

# GLADUE

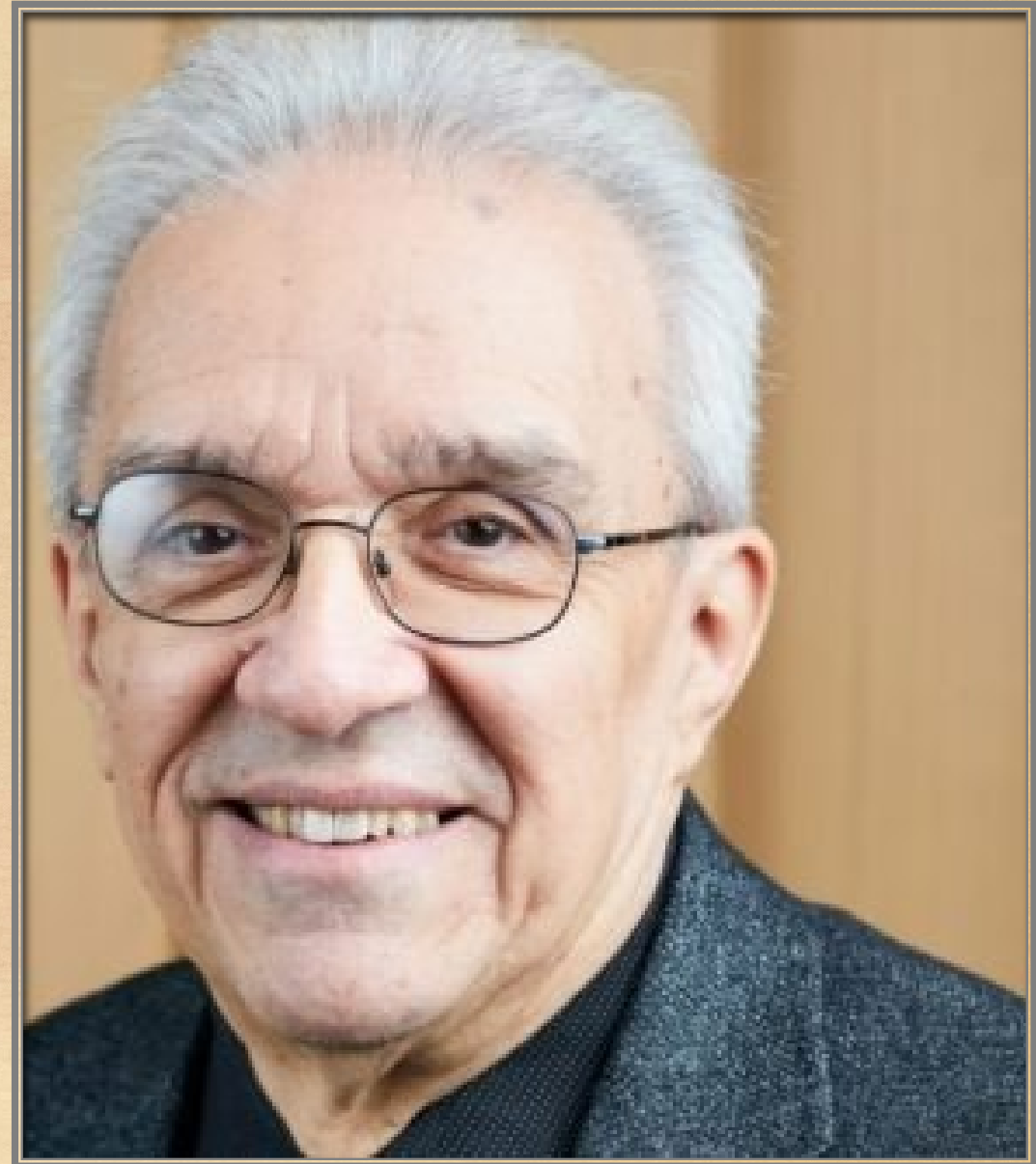


In the NAN Communities



HARRY S. LAFORME

The Evolution of Gladue





# GLADUE



In the NAN Communities



# NALSC Gladue Presentation Team

Danielle Wood, Area Director – Thunder Bay

George Edwards, Gladue Team Lead – Thunder Bay

Terri Zoccole, Gladue Case Worker – Thunder Bay

Gillian Schaible – Gladue Writer - North West, Sioux Lookout



# Nishnawbe Aski Nation Communities

North West – Sioux Lookout  
Gladue Writer  
Gladue Case Worker

North West – Kenora  
Gladue Writer  
Gladue Case Worker

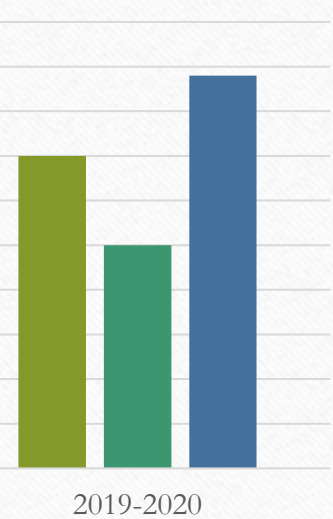
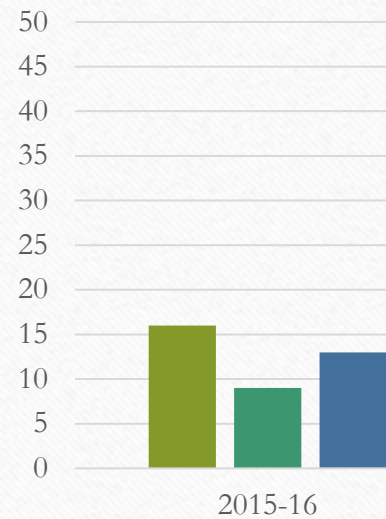
Central – Thunder Bay  
2 Gladue Writers  
2 Gladue Case Workers  
Gladue Supervisor



North East – Timmins  
2 Gladue Writers  
2 Gladue Case Workers



Total of **325** NAN community members assisted by Gladue at NALSC





# Examples of Charges

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- Assault / Aggravated Assault
- Sexual Assault
- Manslaughter
- Impaired Driving
- Criminal Negligence Causing Death
- Fraud
- Breach, i.e. Probation, Failure to comply with undertaking
- Controlled Drugs and Substances Act Charges



# What is Gladue?

- A right for all NAN members, when freedom is at stake, most often for consideration at sentencing, after a plea
  - Reports written for and about offenders to help judges understand their story by identify the underlying causes and provide an opportunity for understanding, accepting responsibility and making amends
  - A set of principles that judges must consider when sentencing and reasonable alternatives to imprisonment
- 718.2 of the *Criminal Code*

718.2 A court that imposes a sentence shall also take into consideration the following principle(s):

(e) all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders



60's  
Scoop

Displacement

Family  
Violence

Lack of Employment/Housing

Colonization

Loss of Cultural  
Identity

Sexual Abuse

Mental and Physical Health

Early loss of family and  
friends

Gladue Factors

Relationship with community



Education

Substance Abuse

Family Break Up

Racism

Learning Disability

Fetal Alcohol Spectrum

Involvement with Child  
Welfare

Residential School or Indian Day Sch



# Why do we need Gladue?

One in three Indigenous persons admitted to Ontario Corrections Institutions, and half of those admitted to segregation were flagged as a suicide risk, both numbers are higher than the non indigenous average.

- Crisis con
- Crisis con
- Commun

Indigenous People  
2% of the Ontario  
yet in 2016 they r  
of the prison p

- To achiev  
needs of
- Report pro  
with the justice system, and to be a part of the healing plan

is rates are 95% for male  
for female offenders  
0% male, 70% female  
s are 85% for male

an historic high.

or 5% of the general  
lation, over 30% of  
ison population are  
Indigenous.



# NALSC and Gladue can help

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Gladue Reports

Gladue Case Worker



Presentations

Gladue Letters



# How Does a Gladue Report Happen?

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- A referral is made to NALSC by a defense lawyer, crown attorney, judge or justice of the peace
- NALSC will assign a Gladue Writer and Gladue Caseworker
- Work begins on a Gladue Report – telling the offenders life story that focuses on the circumstances, that have brought the offender before the court
- Gladue Reports take on average eight weeks to prepare (Letters take 2-4 Weeks)



# Gladue in Practice – A Case Study

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A referral is received by a defense lawyer for Joey Beaver, a twenty five year old NAN community member. Joey pled guilty to Aggravated Assault and Assault with a weapon. The summary received from the lawyer states that, “Joey Beaver and three friends were consuming alcohol at a home in the community. A disagreement began between Joey and one other individual at the home. The altercation became physical, and Joey grabbed a broken bottle and stabbed the victim in the abdomen. Joey then fled the scene and was later found in a neighbours home hiding under a bed.” The victim was medivaced to Thunder Bay, the injury was serious but not life threatening.” This is Joey’s first serious offence as an adult and the Crown is seeking 2 years less a day.







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Criminal Record.....	2
Current Matters Before the Court .....	2
Current Circumstances.....	2
Recommendations.....	2



# Role of Gladue Case Workers

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- Work with clients throughout the report writing process, and provides care after sentencing
- Will attend sentencing if travel is possible and timing allows
- After sentencing the Gladue Caseworker will work one-on-one with the clients on implementing the recommendations
- Works with clients who are in custody or out of custody
- Experts in referrals to treatment facilities
- Advocate for their clients needs and care
- Assist with navigating community services
- Attends to client's spiritual practices and placing out tobacco





# Gladue Recommendations

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- Alternatives to incarceration, i.e. community based alternative, restorative justice
- Focus on healing and living a good life
- Realistic, achievable, and appropriate based on the persons life story and circumstances



# At the time of Sentencing



- The Gladue Report is read by the individual, the defense lawyer, judge, crown attorney.
- The judge will consider all the information to make the best decision for the offender, community and victim, which may still include jail and probation
- The judge must carefully consider all aspects of the Gladue Report to determine a fit sentence



# Does Gladue Work?

It works...

- Identification of the client's Gladue factors and unique circumstances
- Opportunity for a healing path to begin
- The offender has a voice
- NALSC offers support at all stages of the court process (bail, post sentencing)
- Clients are reaching out and staying connected, during and after the report process
- Dialogue between community, offender, court and corrections
- Client Advocacy i.e. phone calls from jail, culturally appropriate recommendations
- Advocacy for Justice Equity, i.e. Fight for Healing Lodge options for provincial custodial sentences



# Barriers to Gladue Success

- Underfunded – more funding, means more writers and case workers
- Lack of awareness, not all lawyers are requesting Gladue Reports
- Mandatory minimum sentences
- Communities do not always have culturally appropriate sentencing options, such as land based healing, traditional ceremonies, Elder Advisory Groups, use of Circles
- Probation and Parole writing Pre Sentence Reports with Gladue Components



# Gladue Reports vs. Pre Sentence Reports

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## Gladue Reports

- Section 718.2 (e) of the *Criminal Code*
- Prepared by Gladue Writers, that are neutral and have a connection to and understanding of client/community
- Story of offenders life, including their background, unique circumstances and community
- Focus on healing and reparation

## Pre-Sentence Reports

- Section 721 of the *Criminal Code*
- Prepared by Probation and Parole Officer
- Story of the offenders criminal history, criminal behaviour
- Focus on risk of reoffending



# Success Stories

North West – Sioux Lookout

North West – Kenora

Central – Thunder Bay



North East – Timmins



# What can NAN communities do?

- Support NALSC workers coming to the community for client interviews
- Support NALSC efforts to recruit workers in the community
- Communication between NALSC workers and Justice Representative
- Considering and supporting Restorative Justice and community based non custodial sentences
- Have a Community Justice Committee
- Participating in community reintegration and healing efforts



# NALSC Commitment to Gladue

**We are committed to ensuring equity and Justice for NAN community members.**

**That the offenders story will be told with respect, compassion and dignity.**

**That the truth will be shared with Justice workers on intergenerational trauma which includes the history and legacy of residential schools, the United Nations**

**Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal– Crown relations**

**We are committed to doing our part to eliminating the overrepresentation of NAN community members in custody**

**We are committed to offering creative recommendations that are culturally appropriate and supported by the community**



# Questions for our Gladue panel?

