nation in Pelly Crossing. These three First Nations make up the Northern Tutchone Council, which provides some justice-related programs and services. The LS/CFN became self-governing in 1997 and has the following government departments: Finance and Administration, Health and Social, Education, Capital Projects, Infrastructure, Lands and Resources, and, Implementation¹

Resources available to offenders on non-custodial sentences (As of March 2015)

Formal Supports

The LS/CFN does not have a dedicated community justice worker who is responsible for doing front-line work with offenders and victims of crime. The only justice position is related to the on-going Administration of Justice Agreement negotiations that will ultimately establish what justice-related programs and services LSCFN will assume as a self-governing First Nation. Like the other Northern Tutchone First Nations, LS/CFN traditionally practiced "Dooli" law. The "Dooli" went far beyond what we understand as law in a western context. It was much broader and defined social behaviour generally, which included people's relationships with each other and the land. Although there is a desire to bring Dooli back, it is not clear how that will happen.

The Health and Social Department does

have some staff members who directly assist clients who have been sentenced or who are on release conditions. Rachel Byers is the Health and Social Director. She works closely with Lois Joe of the Northern Tutchone Council, and Karen Van Bibber, the Northern Tutchone Aboriginal Court Worker, to assist justice clients.

There are two community wellness outreach workers who do much of the front line work supporting Justice clients and others with wellness-related issues like addictions. In addition to one-on-one support and home visits, Bob Patles and Mary Tulk also do some group work. Bob runs a Tuesday night men's group, which he says is similar to AA but does not use an AA format. There are also Thursday afternoon aftercare group meetings which were initially established to support people who were returning to the community from addictions treatment programs. There are also women's sewing evenings three times a week. Eileen Fields is the outreach coordinator. Her position is funded through Health Canada's IRS program, and she works primarily with residential school survivors and their families. She supports clients through home visits and also by running a variety of workshops.

Nina Bolton, who has a lengthy history working with Yukon Courts, has been hired by the Northern Tutchone Council to provide additional counseling support, primarily related to grief and addictions. She is generally in the community three days a week. Psychologist Bill Stewart also provides counseling and support services to LSCFN citizens living in Whitehorse. Andy Nieman, who is well-known as the former Yukon Child Advocate, supports LS/CFN citizens as a counselor and as a religious leader with the Pentecostal (ACTS) Church in Carmacks.

LS/CFN also runs camps at Airport Lake and at Little Salmon Village. Both sites have

¹ Information retrieved from LS/CFN's website and the Yukon First Nation Cultural Orientation and Protocols Toolkit. This toolkit was developed by the Council of Yukon First Nations Health Department in consultation with Yukon First Nations and copyrighted in 2011.

cabins rather than tent frames, along with meeting areas (suitable for gatherings and workshops) and kitchen facilities. These camps usually tend to operate primarily in the spring and fall. The camps are not used at all during the winter.

LS/CFN does not have any emergency housing at its disposal, although there is the potential to use some of the cabins out at Airport Lake or Little Salmon when snow makes access to the camps difficult by road.

In terms of other governmental and non-governmental resources, Many Rivers Counseling Services sends a counselor to Carmacks every Wednesday. A probation officer (Tia Staller) visits the community every court circuit and does phone check-

ins with her clients once every two weeks. Court ordered supervision falls, by default, to the RCMP which has a detachment in the community. Yukon government's Health and Social Services has a social worker who is also designated as the youth justice worker. The current social worker is Tracy Burns.

In terms of employment and training, Carmacks has a Yukon College campus which has done a lot of training to prepare local residents for employment in the mining industry. The Minto Mine, located between Pelly and Carmacks, is a big employer of community members. The proposed Casino mine development has the potential to provide a lot of jobs for Carmacks residents, and the mine proponents are already working with the community to look at ways to support employment and wellness initiatives.

Otherwise, employment in Carmacks is largely limited to the LS/CFN and Yukon government highways. There is a community garden which provides some spring and summer jobs, largely for youth. However, some offenders have been able to work off community hours helping with the garden.

Informal Supports

Carmacks historically had a few Elders and other community members who would do what they could to help those struggling with addictions and other issues. That number has now dwindled, and members of the Health and Social Department could not really identify any people who fulfilled that role locally.

PELTY CROSSING (SELKIRK FIRST NATION)

Community History

Although the present-day community of Pelly Crossing has only been in existence since the 1950's, the town site had been used—probably for thousands of years—as a camp on the way to Ta'Tla Mun Lake, an important spring-time fishing place where northern pike were harvested and dried. The Northern Tutchone spent a considerable amount of time on the land, hunting, fishing and trapping. Although the community of Pelly Crossing largely owes its existence to the construction of the North Klondike Highway, there have been other significant settlements in the region. Fort Selkirk, on the Yukon River, was established as a fur-trading post by the Hudson's Bay Company explorer Robert Campbell in the 1840's. Tlingit Indians from the coast would travel inland to trade with the interior Athabaskan people. Later, the HBC took advantage of that historic trading partnership, much to the chagrin of the Tlingit, who attacked Fort Selkirk and burned it to the ground. It was re-built in 1850.¹

Once the highway was constructed, Fort Selkirk became less important as a stopping place on the way to Dawson City. Many

of the Selkirk people moved to Minto, just south of Pelly Crossing, before abandoning that in favour of the present-day site of Pelly Crossing. The community of Pelly Crossing is now home to roughly 350 people.² The Selkirk First Nation settled its land claims and self-government agreement in 1997 and is comprised of the following departments: Administration, Finance, Health and Social, Capital Works and Operations and Maintenance, Lands and Resources, Education and Training, Self Government and Type II Project Coordinator.

There is also a community school (the Eliza Van Bibber School), a nursing station, RCMP detachment, and Yukon College campus. A copper and gold mine near Minto provides employment for some Selkirk First Nation members, and SFN citizens benefit directly from royalty payments made by the mining company.

Citizens of the Selkirk First Nation are part of the Northern Tutchone language and cultural grouping, and as such are closely linked to the other Northern Tutchone First Nations, the Na-Cho Nyak Dun in Mayo and the Little Salmon/Carmacks First Nation in Carmacks. All three First Nations are formally associated


through the Northern Tutchone Tribal Council.³

Resources available to offenders on non-custodial sentences (As of March 2015)

Formal Supports

Services that would benefit offenders on non-custodial sentences are provided locally under the Selkirk First Nation (SFN) and the Northern Tutchone Tribal Council (NTTC). SFN has a Department of Health and Social Programs which offers some community wellness programming. Milly Johnson is the Community Wellness Coordinator. Her primary focus is to help prepare people for addictions and trauma-related treatment as well as provide some aftercare support. Lucy McGinty, the Health and Social Director, provides family and child welfare support.

Most of the direct justice support for SFN citizens is provided through the NTTC. Lois Joe, NTTC's Executive Director, is primarily responsible for the development of community-based sentencing alternatives. She works closely with a variety of justice



partner agencies including the Territorial Court, Adult Probation, the Public Prosecution Service, and, Yukon Legal Services Society. Karen Van Bibber, who is the Aboriginal Court Worker, is based in Mayo but provides court worker services to all three Northern Tutchone communities.

NTTC also funds a consultant who travels to Pelly Crossing every two or three months to support people who struggle with cognitive challenges that may be the result of organic brain injury. Suzie Kuerschner has been developing a community-based support model called Circles of Collaborative Care. This model relies heavily on volunteer participation because it requires healthy people in the community to commit to visiting offenders and/or other clients multiple times a day for quick check-ins. Suzie and her colleague, psychologist Bill Stewart, have historically been available to provide the necessary clinical support for many offenders struggling to comply with community-based court orders. They have enjoyed some limited and anecdotal success with this model. The Fetal Alcohol Syndrome Society of Yukon (FASSY) also supports clients with FASD.

Wenda Bradley, who works with FASSY, was formerly the community nurse in Pelly Crossing and is very well connected with most of the families in the community.

SFN also maintains a healing camp at Ta'Tla Mun Lake, a 90-minute snowmobile ride south of Pelly Crossing. This camp operates primarily in the winter, spring and fall. There are 10 cabins for residents, along with a large kitchen, a meeting area, and showering facilities. SFN and NTTC have run a number of healing camps at Ta'Tla Mun, sometimes with financial support from Health Canada or the Yukon Government's Womens Directorate. At least one offender was sent to Ta'Tla Mun on his return to the community to help with camp maintenance so that he could have a gradual and alcohol-free reintegration into his community. In addition to Ta'Tla Mun, the community also had access to cabins at the old village site at Minto, just south of Pelly Crossing on the Yukon River. However, many of these cabins are falling into disrepair, and there is a plan to move them to Pelly Crossing where they could help alleviate the housing shortage.

Other agencies that help support offenders on community dispositions include the RCMP, which maintains a detachment in Pelly Crossing. Adult Probation officer Jonathan Steele advises that he tries to get to the community every two weeks to conduct check-in with clients. Like many rural Yukon communities, there is no resident social worker. A Yukon Government Victim Services worker only attends the community once every two months during the Territorial Court circuit.

Informal Supports

In terms of informal supports, many families run hunting and fishing camps at certain times of the year. Lois Joe says that these camps were historically responsible for keeping crime rates down, especially during salmon fishing season. Elder Bobby Woods is another community resource who is well-respected by the Yukon Courts. He provides a much-needed spiritual component to offenders' wellness plans. He runs regular sweats and other ceremonies in the community.

¹ Beaumont, Jody. *An Introduction to First Nation Heritage Along the Yukon River*. Cirque Consulting and Communication, n.d.

² In its 2011 census, Statistics Canada reports the population of Pelly Crossing to be 336 people

³ Information retrieved from the Yukon First Nation Cultural Orientation and Protocols Toolkit. This toolkit was developed by the Council of Yukon First Nations Health Department in consultation with Yukon First Nations and copyrighted in 2011.

BEAVER CREEK (WHITE RIVER FIRST NATION)

Community History

The White River First Nation is comprised of both Northern Tutchone and Upper Tanana speaking groups. The Upper Tanana are connected to Alaska.

First Nation people began to settle in the area of Beaver Creek following the building of the Alaska Highway in 1942. Beaver Creek was the point where the north and the south construction crews met.

In 1961, the Government of Canada relocated the people of the White River First Nation to Burwash Landing and amalgamated them with the Kluane First Nation. In 1991, they separated and the White River people relocated back to Beaver Creek.

Like many other communities, Aboriginal children from the White River First Nation had to attend Residential School away from their home.

The White River First Nation have not signed Land Claims or Self Government Agreements and remain under the Indian Act.

The Nelna Bessie John School offers kindergarten to grade 9. Students must attend grades 9 – 12 in Haines Junction or Whitehorse.¹

Resources available to support offenders on non-custodial sentences (As of March 2015)

Formal Supports

- The Health Department is comprised of: Health Director Douglas Joe, Marylin Sanford, Christine Sam and Jackie Johnny.
- The Health Team recently held 4 on the land camps: Moose Camp, Language Camp, Ice Fishing Camp and, Muskrat Camp. At these camps, activities included: Elder stories and traditional teachings, learning to set snares and traps, beading and sewing classes, and, language immersion classes. The camps were a big success and the health team hopes to hold these camps again in the future.
- There is an Employment and Training Officer, Jane Rogers. Opportunities for citizens include Yukon College

workshops, Yukon Mine Training Association presentations and planning and assistance with resume building and job searching.

- There is a Capital Projects Manager, Doug Broeren. Citizens can submit resumes for upcoming infrastructure work that will be taking place over the summer.
- Many Rivers visits the community twice a month to offer services to citizens.
- The Council of Yukon First Nations Aboriginal Courtworker provides services to citizens charged with criminal offences.

Informal Supports

- The Community Club offers volleyball, bow & arrows, archery, snowshoeing, cross country skiing, floor hockey, basketball, curling rink, ice rink, soccer, lacrosse, swimming, and pool
- There is a library in the community.
- There are opportunities to volunteer as a firefighter or for the EMS.

¹ Information retrieved from VGFN's website and the Yukon First Nation Cultural Orientation and Protocols Toolkit. This toolkit was developed by the Council of Yukon First Nations Health Department in consultation with Yukon First Nations and copyrighted in 2011.



BURWASH LANDING (KLUANE FIRST NATION)

Community History

In 1904, Lois and Gene Jacquot opened a trading post in the area now known as Burwash Landing. Before then, the Aboriginal people traditionally used the area as a summer camp.

The Department of Indian Affairs eventually grouped the Kluane and White River people together until 1991 when they separated into the Kluane First Nation of Burwash Landing and the White River First Nation of Beaver Creek. The majority of Kluane people are of Southern Tutchone descent however, some are from the Tlingit, Upper Tanana and Northern Tutchone Nations.

In 1942, the US Army built the Alaska Highway which cut through the traditional territories of the Kluane First Nation. Then, in 1943, the Kluane Game Sanctuary was created in response to concerns of wildlife being over hunted by military and highway workers. The sanctuary was on the traditional territory of the Kluane and Champagne and Aishihik people. Hunting was strictly prohibited and the First Nation people were banned from entering the area. This changed 50 years later when the First Nations signed their Final Agreements which included the right to harvest in the region. Like many other Aboriginal people in the Yukon, the Kluane First Nation children had to attend Residential School outside of the community.

The Kluane First Nation signed their Land Claim and Self Government Agreements in 2003. Implementation is a priority and ongoing for the KFN.²

Resources available to offenders on non-custodial sentences (As of March 2015)

The Health and Social Manager for the KFN, Robert van Lieshout, and Community Support Worker, Isabelle Newhurst advise that capacity is often an issue but that the First Nation is flexible enough to train people to step in when others are away for vacation and such. There is no RCMP Detachment in Burwash and the RCMP have to come from Haines Junction when responding to a call. Burwash does have a volunteer fire department however and a nurse and EMS stationed in Destruction Bay. Without formal protection/enforcement within the community, safety is often a concern.

Also, school is only offered up to grade 8 in the community. Students must go to Haines Junction or Whitehorse to complete High School. This makes it difficult to support families and ultimately the community. Also, there is no Yukon College satellite campus like many other communities throughout the Yukon which also makes it difficult to offer support to people. Kluane First Nation also has no Education department to support prospective students.

There are growing concerns about the Wellgreen Mine that is scheduled to open soon and the impact that the extra population will have on the community which already has such limited access to resources. It is expected however that there will be opportunities for employment through the First Nation's Investment Corporation.

Formal Supports

- The KFN Health and Social Services Department is comprised of a Social Services Manager, a Community Wellness Worker, a Home and Community Care Coordinator, a Home Support Worker and a Language Nest Coordinator.
- Services and support are offered through KFN's Health and Social Services Department around Community Wellness Programming.
- Whitehorse based Organizations have representatives that visit the community including: Council of Yukon First Nations Aboriginal Courtworker, Two Clinical trauma Councillors, and Many Rivers.

Informal Supports

- Informal supports and opportunities include: Public Works Landscaping Project, Investment Corporation's Lodge construction, Green House research project, Firesmart woodcutting, Housing project renovations, Community dinners, Library, and games night.
- Many cultural activities are regularly offered including: traditional sewing night, stickgambling, basket weaving, Southern Tutchone language lessons, moose hair tufting, Elder teachings and workshops, muskrat camp, trapping camp, culture camp, harvest camp and time out on the land.
- Sporting activities and opportunities available include: daily recreational programming, soccer and volleyball.

¹ Information retrieved from VGFN's website and the Yukon First Nation Cultural Orientation and Protocols Toolkit. This toolkit was developed by the Council of Yukon First Nations Health Department in consultation with Yukon First Nations and copyrighted in 2011.

² Information retrieved from KFN's website and the Yukon First Nation Cultural Orientation and Protocols Toolkit. This toolkit was developed by the Council of Yukon First Nations Health Department in consultation with Yukon First Nations and copyrighted in 2011.

CARCROSS (CARCROSS/TAGISH FIRST NATION)

Community History

The community of Carcross is approximately 70kms south of Whitehorse on the South Klondike Highway which connects Whitehorse to Skagway, Alaska. The community of Tagish is roughly 35kms east of Carcross on the Tagish Road. Most Yukon government and First Nation government services are located in Carcross, meaning that many Tagish residents have to travel to Carcross to access the community school, the Yukon College campus, the territorial agent, and the health centre. Both communities have a mix of First Nations and non-First Nations people living there. There is a three-member RCMP detachment providing coverage for both communities and as far south as the Fraser border post with Alaska.

Citizens of the Carcross/Tagish First Nation (C/TFN) are descended from the inland Tlingit, who originated from South-East Alaska, and the Athapaskan Tagish. The Tlingit began trading with the interior Tagish and soon intermarried and merged their cultures. They hunted, fished, and harvested throughout their traditional territory, following a yearly round of activities. A system of clan governance exists which includes two wolf moiety clans: Daklaweidi and Yanyedi; and, four crow moiety clans: Deisheetaan, Ganaxtedi, Ishkahittaan and Kookhittaan.

The first major influx of Europeans came with the Klondike Goldrush. An estimated 40,000 gold seekers traveled through C/TFN traditional territory on their way to the Klondike. They harvested what they needed along the way, cutting down trees for boats and rafts, and killing game for food. A railway was eventually built across the White Pass which became a source of employment for many C/TFN citizens.

Carcross, located at the narrows that separate Bennett and Nares Lakes, was a natural bottleneck through which the stampede passed. When the Gold Rush subsided, Anglican Bishop William Bompas set up a

school in Carcross. The Choutla Residential School, as it came to be known, stayed open until the 1970's. Many of the First Nation children who attended that school were abused physically, sexually and emotionally. Although the school has been torn down, its legacy lives on in the damaged lives of many of its former students and their families.

Throughout the 1920's and 1930's, the area became a mecca for tourists who travelled the region on trains and steamships operated by the White Pass and Yukon Route. Today, tourism is another mainstay of the economy. Other historical events had a huge impact on the region. The building of the Alaska Highway led to a huge influx of soldiers.

The C/TFN signed off on its land claims and self-government agreement in October 2005, making it a self-governing First Nation. The following departments make up the C/TFN: Capacity Development (Employment, Education and Training), Finance and Infrastructure, Heritage Lands and Resources, Health and Wellness Programs and Services, and, Governance.¹

Resources available to offenders on non-custodial sentences (As of March 2015)

Because of its close proximity to the territorial capital, many of the resources available to Whitehorse-based offenders are also available to people in Carcross or Tagish. This includes both the Domestic Violence Treatment Options Court and the Community Wellness Court, neither of which are typically available to residents of other Yukon communities unless they are willing to relocate to Whitehorse. However, a big challenge has always been arranging rides—sometimes after regular office hours—for offenders who need to attend programming and counseling appointments.

Carcross has a reputation of being at the forefront of many innovations in the justice system. Carcross resident Harold Gatensby worked closely with former Territorial

Court Judge Barry Stuart to establish circle sentencing both in the Yukon and beyond. Others in the community have made significant contributions to restorative and community-based justice. As a result, Carcross has access to a wealth of experience that is not available in all Yukon communities. Carcross was home to the first community justice committee established in the Yukon, and as such has a longer history than most other communities in working with partner justice agencies to come up with creative solutions for offenders and victims alike.

Formal Supports

- C/TFN has a full-time Community Justice Coordinator who works with offenders and partner justice agencies to explore all non-custodial options for offenders (Christle Wiebe, 821.)
- C/TFN's Health and Wellness Department has three outreach workers, Eileen Wally, Liz Baker and Leslie Grant, who can help support offenders on community dispositions. Leslie Grant also does outreach for C/TFN citizens who are living in Whitehorse. Eileen Wally: 821-4251 ex. 8233
Leslie Grant: 821-4251 ex. 8234
Liz Baker: 821-4251 ex. 8235
- C/TFN also has a transitional employment program, the goal of which has been to give under-employed people the skills they need to become employed and self-supporting. This program has been very useful in supporting clients on release conditions as well as sentenced offenders on community dispositions.
- There have been a number of innovative employability programs run through C/TFN during the past few years. Two of the most successful were the Tiny Homes project and the Log Cabin project.
- A probation officer visits Carcross once every two weeks (Julie Clark, 667-8363). She works closely with the Community Justice Coordinator to support sentenced clients or those



on release conditions. Erin Dewar, the federal Parole Officer, also works closely with the Community Justice Coordinator to support parolees on s. 84 releases.

- Until recently, C/TFN had a clinical counselor on staff. She has since left the position, but C/TFN is recruiting for a replacement.
- Many Rivers Counseling Services has a counselor who attends Carcross once a week.
- AA meetings happen twice a week, once at the health centre (via Telehealth) and once at the community library. Some

clients prefer to travel into Whitehorse to attend AA or NA meetings to retain their anonymity.

- The Skookim Jim Friendship Centre camp, located a couple of kilometers south of Carcross, has occasionally provided emergency accommodation for offenders in need of a place to stay. Another was housed temporarily in a C/TFN staff house.

Informal Supports

A number of community members regularly provide volunteer services to support offenders on either release conditions or a community disposition. Harold Gatensby and Colleen James regularly hold sweats and ceremony for those who are interested. One Elder runs a camp about 20kms south of Carcross and has hosted many offenders who needed a safe, sober place to stay.

¹ Information retrieved from C/TFN's website

TESLIN (TESLIN TLINGIT COUNCIL)

Community History

The First Nations people from Teslin are descendants of the coastal Tlingit people of Alaska. They are known as the Inland Tlingit. At the end of the 19th Century, the Teslin Tlingit began to cluster near the trading posts at the head of Teslin Lake and at Nisutlin Bay. The Gold Rush brought many gold seekers through the area on an All-Canadian Route to the gold fields. They would travel to the head of Teslin Lake and build boats to sail down the river to Dawson.

In 1942, the Alaska Highway was built through Teslin territory. Approximately 34,000 army personnel were used during construction. The area became overhunted and caused environmental damage as well. The Village of Teslin became a permanent settlement as a result.

In 1993, the Teslin Tlingit Council (TTC) signed their Land Claims and Self

Government Agreements. Implementation of those Agreements are a priority and ongoing. The TTC is comprised of the following departments: Finance and Administration, Lands and Resources, Capital and Infrastructure Department, Education Department, Health and Social Department. The Teslin School offers kindergarten to grade 9. Students must complete grades 10 – 12 in Whitehorse.

Resources available to offenders on non-custodial sentences (As of March 2015)

The Diversion Worker, Marina Bailey and Social Worker, Nancy Adamson advised that the TTC tends to assist clients on a case by case basis: "When we really need something, we pull together. We are adaptable, depending on the case." Marina advised that she has good support from her supervisor and that when needs are identified for clients, she receives support from the First Nation to

help them construct a plan. She is currently exploring land based initiatives such as the "Beaver Camp" or other opportunities for boys to simply go out to Culture Camps with some of the Elder men in the community.

The Diversion Worker does feel however, that Teslin would also benefit from: more trauma counselling, crisis intervention training, a safe house, better relationships with the RCMP, and more Clan representation for offenders, victims and families going through the Justice system from start to finish. She said they are also currently working on having a psychologist based in the community and working on site.

¹ Information retrieved from TTC's website and the Yukon First Nation Cultural Orientation and Protocols Toolkit. This toolkit was developed by the Council of Yukon First Nations Health Department in consultation with Yukon First Nations and copyrighted in 2011.

Formal Supports

- TTC's Health and Wellness Department has a Traditional advisor, Maryrose Sydney that develops, coordinates and facilitates community workshops with respect to social issues, programs and services. There is also a: Wellness Counsellor, Lyall Herrington; Advocacy Worker, Karen Keenan and Diversion Coordinator, Marina Bailey in the department.
- TTC also has a Workforce Development Department that is responsible for staff recruitment and capacity development. They offer professional development

assessment, coaching, training, and wellness services. The Community Skills Development Officer is Marie Davies and the Language/Culture Coordinator is Dougie Smarch.

- Whitehorse based agencies such as Victim Services, Offender Supervision and Services, Many Rivers and CATS also send representatives to the community on a regular basis.

Informal Supports

- Informal supports in the community include: Green House, Working with Elders, volunteering at different events,

Girl Talk, Men's Group, Women's Group, and Meals on Wheels.

- TTC also offers numerous cultural workshops and courses throughout the year including: snowshoe making, moose hide tanning, cedar hat weaving, ravenstail weaving, and language classes. There is an 'Assistance to Artists Program' that also aids citizens to pursue careers as artists. Interested citizens need to apply and be accepted for support.

ROSS RIVER (ROSS RIVER DENA COUNCIL)

Community History

The Kaska community of Ross River is located in the central Yukon, just off the Robert Campbell Highway. The Kaska Nation includes the Dease River in Good Hope Lake BC, the Daylu Dena Council in Lower Post BC, the Kwadacha First Nation in Fort Ware BC, the Liard First Nation in Watson Lake, and the Ross River Dena Council in Ross River. The Kaska Nation was divided by into separate Bands by the Indian Act and subsequently separated by provincial and territorial borders.

Ross River is about 70kms south-east of Faro, a mining town which grew up around a massive lead/zinc deposit. Watson Lake, which is home to another Kaska First Nation, is roughly 370kms south east of Ross River at the junction of the Campbell Highway and the Alaska Highway. Ross River has a population of roughly 350 people (based on 2013 census figures), the majority of whom are citizens of the Ross River Dene Council.

The community is located at the confluence of the Ross and Pelly Rivers, a place known in the Kaska language as Tu Lidlini. It was a traditional summer-time gathering place for the Dene, Northern Tutchone, Gwich'in, and Kaska people. Ross River's location makes it one of the Yukon's more isolated

communities. It can be hard to get to in mid-winter when the driving conditions are poor. The Campbell Highway south of Ross River is not always drivable between Ross River and the Cantung mine access road, which is just over 100kms from Watson Lake. The highway is generally well maintained between the Cantung mine access road and Watson Lake.

In 1901, a trader named Tom Smith started a small fur trading post on the north bank of the Pelly River. The Kaska established a winter camp site close to the trading post. Two years later, a rival trading post was established on the south side of the Pelly River. More Kaska, along with other First Nations' people from the Mackenzie River region, travelled there to trade. The fur trade led to over trapping in the area when fur prices were high. Trading drastically decreased after a 1916 flu epidemic took many lives in the settlement.


The outbreak of the Second World War resulted in an increased need for oil. In 1942, work started on a pipeline between Norman Wells and a refinery in Whitehorse. Huge numbers of American soldiers worked on the pipeline and the associated service road, known as the Canol Road, until 1944. The pipeline was only operational for about a year, and the Canol Road was closed in 1946 and did not re-open until 1958. The

northern portion of the Canol Road is partially maintained for about 230kms north of Ross River. The South Canol Road, from Ross River to Johnson's Crossing on the Alaska Highway, is maintained during the summer months. However, there are no services.

Ross River is home to the Ross River Dene Council (RRDC). The RRDC is one of three First Nations' governments in the Yukon who have not ratified land claims and self-government agreements. Negotiations ended in 2002 when the mandate of the federal government to negotiate the agreements expired. There have been no negotiations since then. The RRDC is still considered an Indian Act Band (Band #497). As such, it does not have access to the same financial resources of many of the self-governing Yukon First Nations.

Mining has traditionally provided some employment in the region. A recent partnership with Selwyn Chihong has resulted in some employment related to a proposed lead zinc mine in Howard's Pass. Selwyn has partnered with the community on some training opportunities for Ross River residents.

A unique style of drumming and signing has been revived by the RRDC and is a source of pride for the First Nation. The Ross River



Drummers are well known and often travel to perform across the Yukon. Ross River is also well known for stick gambling and hosts a popular stick gambling competition annually.¹

Resources available to offenders on non-custodial sentences (As of March 2015)

Formal Supports

- The RRDC does have a Health and Social Department that operates out of the Margaret Thompson Centre. There are two Northern Native Drug and Alcohol and Drug Addictions Program workers (Lloyd Caesar and Rose Peter) and a community justice/Aboriginal court worker (Cecil Jackson). There is also a family support worker, a childcare worker, a community education liaison coordinator, and an Elder-care worker.
- There is an emergency shelter in Ross River (primarily for women fleeing abuse), but no funding to maintain it or keep it staffed, even on a part-time basis.
- Health and Social staff (principally Lloyd and Cecil), along with support from the local RCMP detachment, are working to put together an on-the-land healing and addictions-treatment camp at the old Ketza mine site about 40kms outside Ross River. The Health and Social Department is looking for funding to support the development of this camp, but to date all the work has been done by volunteers

using scavenged building materials. Presently, there is one cabin at the site with three rooms that could house an estimated five or six people. Some tent frames are also being constructed at the site.

- There are also plans to convert an empty house with a large basement into a local art centre where residents could work on art projects. Like many rural Yukon communities, Ross River does have a number of talented artists and craftspeople among its residents. A facility like this, if it gets off the ground, could be a very valuable therapeutic resource.
- Ross River has an active Canadian Rangers patrol with approximately 20 members.
- A Yukon government probation officer (currently Tia Staller) travels to Ross River from Whitehorse twice a month to help monitor and support offenders on release conditions or probation.
- A Yukon government victim service worker (currently Natalie Edelson) travels to Ross River for the Territorial Court circuit once every two months. However, she advised that she could make more frequent trips if necessary.
- A counselor (currently Sharon Moore) supported through Health Canada's Indian Residential Schools fund travels to Ross River once every two months for a day and a half.
- Yukon government also funds a mental health support position in the community for up to eight hours a week.
- There is a camp at Frances Lake with

nine cabins. This has been used as a venue in the past for on-the-land healing activities, sometimes in collaboration with the Liard First Nation in Watson Lake. It is located roughly 170kms up the Campbell Highway from Watson Lake.

In addition to these supports, Ross River also has a Yukon College campus which provides a variety of education and training opportunities to local residents. Most recently, the College has partnered with the mining industry and other partners to offer pre-employment training to Ross River residents.

Informal Supports

Ross River is blessed with a number of residents who still speak the Kaska language and know a lot about traditional and cultural activities. There are still some Elders, including Amos Dick (who is more than 90 years old) who still trap and spend a considerable amount of time on the land. Depending on family affiliation, any non-custodial sentence for a Ross River Dene citizen would likely include some time on the land.

¹ Information retrieved from TTC's website and the Yukon First Nation Cultural Orientation and Protocols Toolkit. This toolkit was developed by the Council of Yukon First Nations Health Department in consultation with Yukon First Nations and copyrighted in 2011.

WATSON LAKE (LIARD FIRST NATION)

Community History

The Kaska community of Ross River is located in the central Yukon, just off the Robert Campbell Highway. The Kaska Nation includes the Dease River in Good Hope Lake BC, the Daylu Dena Council in Lower Post BC, the Kwadacha First Nation in Fort Ware. Watson Lake is located approximately 450kms south-east of Whitehorse on the Alaska Highway at the junction of the Robert Campbell Highway which links Watson Lake with Ross River and Faro to the north. It is 26kms east of the junction with the Stewart/Cassiar Highway and is the supply and service centre for the region.

Watson Lake is the administrative centre for the Liard First Nation (LFN), which along with the Ross River Dene are the two Kaska First Nations in the Yukon. The Kaska Nation includes the Dease River in Good Hope Lake BC, the Daylu Dena Council in Lower Post BC, the Kwadacha First Nation in Fort Ware BC, the Liard First Nation in Watson Lake, and the Ross River Dena Council in Ross River. The Kaska Nation was divided by into separate Bands by the Indian Act and subsequently separated by provincial and territorial borders.

The town of Watson Lake is named after Frank Watson, a Californian miner who came north looking for gold with his father. They reached the Upper Liard River in the spring of 1898. Frank liked the country and eventually met and married a Kaska woman who was from Lower Post in British Columbia. They ended up building a home on the shores of Watson Lake and raised a family together.

Because the Gold Rush was not in Kaska territory, it had limited effect on the Kaska people, it did however impact established trade relationships with neighbouring First Nations. The Dease Lake Gold Rush in 1861 and the Cassiar Gold Rush in 1874 had more of an effect on the Kaska as it brought an influx of people into their traditional territories.

At the beginning of the Second World War, the Canadian Government started to build a network of airfields across the north known as the Northwest Staging Route. An aerodrome was built in Watson Lake using material that was freighted in from Vancouver to Wrangell, Alaska, where it was put on boats and transported to Dease Lake, BC. The materials were then freighted down Dease Lake and the Dease River to Lower Post, where a tote road had been constructed to Watson Lake.

In 1942, the construction of the Alaska Highway began, linking up many of the airfields on the Northwest Staging Route. The arrival of American and Canadian soldiers changed the lives of the Kaska people forever. With the highway came an increased government presence and an influx of outsiders. In an attempt to “civilize” and educate the local First Nation population, a Catholic-run residential school was established at Lower Post in 1940 which operated until it was finally closed in 1975. Countless First Nations children from a number of different northern communities attended the school. Many were abused physically, sexually and emotionally. The negative impact of the Lower Post Indian Residential School is still being felt today.

The Liard First Nation is one of three Yukon First Nations that is not self-governing. Land claims and self-government negotiations were suspended in 2002 when the federal government’s mandate to negotiate expired. LFN is currently under third party management because the federal government is alleging that it is owed more than \$700,000. As a result of this financial crisis, many LFN employees have been laid off and long-term funding for programs continues to be uncertain.

Watson Lake is experiencing a downturn in employment that is directly linked to the difficulties currently being experienced by the mining industry. That, coupled with the lay-offs at LFN, mean that there is not much non-tourism related employment available at this time.

Resources available to offenders on non-custodial sentences (As of March 2015)

Formal Supports

- Watson Lake has its own Court Registry with two employees, making it easier for offenders and others to get information about Court Orders.
- Watson Lake is one of two rural Yukon communities that has a resident Probation Officer for local support and supervision. (Duane Esler, 536-7565)
- There is also a resident Victim Services Worker who can offer programming in support of both victims and offenders. (Kelly Allen, 536-2541)
- The LFN has its own Justice Department headed by Director May Stewart. Stella Hearty is the Aboriginal Court worker, and Emma Donnessey is a Justice Support Worker. May, Stella and Emma provide a lot of services to offenders in the community such as assisting with the setting up and monitoring of community hours and ensuring that people make their probation or counseling appointments. (May Stewart 536-7925)
- LFN also has a support worker for intergenerational survivors of residential school. The community also gets counseling support from IRS counselor Mary-Ann Steyn (334-5763) who travels to Watson Lake from Whitehorse. Debbra Greig, a consultant counselor, is also available to the community (250-415-8270). Andrij DeWolf and Marian McDonald, two Many Rivers Counselors, are also available (536-2330)
- LFN has two National Native Alcohol and Drug Abuse Program Workers (Barbara Morris and Brittany Dennis, 536-5202)
- Watson Lake has its own emergency shelter, primarily for women fleeing abuse. There is also second-stage housing connected to the shelter.



Although this is a facility designed to meet the needs of victims of crime, many female offenders are also victims and could potentially benefit from safe housing in the community. There is also aftercare and continuing care programming for residents of the shelter which could be enormously beneficial to female offenders on a community disposition. (Help and Hope 536-7702)

- The Liard Aboriginal Women's Society (LAWS) offers a number of programs that could be of value to female offenders on community dispositions. The non-profit society, which was established in 1998, has offered the

Guni's Tsi Nedzedundeli' ("Let's Get Back to the Land Program") which was funded through the Aboriginal Healing Foundation and is supposed to help address the legacy of damage caused by the residential schools. Many of the programs are held out at Frances Lake, roughly 170kms north of Watson Lake. The Frances Lake camp is only available for summer programming because the access road is not plowed during the winter. (LAWS 537-2097)

- Yukon Government's Alcohol and Drug Services has a Whitehorse-based addictions counselor available on-call (Mark Nassiopoulos 393-6979)

Informal Supports

Watson Lake, like most rural Yukon communities, does have a number of people who are willing to devote time and energy to helping others. Depending on family affiliation, most community dispositions would have a community support component that would rely heavily on volunteers. People like Frank and Cathy Magun and Andy Lutz are frequently doing what they can to support others. Many community Elders are also willing to come out to camps and other cultural activities to share their knowledge and lend their support.

MAYO (NACHO NYÄK DUN)

Community History

The Nacho Nyäk Dun (NND) take their name from the Stewart River which in the Northern Tutchone language is Na Cho Nyak, which means Big River. Historically, the area was somewhat of a hub for trading given the central location. As a result, NND membership is made up of people from the Gwich'in people of Northern Yukon, the Han from the Dawson area and the Mackenzie people from Fort Good Hope and Eastern Yukon.

The Gold Rush brought an influx of gold seekers to the area and the town of Mayo was established in 1903 as a result. An extension of the road between Whitehorse and Dawson was constructed in 1914 to support growing mining activity.

Like many other communities in the Yukon, NND children attended Residential School away from the community. In 2009, women from the community started a project focused on healing from the Residential School experience. They choose to make a quilt, with each woman making a square to tell their story and how they were affected. Special places on the land include: Ethel Lake, No Gold, Old Village, Lancing and wilderness camps along the Stewart River.

In 1993, the NND signed their Land Claims and Self Government Agreements. Implementation of their Agreements is a priority and ongoing. NND departments include: Government and Administration, Health and Social, Education, Capital and Housing, Lands and Resources, Heritage, Implementation and Dunena Ko'Honete Ko Daycare.

The NND along with the Selkirk First Nation and the Carmacks Little Salmon First Nation form the Northern Tutchone Tribal Council. The JV Clark School offers kindergarten to grade 12. Community Education Liaison Coordinators work closely with First Nation students.¹

Resources available to offenders on non-custodial sentences (As of March 2015)

Feedback from the NND Courtworker, Councilors, Wellness Counsellor, Social Programs Manager and the Youth Councilor on Gladue Report writing was positive. They do not think it is an appropriate task for Probation Officers, and said they felt as though it would be a conflict. They think it would require at least a full time position

and that training would be necessary for both the writer and the community in order to be successful. They expressed that they would like to see reports cover an offender's family history, treatment options and to include solid aftercare plans. They have concerns about mental health issues in the community but said that NND is very flexible when developing plans to support citizens.

Formal Supports

- NND's Health and Social Department is comprised of a: Social Programs Manager, Phyllis Peter; Social Programs Driver, Michelle Buyck; Aboriginal Courtworker, Karen Van Bibber; and, Drug and Alcohol Case Worker, Mike McIsaac.
- NND Citizens can contact Lois Joe at the Northern Tutchone Tribal Council to enquire about attending the on the land healing camp at Tatulman Lake.
- NND also has a Work Opportunity Program. The purpose is to enhance the independence and job related skills of people on social assistance. Temporary jobs are created for people who are accepted in this program.

¹ Information retrieved from NND's website and the Yukon First Nation Cultural Orientation and Protocols Toolkit. This toolkit was developed by the Council of Yukon First Nations Health Department in consultation with Yukon First Nations and copyrighted in 2011.

- A probation officer from Dawson visits Mayo regularly to support sentenced clients or those on release conditions.
- A victim services worker from Dawson also visits Mayo regularly.
- Many Rivers Counseling Services also has a counselor who attends Mayo regularly.
- The Alcohol and Drug Counsellor also provides services to NND citizens at the Whitehorse Correctional Centre.

Informal Supports

- Employee Assistance Programs are available to NND employees and their immediate family members. These services are provided through Barb Nimco and Associates as well as Ceridian Lifeworks.
- Yukon College has a campus situated in Mayo.
- Traditional cultural activities are offered regularly for NND citizens

- including: hunting, fishing, berry picking, sewing, men's wellness group, Old Village, Fraser Falls, Nash Creek, and, family fish camps.
- Physical activities that are popular in the community include curling and hockey. There is a weight room and fitness room that also offers classes.
- There are numerous opportunities to volunteer such as: Christmas Open House, New Year's Dinner, Winter Carnival, bingo, Canada Day, Halloween, Assisting Elders, Culture Week and Culture Camp.

DAWSON CITY (TR'ONDĖK HWĚCH'IN FIRST NATION)

Community History

The Tr'ondĖk HwĚch'in people are part of the Han Nation.

Fur traders arrived in the north in the early 1800s. The Gold Rush in 1898 brought an influx of people to the area. The population grew to 40,000 during this time and went back down to approximately 5,000 by 1902.

There was a Residential School located in Dawson City called St. Paul's Residential School. A Residential School Scrapbook project Kanacha is documented in the DVD 'Finding our Way Home' which can be found at the offices of the Tr'ondĖk HwĚch'in First Nation (THFN).

The THFN signed their Land Claims and Self Government Agreements in 1998. Implementation of their agreements is a priority and ongoing.

THFN includes the following departments: Administration, Heritage Department, Natural Resources, Health and Social Services, Human Resources and Education, Implementation, Housing and Capital and Tr'inke Zho Childcare Centre.

Accessible traditional sites that are used for cultural activities include: R-22 Healing Camp, Cache Creek, Moosehide Reserve and 40 Mile, Blackstone Area.

The Robert Service School offers kindergarten to Grade 12. Community Education Liaison

Coordinators work closely with FN students. There is also a Yukon College Campus and Co-op program in place.¹

Resources available to offenders on non-custodial sentences (As of March 2015)

Feedback from the NND Courtworker, Councilors, Wellness Counsellor, Social Programs Manager and the Youth Councilor on Gladue Report writing was positive. They do not think it is an appropriate task for Probation Officers, and said they felt as though it would be a conflict. They think it would require at least a full time position and that training would be necessary for both the writer and the community in order to be successful. They expressed that they would like to see reports cover an offender's family history, treatment options and to include solid aftercare plans. They have concerns about mental health issues in the community but said that NND is very flexible when developing plans to support citizens.

Formal Supports

- THFN has a Health and Social Department comprised of a: Director, Trena Raven; Justice Coordinator, currently vacant; and, a Community

Counsellor, Jennifer Nunan.

- AA holds regular meetings.
- There is a mental health nurse located at the hospital.
- Unlike many of the communities in the Yukon, there is a Probation Officer and Victim Services Worker located directly in the community.
- There is a Community Support Centre that offers support to Dawson City citizens.
- There is an Alcohol and Drug Counsellor that provides services in the community.
- There is a Women's Shelter.
- Many Rivers Counselling has an office located in Dawson.
- THFN offers an Intergenerational Woman's Support Group as well as Indian Residential School Counselling.
- There are 15 individuals trained to facilitate both traditional and contemporary restorative justice processes including pre-charge and diversion options.
- Yukon Government operates a Family Support Office and an Employment Centre, Klondike Outreach.

Informal Supports

- THFN hosts a Wellness Week annually that covers topics on addictions,

¹ Information retrieved from THFN's website and the Yukon First Nation Cultural Orientation and Protocols Toolkit. This toolkit was developed by the Council of Yukon First Nations Health Department in consultation with Yukon First Nations and copyrighted in 2011.



wellness and counselling. There are also opportunities for sweats and workshops on drum making.

- THFN offers a traditional parenting program that helps coordinate support for families and promotes traditional healthy lifestyles.
- Every second year, THFN hosts

Moosehide- a traditional gathering at the Village of Moosehide.

- THFN offers a ‘first hunt’ and ‘first fish’ opportunity to citizens.
- There are many opportunities for volunteering throughout the year including: Meals on Wheels, the Soup Kitchen, the Food Bank, the Green

House, Elder assistance.

- There are many recreational activities available including: the swimming pool, an ice rink, fitness centre, ski hill, cross country skiing, School of Visual Arts (SOVA).

OLD CROW (VUNTUT GWICH’IN FIRST NATION)

Community History

Vuntut Gwich’in means “People of the Lakes” because of the thousands of lakes found in the Old Crow Flats, an area used for hunting, trapping and fishing. First contact with European traders occurred in the early 1800s. Missionaries followed and settled at the site of Old Crow. The Gwich’in people began to settle in the area in the 1950s. Old Crow is the most northerly community in the Yukon and has a population of about 300. It is usually only accessible by fly-in although some years, a temporary winter road is constructed. As was the case with many First Nation communities in the Yukon, Vuntut Gwich’in children attended Residential Schools outside of Old Crow, many of which attended the Chouttla Residential School in Carcross.

The Vuntut Gwich’in signed their Land Claims and Self Government Agreements in 1993. Implementation of their agreements is a priority and ongoing for the Vuntut Gwich’in First Nation (VGFN). The following departments are located in the Sarah Able Chitze Administration Building: Finance, Human Resource, Natural Resources, Government Services, Health and Social, and, Education.

Old Crow is 1 of 19 communities in the Gwich’in Nation. The Gwich’in communities alternate hosting major gatherings every two years. Gatherings are important opportunities to be among family and relatives spiritually. The Anglican Church, St. Luke’s is a strong force within the community. All church

literature has been translated into Gwich’in to make it easier to incorporate into church services. Old Crow is a ‘dry’ community however issues with alcohol and drugs exist despite alcohol prohibition.

The Chief Zzeh Gittlet School offers schooling up to grade 9. Students must move to Whitehorse to complete grades 10-12 and stay in the Whitehorse dormitory or with family for up to 10 months of the year.

The cost of gas and equipment to go out on the land and seasonal employment poses a challenge for younger people. Cross country skiing is a popular activity.¹

Resources available to offenders on non-custodial sentences (As of March 2015)

Formal Supports

- The Health and Social Services department is comprised of a: Manager of Mental Health and Social Services, Nancy Stevens; Family Support Worker, Maxine Thunderchild; Aboriginal Court Worker/Community Justice Worker, Kenji Welch; and, Home and Community Care Coordinator, Kathie Nukon.
- The Court Worker/Justice Worker acts as a liaison between the courts and clients and assists in many areas including: setting up for court; setting up appointments for clients with their lawyers; explains the court process to clients; speaks on behalf of

clients as agent in court if necessary; collects fines; makes arrangements for extensions for fines; and, assists in the process of determining if clients are eligible for the Old Crow Diversion Program.

- An Employment and Training Officer, Loretta Itsi, administers the Human Resource Development Canada (AHRDA) Sub Agreement. She works closely with the Director of Education to create training opportunities for VGFN citizens.
- An Education Support Worker, Christine Creyke, provides guidance and counselling to VGFN citizens seeking to further their post-secondary education.
- A Recreation Co-ordinator, Lindsay Johnson, helps co-ordinate and deliver a variety of community recreational programs and activities for VGFN citizens.
- Yukon Government workers from Mental Health, ADS, Social Services, Probations Office, Victim Services Office and Family Violence Office visit Old Crow on a regular basis to provide services to VGFN citizens.

Informal Supports

VGFN, like most Yukon communities, does have a number of people who are willing to devote time and energy to helping others. Many community Elders are willing to come out to camps and other cultural activities to share their knowledge and lend their support.

¹ Information retrieved from VGFN’s website and the Yukon First Nation Cultural Orientation and Protocols Toolkit. This toolkit was developed by the Council of Yukon First Nations Health Department in consultation with Yukon First Nations and copyrighted in 2011.

CONCLUSION & NEXT STEPS



One of the primary reasons for this project was to establish whether or not the Yukon would benefit from a formalized Gladue Program. Yukon's comparatively high rate of crime and disproportionately high numbers of Aboriginal people in the Yukon justice system do make it a good candidate for such a program. Much of the discussion to date has focused on the need for Gladue Reports in the territory, almost as if the reports themselves were the "end" instead of the "means to an end". If that were the case, it is conceivable that a small office could handle the demand for reports for Aboriginal offenders facing a jail sentence of three months or more. However, without many community resources currently available (especially in rural Yukon) to support offenders on community sentences, the report writers would face challenges with respect to coming up with non-custodial options that will help sentencing judges meet their other sentencing obligations.

The lack of resources to support offenders, particularly in communities outside Whitehorse, is perhaps one of the biggest challenges facing the Yukon justice system. The recently released Auditor General's Report on Corrections in the Yukon pointed out that many core rehabilitative programs are not available in many of the rural communities. This is especially concerning given the high numbers of offenders on community sentences. In 2013-14, there were 378 offenders who began sentences of community supervision, whereas only 195 offenders began sentences of incarceration.¹

There are also a number of recommendations set out in the Auditor-General's report that would, if acted upon, make a Yukon Gladue program more viable. More training and support for Probation Officers and increasing core rehabilitative programming for offenders

would certainly make community sentencing options more realistic and lead to greater success. Other recommendations relating to the provision of mental health services for offenders, which to date has been minimal at best, would also greatly increase the ability for offenders to better comply with conditions related to their community sentences. Perhaps the most significant recommendation of all is related to the need for more culturally appropriate programming. The Corrections Act requires the Department of Justice to work with First Nations to develop and deliver culturally appropriate programming. In its response to the Auditor-General, the Department of Justice said that there are "... capacity challenges and conflicting priorities for First Nations to assist with the development of Yukon-specific First Nations programs to deal with criminal behaviour."²

From the community visits that were conducted as part of this research, these capacity issues were self-evident but the situation is certainly not hopeless. Many First Nations have very active Justice and Health Departments that deliver culturally informed programs to their citizens, as indicated in the aftercare directory included in this report. These options may often be overlooked because they are not delivered by mainstream government agencies. Many Self Governing First Nations are also negotiating Administration of Justice Agreements which will eventually enable them to offer more culturally relevant options that are better suited to their citizen's needs.

In comparison to larger Canadian jurisdictions, the Yukon's population is small which places limits on the ability to provide the resources necessary to support offenders on community dispositions. Many Aboriginal offenders have very complex needs. In order to meet these


needs, stronger partnerships need to be forged between all stakeholders in the justice system. In order to provide comprehensive Gladue reports, a viable Gladue program will need to rely heavily on post-sentencing resources to help support offenders. This can only happen if all stakeholders in the justice system are prepared to make a contribution and work together in a collaborative and respectful fashion.

At this time, many of the support people consulted for this project felt that the communities simply do not have the capacity to prepare Gladue Reports independently. Some spoke about concerns regarding the small size and dynamics of communities and how it affects trust with confidential information and also about the lack of formal supports. Many were supportive of the idea of a dedicated, centralized service based in Whitehorse that would work with outlying community resources to identify local sentencing options. There was interest in eventually providing training and mentoring for local report writers so they could produce reports in the future as part of an internal continuum of care. Others expressed interest in getting local people trained immediately. It makes sense that community members are best-placed to have the most insight about an offender's life history, family history and community history, and have immediate access to the resources available in the community. A local report writer is more likely to be able to identify those critical informal supports that so often are ignored or missed entirely by outsiders.

There are also other issues that were raised that require further discussion. Throughout this project, Judges and others have pointed to the need for quality control and consistency and suggested this could be best achieved

¹ Auditor-General's report on Corrections in Yukon, March 2015, pp.15

² Ibid, pp.5



through an editorial review before the reports are filed with the court. This would benefit not only the client but provide a level of protection for the report writer as well. The Director at Aboriginal Legal Services in Toronto reviews every report before it is filed with the courts. As well, in some situations like at a bail hearing, an editor could help with shorter Gladue type reports.

A recent (2014) evaluation of the Community Wellness Court demonstrated that offenders are benefiting from a therapeutic approach to addressing offending behaviour. The CWC, which is only available to offenders residing in Whitehorse, has been shown to reduce recidivism rates for offenders who have mental health or addictions problems. Given that participation in a Gladue Report is, for many offenders, the first step along their healing journey, a partnership between the Justice Wellness Centre and the Gladue writers could lead to longer continuum of care for offenders who will ultimately return to their communities. Expanding the services of the CWC to the communities, which might be possible if the recommendations of the Auditor-General's report are acted upon, would greatly enhance Yukon's capacity to support non-custodial sentences.

Next Steps

Based on the information gathered throughout the course of this project, the following are some findings and next steps that will hopefully give rise to more serious

consideration toward the creation of a formal Gladue Program in the Yukon:

- If a limit is placed on when a Gladue report can be ordered (i.e. offender is facing a sentence of three months or more) the statistical data suggests that it is possible for three or four report writers to provide enough reports to Yukon courts throughout the course of a year. Report writers should retain discretion as there may be occasions when the therapeutic value of a Gladue Report might be more important than the length of sentence facing the offender.
 - Gladue reports could be provided either by staff writers in a central office located in Whitehorse (as is the case with ALST in Toronto) or by a roster of writers on contract (similar to other programs in Canada), or a combination of both. Operation costs for a central office may be higher than hiring contract writers, but quality control would be easier to maintain. Note: There were quality-control issues in British Columbia (see the BC Supreme Court decision in *R.v.Florence*) where the roster report writer was roundly criticized by the sentencing judge for the quality of the report she provided.
 - One or two aftercare workers could also be located in a central office that could assist report writers to identify supports and help clients to carry out conditions of their sentences. Aftercare workers could also maintain an Aftercare Directory and serve an important liaison function.
- ALST employs three aftercare workers. The judiciary indicated that the existence of these positions increases the judge's confidence that the client's plan would be followed up on.
- A Framework for the preparation of a Gladue report would also be very useful. Other jurisdictions have created a standard or precedent form of Gladue report to ensure that a minimum amount of information is included for consistency. This exercise could also help to establish timelines (depending on whether a full or partial report is desired.) A rigid precedent should be avoided however as First Nations vary in their experiences, customs and traditions. Writers should retain some creative freedom to avoid boiler plate descriptions of communities. A framework exercise could also help in crafting job descriptions for report writers, set training requirements, and identify opportunities for collaboration with local education providers such as the Northern Institute of Social Justice or the Yukon College's First Nation Initiatives to create Yukon-specific, culturally informed, Gladue training.
 - Gladue report writers would serve an important liaison functions as they will be in frequent contact with the communities. In response to the Auditor-General's report, Yukon Justice has already committed to improving service delivery to offenders in the communities inside and outside of Whitehorse. A partnership between the Gladue writers and Adult Probation could also greatly assist with this service delivery.

