GLADUE SUBMISSION GUIDE

A USER MANUAL FOR INDIGENOUS CLIENTS AND LEGAL COUNSEL

LEGAL AID SASKATCHEWAN

The intended use of this Gladue Submission Guide is to provide Indigenous clients and their Legal Counsel with information and guidance on the Gladue Principles, Gladue Factors, how to prepare a Gladue Submission or Report, and the types of information that can typically be found in a Gladue Submission or Report.

This is a plain-language guide. PART I of this guide explains where the Gladue Principles come from and why they are important. PART II provides a list of Gladue Factors and questions to help Indigenous clients present their life-story to Legal Counsel, and later, the Courts. PART III is a Question Guide for Legal Counsel to help develop Healing Plans with their client. Part IV is References and Acknowledgements.

The information contained in this User Manual is current as of January, 2023.

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Do you need legal help?

Call 1-800-667-3764

to speak to Legal Aid and find out if you can get free legal help.

You might be able to get Legal Aid help if:

- you have been charged with a crime
- you need help with a family matter
- you can't afford to pay for a lawyer
- a lawyer agrees your case has merit

You can get free Legal Aid help if you are 12 to 17 years old.

Legal Aid Saskatchewan provides free legal help to people who can't afford a lawyer. Phone 1-800-667-3764 (Monday to Friday, 8:00 a.m. to 4:45 p.m.) or apply online anytime at www.legalaid.sk.ca.

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SENSITIVE INFORMATION AND SUPPORT SERVICES

A Gladue Submission or Gladue Report contains personal information about your background, your experiences as an Indigenous person, your family, and community's history. In this guide, you will be asked to share details from your life-story, and some of them might be painful or traumatic to recall.

You may want to have a trusted person that can emotionally support you in this process, as you review the guide, and when you talk with your Legal Counsel. Remember to take time to look after yourself, pause, breathe, and ask for help if you need it. Below are some services who can help you cope with feelings of distress:

- **Hope for Wellness Helpline**
  TELE: 1-855-242-3310
  AVAILABLE: 24/7
  CHAT ONLINE: www.hopeforwellness.ca

- **The Indian Residential Schools Crisis Line**
  TELE: 1-866-925-4419
  AVAILABLE: 24/7
  WEBSITE: IRS Resolution Support Program
  Encountering Strong Emotional Reactions Brochure

- **Federal Indian Day Schools Health Support Line**
  TELE (SK): 1-888-221-2898
  AVAILABLE: 24/7
  WEBSITE: Federal Indian Day Schools Health Support Services

- **John Howard: Institutional Support Line**

TELE: 1-888-540-7093
WEBSITE: sk.johnhoward.ca/about-us/contact-us/

For anyone dealing with the justice system, whether incarcerated, awaiting trial, family members, or Correctional staff who have general questions. The support line can help you locate appropriate resources and services.

- **Mental Health and Addictions Supports**

SUPPORT LINE TELE: 1-855-671-5638
AVAILABLE: 8AM-4PM

CRISIS LINE TELE: 1-877-767-7572
AVAILABLE: 24/7

Métis Nation – Saskatchewan is offering Métis in Saskatchewan access to culturally specific mental health and addiction supports for adults, youth and families. There is a Mental Health and Addictions Support Line and a Crisis Line.

- **Integrated Justice Program**

WEBSITE: integratedjusticeprogram.com
CONTACT: integratedjusticeprogram.com/contact

IJP @ UofR, FASD Network, and File Hills Qu'appelle Tribal Council

The Integrated Justice Program (IJP) provides supports and services that are mindful of the specific needs of individuals with Fetal Alcohol Spectrum Disorder (FASD) who are involved with the justice system in Saskatchewan. Services may include attending court proceedings and legal appointments, advocating on client's behalf to legal professionals and community supports, continued support during incarceration, assisting corrections workers in developing individual release plans, and providing wraparound supports and services including referrals to community organizations to help clients reduce or eliminate criminal behaviour and maintain a healthy lifestyle.

Client Services Offered: Justice Support Workers, Peer Navigators, and the Gladue Writer Team

- **Missing and Murdered Indigenous Women and Girls Crisis Line**

  TELE: 1-844-413-6649
  AVAILABLE: 24/7

- **First Nations Health Authority - NIHB Counsellors**

  WEBSITE: FNHA-NIHB Counsellors

  Directory of Counsellors in Saskatchewan who provide services through the Non-Insured Health Benefits Program to status First Nations.

- **Rapid Access Counselling Program**

  WEBSITE: counsellingconnectsask.ca

  Family Service Saskatchewan provides access to counselling sessions. This service is available to children, youth, adults and families in Saskatchewan. There is no waiting list and no cost to you. You can book an appointment online for virtual or in-person counselling.

- **Parkland Restorative Justice**

  TELE: 360-763-6224
  WEBSITE: parklandrestorativejustice.com

  PROGRAMS: Inmate Visitation with Volunteer Supports, Offender Re-Integration through the Circles of Accountability and Support Program, and the Dad Hero program which help fathers stay connected with their families and offers parenting courses.

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PART I

THE GLADUE PRINCIPLES

THE GLADUE PRINCIPLES

Gladue Principles apply to Indigenous Peoples in Canada, including:

- First Nations (Status and Non-Status)
- Inuit
- Métis
- Living On or Off Reserve

Whenever an Indigenous person is sentenced for a crime or asks for release on bail, the judge has a responsibility to consider their personal and background circumstances that relate to their experiences as an Indigenous person. These are called their Gladue Factors.

There are many ways lawyers and judges must consider an Indigenous person's Gladue Factors when they are being sentenced or they are asking for release on bail. The ways in which the Gladue Factors are considered by judges and lawyers are called the Gladue Principles.

THE GLADUE PRINCIPLES

Some of an Indigenous Person's Gladue Factors may be unique challenges that they have faced, or that their family, community, or Nation has faced (known as systemic and background factors).

These relate to the harmful effects of colonialism and discrimination, both past and present. They can include personal or family attendance at Residential or Day School, being forced to leave one's community or homelands, experiences of racism, placement in foster care, and many other factors that may have impacted an Indigenous person, their family, their Nation, and/or their community.

The judge must also consider the different options available to an Indigenous person such as alternatives to jail. Some options might be more appropriate for an Indigenous person based on their cultural heritage or connection to an Indigenous Nation or community. The judge may need to consider the culture, traditions, and laws of the Indigenous person's family, community, and/or Nation.

The fact that an Indigenous person lives in an urban centre, in a rural community, on a reserve, or anywhere else does not impact the Gladue Principles, or their right to a Gladue Report or Gladue Submission.

Gladue Principles apply to every First Nations, Inuit, and Métis person in Canada, regardless of where they live.

WHY DO GLADUE PRINCIPLES MATTER?

In Canada, Indigenous people are put in jail more often than non-Indigenous people as a result of colonialism and systemic discrimination. In 1996, the Government of Canada changed the law to ask that judges approach the sentencing of Indigenous people differently because of their unique circumstances.

In 1999, the Supreme Court of Canada interpreted this change to law in the Gladue Decision, and again in following decisions. They stated that Gladue requires judges change their approach in dealing with Indigenous people, which includes considering Indigenous ways of healing and wellbeing, worldviews, legal traditions, customs, and responses to crime. Recognizing Gladue Principles and addressing the root causes of crime (i.e., poverty, addictions, housing insecurity, etc.) through restorative options are ways that courts can help address the high rates of imprisonment for Indigenous peoples.

WHEN GLADUE PRINCIPLES APPLY

Canadian courts have decided that the Gladue principles apply in many different contexts, including:

- **bail**
- **sentencing**
- **appeals**
- **parole**
- **extradition**
- **mental health review boards**
- **professional disciplinary decisions**
- **long-term or dangerous offender assessments and hearings**

The Gladue Principles can also apply in other situations, such as negotiations and sending someone to an alternative measures program. In this program, the person accepts responsibility for their actions and takes steps to repair the damage with the victim(s).

HOW ARE YOUR GLADUE FACTORS PRESENTED?

Gladue Factors are presented through a **Gladue Submission or Report**. This type of report can help explain to a judge the personal circumstances of an Indigenous person and tries to answer the questions:

- **How did this person get to this point in their life?**
- **Are there appropriate options other than sending this person to jail?**

GLADUE SUBMISSION OR REPORT?

There are different ways an Indigenous person's Gladue Factors and information can be presented: A Gladue Submission or a Gladue Report.

A Submission is less detailed than a Report, but both aim to present an Indigenous person's Gladue Factors to the court and identify potential appropriate alternatives to jail. In Saskatchewan, Gladue Submissions are more commonly used than Gladue Reports. Individuals may experience cost barriers accessing a Gladue Report when a court is unwilling to order the preparation of one. Gladue Submissions can be used to lessen the cost and wait time frequently needed to complete a full Gladue Report.

Gladue Reports have the advantage of presenting the rich and detailed story of an Indigenous person's life, family, community and/or Nation. A Gladue Report can explore, in depth, the reasons why they are before the court. Gladue Reports are usually written by a Gladue Report Writer.

Other provinces and territories have their own processes, wait times, and agencies for submitting Gladue Reports to the court, each taking various approaches. No jurisdiction is exactly the same.

GLADUE SUBMISSION

Gladue Submissions can be presented in writing or by speaking to the court. A Gladue Submission can be read aloud by yourself, by a Court Worker, your lawyer or legal counsel, and even a support person if you choose. A Gladue Submission is the most common way Gladue Principles are addressed in Saskatchewan's courts and can help the judge understand your Gladue Factors.

A Gladue Submission involves interviews with yourself, some of your family members, networks, and others who understand your background and circumstances. Generally, Gladue Submissions are quicker to prepare than Gladue Reports because of Saskatchewan's justice structure and the small number of Gladue Report writers in the province.

GLADUE REPORT

Gladue Reports are detailed, written accounts that involve interviews between yourself and the Report Writer, family members, support networks, friends, partners, community members, and other people who understand your background and circumstances. They may also refer to psychiatric assessments or evaluations with professionals, depending on your circumstances.

In Saskatchewan, Gladue Reports can take 8-12 weeks to complete. There are some cases where waiting for a Gladue Report can create unfair wait times in prison (remand). This is why Gladue Submissions can be used as one option. Ideally, every Indigenous person who finds themself in the justice system would have access to a fully-funded and quickly prepared Gladue Report. Unfortunately, this is still not the case in many provinces, including Saskatchewan.

IMPORTANT INFORMATION TO REMEMBER

- Getting a Gladue Submission or Report does not guarantee that you will not spend time in jail.
- Ask your lawyer or legal counsel about preparing a Gladue Submission or Gladue Report before your sentencing.
- Every Indigenous person is legally entitled to have their Gladue Factors considered in court and has the right to a Gladue Submission or Report. A judge cannot deny you your rights.
- If you choose, you have the right to say "no" to a Gladue Submission or Report. This is called 'waiving' a Gladue Report.

WANT TO LEARN MORE ABOUT GLADUE PRINCIPLES?

The Gladue Decision

What does it mean for Indigenous peoples, the Canadian Justice System, and the importance of Gladue?

- This helpful video resource produced by Bear Paw Legal Media and Education explains the 1999, Gladue Decision (Section 718.2 (e) Criminal Code and R. v. Gladue Supreme Court), and why courts need to consider the unique personal and background circumstances of Indigenous peoples in the justice system.

- https://shop.bearpawlegalresources.ca/products/the-gladue-decision-video

WANT TO LEARN MORE ABOUT GLADUE PRINCIPLES?

Know your Gladue Rights

- "[This video] focuses on addressing the value of Gladue services based on principles of community empowerment and healing by providing direction to those in conflict with the law and to those who have been victimized."

- This video was partially funded by the Law Foundation of British Columbia. Some of the information in this video speak to specific Gladue processes in B.C. (such as First Nations Court).

- **https://icclr.org/2022/04/19/know-your-gladue-rights/**

PART II

YOUR GLADUE INFORMATION

WHAT WILL THIS SECTION COVER?

POTENTIAL GLADUE FACTORS

YOUR PERSONAL AND BACKGROUND INFORMATION

BUILDING YOUR HEALING PLAN

POTENTIAL GLADUE FACTORS

This is not a perfect list of Gladue Factors. However, these are common experiences' courts consider when thinking about an individual's Gladue Factors.

Read the list, or have a support person go through it with you, and think about which Gladue Factors might apply to you, your family, or your community.

–

How have these experiences impacted your life?

GLADUE FACTORS

- The loss or denial of status under the Indian Act, which impacts an individual's ability to live on reserve, be a member of a First Nation, vote in First Nation elections, and access various benefits for members. This is linked to a long and complex history of Canadian laws, policies, and practices aimed at restricting the number of "status Indians."

- Attendance or intergenerational effects from family and community members' attendance at residential schools, boarding schools, and day schools created for Indigenous children, which are known for widespread physical and sexual abuse, loss of language, culture, and traditions, disruption of family connections and community norms, and poor quality educational outcomes.

- Removal or dislocation of one's family, community, or ancestors from their traditional territories, which has led to loss of identity, culture, traditions, and ancestral knowledge, compounding feelings of isolation for individuals.

- Removal or dislocation of one's family, community, or ancestors from their traditional territories, which has led to loss of identity, culture, traditions, and ancestral knowledge, compounding feelings of isolation for individuals.

- Direct, indirect, and systemic racism in Canadian society at large, schools, workplaces, prisons, the foster care system, and the adoption system, among other areas.

- Loss of autonomy for Indigenous communities, families, and individuals, as compounded over generations due to government policies and legislation. Restrictions on collective and individual autonomy included the undermining of traditional governance systems through the Indian Act, the denial of voting rights until the 1960s, a prohibition against litigating land claims up until the 1950s, the pass system's restrictions on mobility off reserve until the 1950s, and the permit system and peasant farming policy's restrictions on participation in the agriculture economy until as late as the 1960s, among others.

- Loss of spiritual practices due to government policies and legislation prohibiting participation in traditional feasts, dances, and ceremonies.

- Remoteness, in that many Indigenous communities are distant from basic services and facilities that most Canadians take for granted.

- Lack of connection due to personal or family history and government practices (such as children of the Sixties Scoop or those facing intergenerational impacts of the residential school system), or due to community breakdown and fragmentation.

- Sexual, physical, psychological, emotional, verbal, or spiritual abuse leading to dissociative disorders, learned behaviours, and intergenerational impacts.

- Past and present personal, family, and community impacts of alcohol and drug abuse, including Fetal Alcohol Spectrum Disorder (FASD), Fetal Alcohol Effects (FAE), and the consequences of drug use during pregnancy.

- Personal criminal history that is linked to criminal histories of other family or community members.

- Experiences of premature deaths among family members and friends due to substance abuse, accidents, violence, and suicides.

- Personal, family, or community history of a lack of access to food, employment, healthcare, or educational opportunities.

- Family breakdown due to divorce, family violence, and alcohol or drug abuse.

- Negative experiences in the foster care system or out-adoption.

- Poor health (mental or physical), including suicidal thoughts or attempts, depression, anxiety, trauma, and diagnosed disorders.

- Interventions, treatments or counseling for alcohol or drug abuse, trauma, grief, or other mental health concerns, or a lack of access to services such as these.

- Unstable living situations in the past, present, or future, including experiences of homelessness or overcrowded and inadequate housing on reserve.

- Other experiences of poverty, both past and present.

GLADUE FACTORS

Some of an Indigenous person's Gladue Factors may be either positive or negative and will have relevance to sentencing regardless. For example:

- Their quality of relationships with their spouse/partner, immediate family, extended family, and community members;
- Their support networks in terms of past and present spiritual, cultural, family, and community supports and resources; and
- Their individual strengths, including any special skills or achievements they have that might be relevant to an appropriate sentence.

GLADUE FACTORS

Sentencing judges require detailed information about culturally appropriate alternatives to prison:

- What Indigenous justice traditions if any might be relevant to sentencing?
- Are culturally appropriate alternative sanctions available?
- Are restorative justice options available?
- Is community involvement possible?
- Are counseling programs available?
- What is the appropriate sentencing range in light of Gladue factors?
- Is appropriate programming likely to be available in jail for this offender?

PERSONAL AND BACKGROUND INFORMATION

QUESTION GUIDE

BEFORE YOU START

Answering some of these questions before meeting with your Legal Counsel can help both of you prepare an effective Gladue Submission or Report, and will give your Legal Counsel the appropriate information and contacts to support you in this process.

If you are unsure how to answer some of these questions, you can ask for help from your Legal Aid Lawyer or Legal Counsel, your Court Worker, a support person, an Elder, or a trusted friend, family, or community member. You can also take time to think about these questions, come back to them, choose only to answer some, or choose not to answer them at all.

The amount of personal information shared is up to you, and this information can help the judge make decisions that best fit your needs! Remember though, any information you share about yourself, or a family member could be presented in a Gladue Submission or Report. Space has been left between questions in case you would like to write your thoughts down or make notes.

It can be painful or difficult to talk about personal challenges and traumatic experiences. Remember to take time to look after yourself, pause, breathe, and ask for help if you need it. Afterwards, take a moment to enjoy an activity that makes you happy.

1.1 - CONTACT INFORMATION

Your Contact Information

Name

Telephone Number

Home Address

Email

Contact Information for Support Persons

Your Lawyer or Legal Counsel will want to interview personal contacts that can support the information you share about yourself, your background, and your community. Your support persons may be able to speak to the historical, social, and current situations of your Indigenous community (such as an Elder or Grandparent) and draw connections between your experiences and how this contributed to your presence in court (such as a family member, friend, or partner).

They can help explain to your legal counsel, and the judge, the situations you've faced, your character, and the ways you've shown resiliency.

Contact Information: Person 1

Name

Telephone Number

Email

***How do you know this person?**

*How do you know this person can also mean the type of relationship you have with each other. Are they your Mother, Father, Grandmother, Grandfather, Aunt, Uncle, Brother, Sister, Partner/Spouse, Friend, an Elder, a Community Caseworker, Teacher or Educator, etc.?

Contact Information: Person 2

Name

Telephone Number

Email

***How do you know this person?**

*How do you know this person can also mean the type of relationship you have with each other. Are they your Mother, Father, Grandmother, Grandfather, Aunt, Uncle, Brother, Sister, Partner/Spouse, Friend, an Elder, a Community Caseworker, Teacher or Educator, etc.?

Contact Information: Person 3

Name

Telephone Number

Email

***How do you know this person?**

*How do you know this person can also mean the type of relationship you have with each other. Are they your Mother, Father, Grandmother, Grandfather, Aunt, Uncle, Brother, Sister, Partner/Spouse, Friend, an Elder, a Community Caseworker, Teacher or Educator, etc.?

Contact Information: Person 4

Name

Telephone Number

Email

***How do you know this person?**

*How do you know this person can also mean the type of relationship you have with each other. Are they your Mother, Father, Grandmother, Grandfather, Aunt, Uncle, Brother, Sister, Partner/Spouse, Friend, an Elder, a Community Caseworker, Teacher or Educator, etc.?

1.2 - PERSONAL INFORMATION

1. Are you First Nations (status or non-status), Inuit, or Métis?

2. Where are you from? Do you live in a city or rural area (the country)? In an Indigenous Community or Non-Indigenous Community?

Your community can be the Indigenous community where you live or come from. It also includes your support network and people you interact with. If you live outside of an Indigenous community, you still have a community.

3. Are you connected to any specific Indigenous Community, Nation, Band, or Culture(s)?

4. How much education do you have? (Elementary, High School, GED, Post-Secondary or College, Certificates, Courses, or Programs)?

5. Are there any activities, hobbies, or pastimes that you like to do? Are there any activities (cultural, spiritual, emotional, creative, educational, physical) that you would enjoy participating in?

6. Do you have any personal goals you are pursuing or would like to pursue?

7. Use the following space to list any personal strengths that you have, or have demonstrated in the past. If this question is challenging, it might be helpful to have a family member, a friend, support person, or community member who knows you help identify your strengths.

1.3 - BACKGROUND INFORMATION

Are there any personal and unique background circumstances (Gladue Factors) that have impacted your life, your family, or community/communities?

8. Has substance misuse affected you, your family, or your community/communities?

9. Have you been affected by poverty in your lifetime?

10. Have you ever been treated poorly, unfairly, or cruelly because you are Indigenous?

These are just a few out of many possible examples:

- Have people insulted or bullied you because you are Indigenous?
- Has a store-worker followed you around when shopping because you are Indigenous?
- Have you been denied work because you are Indigenous?
- Have you been denied housing or rental accommodation because you are Indigenous?
- Have Police stopped you because you are Indigenous?
- Have you been refused taxi service because you are Indigenous?
- Have you been refused care when seeking medical attention, like the hospital, because you are Indigenous?

11. Have you been affected by family or community breakdown?

12. Did you or a family member go to a Residential School or Day School?

13. Have you or a family member been in foster care?

14. Have you been affected by unemployment, low income, and/or a lack of employment opportunities?

15. Did you or a family member have issues that affected your education? Some examples are trauma, Fetal Alcohol Spectrum Disorder (sometimes called FASD), or learning disabilities?

16. Have you been affected by any mental, emotional, or physical health struggles at any point in your life? For example, Depression, PTSD, Anxiety, Diabetes, Chronic illness, etc.

17. Have you been affected by displacement from your Indigenous community/communities, loneliness, and/or community fragmentation (breaking)?

1.4 - HISTORICAL AND COMMUNITY INFORMATION

What are the historical, social, and community-level factors that have affected your life?

These questions focus on the historical, social, and current situations of your Indigenous community/communities. Can any of your support persons help you answer these questions or know someone who can, like a Community Member or Elder?

If you don't have an answer for these questions, that is okay! It is the responsibility of your Legal Counsel to help you "fill in the blanks" and research questions you don't have answers for, which may include interviews with others. You can also choose not to answer these questions, remember, it's your choice what personal information to share for your Gladue Submission or Report!

18. Do you know of any main social issues affecting the Indigenous community/communities you are connected to?

19. Have any of the Indigenous communities you are connected to experienced relocations?

20. Have a large number of community members from your Indigenous community moved to urban centres?

21. Have community members been affected by abuses in the Residential School System or Day Schools?

1.5 - BUILDING YOUR HEALING PLAN

Are there any alternative justice programs or sentencing options available in a community you are connected to?

For example: Where you live, your home or reserve community/communities, another community that would be willing to work with you, an urban justice program, counselling or addictions services.

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22. What could help you work through the issues that got you in trouble with the law? Think of your wellbeing, what could help you achieve a better sense of wellbeing and healing?

23. Are you interested and willing to participate in Indigenous programs when available?

24. Does your community, or a community you are connected to, have a justice program or option other than jail?

25. Can your community organize an appropriate response to your actions? For example, hunting and sharing the meat with Elders, chopping firewood for the community, or other helpful duties and tasks.

26. Can some culturally appropriate options be arranged for you? For example, addressing anger management or addiction challenges according to your Indigenous background?

27. Does your Nation, or the Nation where you committed the crime, have Indigenous laws they can share on violence and conflict management that can help the judge make the right decision for you?

PART III

BUILDING A HEALING PLAN

GUIDE FOR LEGAL COUNSEL

WHAT WILL THIS SECTION COVER?

BUILDING A HEALING PLAN: QUESTION GUIDE FOR LEGAL COUNSEL

CULTURALLY APPROPRIATE ALTERNATIVES AND OPTIONS

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BUILDING YOUR CLIENT'S HEALING PLAN

These Questions were developed in the Gladue Report Writer User Manual (The Gladue Principles: A Guide to Jurisprudence).

They provide Legal Counsel with guidance on the types of options that may be appropriate for an Indigenous client's Healing Plan.

- What are the details of available treatment facilities (e.g. length of treatment, eligibility requirements, and content)?
- Are there any active justice committees?
- Are there any alternative measures or community-based programs?

- Are there alternative sentencing traditions in the Indigenous community or communities to which they are connected (e.g. Elder counselling or sentencing circles)?

- How else are common social issues being addressed by the Indigenous community or communities to which they are connected?

- What culturally relevant alternatives to prison can be set in place that would be healing for the offender and all others involved, including the relevant community or communities as a whole?

- Is there an Indigenous community to which they are connected that has the resources to assist in their supervision?

- What is their understanding of and willingness to participate in traditional Indigenous forms of justice, whether through a relevant Indigenous community or local Indigenous support agencies?

- Do they have the support of an Indigenous community to which they are connected?

- What mainstream or non-traditional sentencing or healing options are available in the community at large?

- What is the quality of their relationship with their family, including their extended family?

- Who comprises their support network, whether spiritually, culturally, or in terms of family or community?

- What is their living situation, including past, present, and planned (e.g. housing and access to transportation)?

- Based on all the available information, would prison effectively deter or denounce this crime, or would crime prevention be better addressed through restorative justice?

CULTURALLY APPROPRIATE ALTERNATIVES AND OPTIONS

These are just some examples of Culturally Appropriate Alternatives and Options in Canada. This is not a complete list of all culturally appropriate sentencing procedures or sanctions that might be available in every case. It is the responsibility of Legal Counsel to investigate available and reasonable options.

There is a great deal of diversity among the worldviews, values, and legal traditions that are held by Indigenous collectives across Canada, and there is also great diversity among the available sentencing options that might be considered pursuant to the Gladue Principles.

JUSTICE COMMITTEES	Allowing for Indigenous community members to inform the sentencing process with regards to community perspectives, needs, and conditions. They may assist with sentencing recommendations, pre-sentence reports, healing and sentencing circles, diversion and community-based sentences, and other culturally appropriate processes and sanctions.
SENTENCING AND HEALING CIRCLES	That provide a way for an Indigenous person's community, service providers, family, or victim to inform the sentencing process. Participation in these processes can also contribute to meeting substantive sentencing objectives like rehabilitation, community reintegration, acknowledgment of harm, and deterrence as well.

FAMILY GROUP CONFERENCING	Where an Indigenous person's community, service providers, victim, or family inform the sentencing process, especially for Indigenous youth. Like sentencing and healing circles, conferencing can contribute to substantive sentencing objectives in addition to providing case specific information.
ELDER PANELS, PARTICIPATION, AND INPUT	To address community perspectives, needs, and conditions Elders may wish to speak to the values, worldview, and legal traditions of their community, provide views on an appropriate disposition or conditions, or admonish, encourage, and otherwise counsel the person being sentenced, among other things
SPECIALIZED SENTENCING COURTS	That incorporate restorative justice practices into the sentencing process for an Indigenous person, often along with other culturally appropriate sentencing procedures or sanctions.
GLADUE REPORTS	That provide the person being sentenced with an opportunity to think about their own personal circumstances and how these relate to those of their family and community. These reports should include as broad a range of perspectives as possible.

COMMUNITY BANISHMENT OR A PERIOD OF LAND-BASED ISOLATION	Where this provides an Indigenous community with greater control over reintegration, protects victims, or facilitates rehabilitation. Banishment may be culturally relevant for some Indigenous collectives, but it is a rare and controversial option that needs to be carefully designed to meet these objectives.
COMMUNITY SERVICE ORDERS	Tailored to the needs of a particular community, such as those that require someone to contribute through culturally relevant activities (e.g. chopping wood for Elders) or public speaking regarding their offence or their background circumstances. These may be tailored to foster pro-social skills and interests of the person being sentenced as well.
INDIGENOUS PROGRAMMING	In the community or even the correctional system (e.g. sweat lodges) where it supports an Indigenous person's reintegration and rehabilitation, among other sentencing objectives.

PART IV

REFERENCES

REFERENCES

A bibliography of References that were reviewed in the creation of this Gladue Submission Guide. Legal Aid Saskatchewan would like to acknowledge all of the agencies, organizations, and authors who, through their dedicated work, have created resources that made this Gladue Submission Guide possible. Thank you!

- BearPaw Media and Education, Native Counselling Services of Alberta. "Getting a Gladue Report in Alberta: Wallet Card." 2021.
- CLASSIC Law, Indigenous Law Centre. "Gladue Awareness Project: Booklet for Indigenous Offenders." 2020.
- Legal Aid BC. "Gladue and You." February, 2021.
- Legal Aid BC. "Gladue Submission Guide." February, 2022.
- Ralston, Benjamin. "Gladue Awareness Project: Final Report." Indigenous Law Centre; University of Saskatchewan, 2020.
- Ralston, Benjamin. "The Gladue Principles: User Guide for Report Writers." Saskatoon: BC First Nations Justice Council and USASK Indigenous Law Centre, 2021.

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