



Gladue & Indigenous Self-Governing Courts across the Country

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Introduction

Although the Government of Canada has provided funding for a nationwide Indigenous Courtworker Program since 1978, New Brunswick and Newfoundland and Labrador still do not offer [Indigenous Courtworker services](#).

The following sections provide an overview of the options across jurisdictions, from East to West. See the list of Gladue and self-governing Indigenous courts by jurisdiction.

While the Canadian Bar Association has attempted to include all of the Gladue and self-governing courts in Canada, information may be missing. The CBA welcomes feedback and will gladly update or add to the information in this document. Please contact reconciliation@cba.org.

Alberta

Alberta's justice system offers Gladue courts, restorative justice programs (for any offenders) and Aboriginal courts. The province operates the following Gladue courts:

<u>Court Name</u>	<u>Community</u>
Siksika Nation Court	Siksika
Calgary Indigenous Court ("Courtroom 1800")	Calgary
Edmonton Indigenous Court	Edmonton
Tsuut'ina Peacemaking Court	Tsuut'ina
Alexis Nakota Sioux Nation Court	Glenevis

Alberta also has a Gladue report writing program, administered and funded by the Ministry of Justice (*Canadian Gladue Reports, supra* note 27 at 50.) The province's other alternative courts (for all offenders) include a Drug Court, [Mental Health Court and Domestic Court](#).

British Columbia

British Columbia's provincial court system includes eight Indigenous [sentencing courts](#). Each court is designed to meet the needs of the specific community where it is located. In addition to the sentencing courts, British Columbia also hosts Aboriginal Family Healing Court Conferences in New Westminster, which deals with [child protection cases](#). The Indigenous courts are:

<u>Court Name</u>	<u>Community</u>
New Westminster First Nations Court	New Westminster
North Vancouver Indigenous Court	Vancouver
Kamloops Cknúcwentn First Nations Sentencing Court	Kamloops
Duncan First Nations Court	Duncan
Nicola Valley Indigenous Court	Merritt
Prince George Indigenous Court	Prince George
Williams Lake Indigenous Court	Williams Lake
Hazleton Indigenous Court	Hazleton

In British Columbia, Gladue reports are readily accessible via Legal Aid BC, private report writers (*Canadian Gladue Reports, supra* note 27 at 45), or the [BC First Nations Council](#).

Manitoba

Manitoba does not have any designated Indigenous courts. The provincial court system includes three "problem-solving" courts (Mental Health Court, Drug Treatment Court, and

Thompson Domestic Violence Court.), which are open to both Indigenous and non-Indigenous offenders who fulfill the courts' eligibility criteria. Despite not being labelled an Indigenous court, 78.9% of the 2018 court participants at the at the [Thompson Domestic Violence Court](#) (pg. 17) identified as Status. Manitoba also funds an [Indigenous Court Worker Program](#).

According to the Manitoba Department of Justice's 2021 Annual Report, provincial probation officers are responsible for completing Gladue reports in the province.

New Brunswick

In New Brunswick, the Elsipogtog Healing and Wellness Court is the only Indigenous court operating at this time. Gladue reports are not used. Instead, staff conduct several intake assessments, and use these to develop healing/treatment/wellness plans taking into account recommendations from victims and/or Healing Team members. Clients voluntarily enter into these plans, and are followed by a Primary Case Manager to ensure compliance. Tobique First Nation has also been approved for a new Healing to Wellness Court, but the process has been stalled due to COVID-19.

Newfoundland and Labrador

Newfoundland and Labrador has no Indigenous or Gladue courts, and [no Gladue report writing program](#). In a 2019 Justice Summit report, the Newfoundland and Labrador Department of Justice identified that the province lacked persons to write Gladue reports in [the Labrador region](#).

Northwest Territories

As of January 2022, the Northwest Territories does not use Gladue Reports and has [no intention to incorporate them into the legal system](#) any time soon. In early 2022, a territorial court judge ordered lawyers for the NWT Department of Justice to produce a Gladue report for an [Indigenous offender](#). It is unclear whether the [Department fulfilled the request](#).

The territory has two specialized courts – the Domestic Violence Treatment Options Court and [Territorial Wellness Court](#) – which are not specific to Indigenous offenders. Some of the First Nations in the Northwest Territories have negotiated self-government agreements, while others are still in the process. In Déline, the Déljñę Judicial Council adjudicates Indigenous law pursuant to the [2015 Déljñę Final Self-government Agreement](#).

Nova Scotia

In Nova Scotia, the only Gladue Court is located in Wagmatcook First Nation. The Mi'kmaq Customary Law Program, a restorative justice initiative operated by the Mi'kmaw Legal Support Network, offers a [pre- and post-charge](#) diversion option for adults and youth in nine communities. Gladue reports in Nova Scotia are produced by Mi'kmaw Legal Support Network, with funding from the Nova Scotia Department of Justice.

Nunavut

Nunavut has a unique justice system. Although the territory has no designated Gladue or Indigenous courts, the Nunavut Court of Justice is often considered to be a Gladue court because it ["serves mainly Inuit, and resident judges have a "depth and breadth" of experience in an Inuit context."](#) The Nunavut Court of Justice is Canada's only unified court, as it acts as both the superior and territorial court of Nunavut. In 2020, a [Nunavut judge denied a Gladue report request](#), noting that a Gladue report had never been ordered in Nunavut.

Ontario

Among Canadian jurisdictions, Ontario led the way in creating [Gladue courts](#) within their provincial court system. The first Gladue court opened in 2001 at the Old City Hall Courthouse, to hear criminal matters, followed by two more Toronto courts by 2006 (Aboriginal Knowledges in Specialized Courts: Emerging Practices in Gladue Courts” (2016) 31:3 Canadian Journal of Law and Society 451 at 460.)

Today, there are fifteen Gladue courts in Ontario, applying the colonial Canadian justice system with special consideration for the Gladue principles:

<u>Court Name</u>	<u>Community</u>
Brantford Child Protection Indigenous Court	<i>Brantford</i>
Brantford Indigenous Persons Court	<i>Brantford</i>
Cayuga Indigenous Peoples Court	<i>Cayuga</i>
London Gladue Court	<i>London</i>
Ottawa Indigenous Peoples Court	<i>Ottawa</i>
Sarnia Gladue Court	<i>Sarnia</i>
Eglinton Gladue Court	<i>Scarborough</i>
Niagara Indigenous Peoples’ Court	<i>St. Catherines</i>
Thunder Bay Indigenous Peoples Court	<i>Thunder Bay</i>
Finch Gladue Court	<i>Toronto</i>
College Park Gladue Court	<i>Toronto</i>
Jarvis Aboriginal Youth Court	<i>Toronto</i>
Jarvis Child Welfare Gladue Court	<i>Toronto</i>
Old City Hall Gladue Court	<i>Toronto</i>
Walpole Island First Nation Gladue Court	<i>Walpole Island</i>

In addition to the colonial courts listed above, a [court in Akwesasne](#), Ontario works within an independent Indigenous legal system pursuant to the Akwesasne Self-Government Agreement signed in 2012. This legal system replaces the Ontario, Quebec and American systems which overlap in that territory.

Ontario has various programs for Gladue report writers and case workers. These programs are funded by Legal Aid Ontario, the Ministry of the Attorney General for Ontario, and the federal Department of Justice, and administered by various Indigenous organizations through funding agreements. Some First Nations, like the Nishnawbe Aski Nation, have their own Gladue [report-writing programs](#) for their members.

Outside of courts and report writing programs, Aboriginal Legal Services administers a [Community Council](#) program, which has been operational since 1992 and provides alternatives to sentencing for Indigenous offenders. The Giiwedind Anang Council – an [Indigenous Family Dispute Resolution program](#) – also operates in the Greater Toronto Area. In Thunder Bay, the Nishnawbe-Aski Nation administers a [restorative justice program](#), which offers an option to divert offenders from the Canadian justice system before or after criminal charges are laid. Ontario also plans to open a [justice centre](#) in Kenora, with the goal of integrating criminal law with Indigenous restorative justice principles.

Prince Edward Island

Prince Edward Island does not have any Indigenous courts. In January 2022, the province announced provincial and federal funding for a new Indigenous Courtworker program, which will be administered through the Mi'kmaq Confederacy of P.E.I.'s [Indigenous Justice Program](#).

Quebec

In Kahnawake, the [Court of Kahnawá:ke](#) adjudicates criminal and traffic matters through a community-based justice program. Other Quebec First Nations are currently advocating for their [right to self-determination](#), which often comes with administering justice within their communities.

Pursuant to the James Bay and Northern Quebec Agreement, the Cree Nation Government established a Department of Justice and Correctional Services in 2008. Each of the nine Cree nations has its own [Justice Committee](#), which offers an alternative to the justice system. The Department also [authors Gladue reports](#) when requested by a court.

The province of Quebec has supported Gladue report-writing programs across the province since 2015, funded through the Ministry of Justice.

Saskatchewan

Saskatchewan has two Aboriginal courts. [The Cree Court](#), based in Prince Albert, offers provincial circuit court services entirely or partially in Cree. The Meadow Lake Court Party based in Meadow Lake offers court hearings in Cree and Dene. Both of the Aboriginal courts use a [restorative approach to justice](#).

Saskatchewan does not currently fund Gladue report writing services. Although Legal Aid Saskatchewan piloted a Gladue report writing program in 2014 the program was not renewed (R v Desjarlais, 2019 SKQB 6 at para 15). In 2019, the Saskatchewan Court of Queens Bench ruled that it had no obligation to order or fund Gladue reports for Indigenous offenders (R v Desjarlais, 2019 SKQB 6 at para 33).

Yukon

While Yukon does not have any designated Gladue or Indigenous courts under the territorial court system, the 1994 Yukon Umbrella Final Agreement formally recognizes the Yukon First Nations' right to self-government and lawmaking authority. Several First Nations have subsequently negotiated administration of justice agreements with the territorial and Canadian governments, creating their own courts which operate in harmony with the territorial system (e.g. Yukon First Nations Self-Government Act, SC 1994, c 35).

In Whitehorse, the 2005 Kwanlin Dün First Nation Self-Government Agreement established the Judicial Council, which was finalized in a [2016 Judicial Council Act](#). The Kwanlin Dün Judicial Council oversees appeals of Council decisions, and disputes relating to Kwanlin Dün laws. Also in Whitehorse, the Ta'an Kwäch'än Judicial Council adjudicates disputes relating to Ta'an Kwäch'än laws pursuant to a [2002 Self-Government Agreement](#).

In Teslin, the [Teslin Tlingit Peacemaker Court](#) is administered by the Teslin Tlingit Nation pursuant to a 2011 administration of justice agreement. The court is available to any person who violates Teslin Tlingit law, and currently provides mediation services. In the future, the court will also provide adjudication-type services.

For other Yukon First Nations, administering justice within the community is a work in progress. In Champagne and Aishihik First Nations, the community is working to build on existing restorative justice initiatives like the Haines Junction Community Justice Program and the Restorative Community Conference Coordinator, with the goal of eventually having a court. In

Dawson City, the [Tr'ondëk Hwëch'in government](#) is pursuing a phased drawdown of the administration of justice, but does not yet have an administration of justice agreement.

In Whitehorse, two therapeutic territorial courts (the [Yukon Community Wellness Court](#) and Domestic Violence Treatment Option Court) provide diversion for both Indigenous and non-Indigenous offenders. Like other therapeutic courts, these treatment options require the accused to enter a guilty plea.

Gladue report-writing services in Yukon have been administered by the [Council of Yukon First Nations since 2019](#), with funding from the territorial government.