

Overview of Gladue Courts / Indigenous Peoples' Courts in the Ontario Court of Justice



Current Ontario Court of Justice Gladue Courts / Indigenous People's Courts

1. Bkejwanong (Walpole Island) First Nation Court (2011-12)
2. Brantford Indigenous People's Court (2014)
3. Brantford Child Protection Indigenous People's Court (2014)
4. Cayuga Indigenous People's Court (2016)
5. London Gladue Court (2012)
6. Niagara Indigenous People's Court (2016)
7. Ottawa Indigenous Peoples' Court / Cour des Peuples Autochtones (2017)
8. Sarnia Indigenous Persons Court (2016)
9. Thunder Bay Indigenous People's Court (2016-17)

Toronto

10. Old City Hall Gladue Court – Ontario's first Gladue court opened in 2001
11. College Park Gladue Court (2006)
12. 1000 and 2201 Finch Gladue Court
13. 1911 Eglinton Gladue Court
14. 311 Jarvis Aboriginal Youth Court
15. 311 Jarvis Child Welfare Gladue Court

Scheduling of Ontario Court of Justice Gladue / Indigenous Peoples' Courts

- The Ontario Court of Justice recognizes the requirement to consider Gladue principles in a range of judicial decisions, including all sentencing decisions for Indigenous persons, no matter where Court is held.
- The provisions of Section 718.2(e) of the Criminal Code and appellate decisions related to those provisions bind all courts.
- The establishment and scheduling of courts is constitutionally within the exclusive jurisdiction of the judiciary.
- In January 2017 new guidelines for the establishment and scheduling of Ontario Court of Justice's specialized criminal courts, including Courts dedicated to addressing the over representation of Indigenous persons in the justice system, were introduced.
- The Court's specialized court guidelines recognize a responsibility to balance community needs, specialized court scheduling with the responsibility and jurisdiction to provide access to fair and timely justice across the province within the allocated judicial complement.

Overview of Ontario Court of Justice

Gladue / Indigenous People's Courts Operations

- OCJ Courts are statutory courts with jurisdiction over Canadian law , including the *Criminal Code*, *Controlled Drugs and Substances Act*, *Provincial Offences Act* and *Youth Criminal Justice Act* matters.
- Several Courts address Gladue principles in child protection matters based on the provincial *Child and Family Services Act*.
- Each Court has evolved in unique circumstances to respond to the unique needs of the community they serve.
- Each Court has an Advisory or Operations Committee of relevant justice and support services to advise on procedural and case management issues.
- Each Court has decided on the naming of the Court – thus the variation in Gladue and Indigenous Peoples' or Persons Court.
- The presiding judicial official (in most cases judges) retains the exclusive jurisdiction about the conduct of the Court.

Overview of Ontario Court of Justice

Gladue / Indigenous People's Courts Operations

- The Court recognizes the important collaborative role and critical support provided by many justice, health and social service partners in the establishment and effective operation of the Courts, including
 - Provincial and federal prosecutors;
 - Private defence counsel;
 - Legal Aid Ontario duty counsel and certificate defence counsel;
 - Gladue report writers and case workers, funded by the Ministry of the Attorney General, Department of Justice and Legal Aid Ontario, including Aboriginal Legal Services and a range of Indigenous Friendship Centres;
 - Aboriginal Courtworkers funded by the Ministry of the Attorney General and Department of Justice, including Aboriginal Legal Services and a range of Indigenous Friendship Centres;
 - Bail Support Services, including Bail Verification and Supervision Program and Bail Bed programs operated by community services such as John Howard , Elizabeth Fry and St Leonard's Societies and since 2017 specific Indigenous Bail Program services, funded by the Ministry of the Attorney General;
 - Others?
 - Elders of the relevant communities

Overview of Ontario Court of Justice Gladue / Indigenous People's Courts Operations - *Continued*

- Some Courts have expanded to deal with Bail hearings, all have started with sentencing hearings following guilty pleas.
- The extent to which Indigenous cultural practices are incorporated varies, depending on the individual court participants.
- In general Courts have incorporated smudging and use of Eagle Feathers for oaths .
- Some Courts have incorporated some form of sentencing circle, including input from Elders or Indigenous Knowledge Helpers, service providers and/or community members, into the sentencing process.

Gladue / Indigenous People's Courts Operations - *Continued*

- Gladue reports are generally available if the prosecution is proposing a custodial sentence of more than 90 days.
- In some circumstances, where a sentence of less than 90 days is being proposed, defence counsel may seek a Gladue letter (less detailed than a Gladue Report) or a Pre-Sentence Report prepared with emphasis on Gladue factors to assist the Court.
- During sentencing circles participants focus on the needs of the Accused person, including the factors in that cause them to come into conflict with the law and options for plan of care to address those factors.
- Victim impacts are brought to the circle or the Court in a range of ways, most often with the assistance of the prosecution or victim services.
- A plan of care could be anything from returning to school, counselling, performing community service or preparing an essay, poem or art work.