

**Timmins Diocesan Catholic Women's League of Canada**  
**Resolution and Legislation Standing Committee**

**Directive #2**

**Pages: 3**

**Date:** January 15, 2018

**To:** Parish Resolution and Legislation Standing Committee Chairpersons

**From:** Shirley Gravel, Timmins Diocesan Resolutions and Legislation Chairperson

**cc:** Provincial Resolutions Standing Committee Chairperson, Colleen Martin  
Provincial Legislation Standing Committee Chairperson, Karen McDonald  
Timmins Diocesan President, Audrey Shelton  
Timmins Diocese Parish Presidents

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Dear Presidents,

Please make your membership aware that the following resolution was adopted at the 2017 National CWL Convention: 2017.01 Full Implementation of the Supreme Court Decision in R. v. Gladue for Indigenous Offenders.

### **Background Information**

A **Gladue report** is a type of pre-sentencing and bail hearing report that a Canadian court can request when considering sentencing an offender of Aboriginal background under Section 718.2(e) of the Criminal Code.<sup>[1]</sup> Gladue was the first case to challenge section 718.2(e) of the Criminal Code.

### **History**

In 1995, Jamie Tanis Gladue, a 19-year-old Cree woman, stabbed and killed her common-law husband, Reuben Beaver, in Nanaimo, British Columbia. Gladue was intoxicated — her blood-alcohol level was approximately double the legal limit for operating a motor vehicle in the province — and had suspected her husband of infidelity at a party earlier in the evening. Beaver confirmed his infidelity and insulted Gladue during an argument upon returning to their townhouse. Gladue fatally stabbed Beaver in the chest after chasing him from the home with a knife.

Gladue was charged with second-degree murder but pleaded guilty to manslaughter. The trial judge heard that she had demonstrated remorse, and that while on bail she had attended counselling for substance abuse and completed Grade 10. Since she was not living

on a reserve at the time of the murder, the judge ruled that section 718.2 (e) of the Criminal Code did not apply in her case. This section states that a court must consider

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.

The judge sentenced Gladue to three years in prison.

### Gladue Reports and Rights

The *Gladue* case led to the development of “Gladue reports,” which are personal histories prepared by or on behalf of offenders that outline mitigating factors for judges to consider in sentencing; and “Gladue rights,” which entitle an offender to such considerations. All persons who self-identify as Indigenous, including First Nations, Métis and Inuit, have Gladue rights and may prepare a Gladue report for consideration during sentencing. Such a report might outline how a particular offender has been marginalized or otherwise affected as a result of their upbringing.

The *Gladue* case also helped to establish “Gladue courts,” which are legal systems that are tailored to Indigenous peoples. Gladue court judges, for example, specialize in matters concerning Indigenous peoples.

Not all Indigenous offenders benefit from alternative sentencing decisions based on Gladue rights, as their application is at the discretion of the judge. Therefore, alternative sentencing is not automatic, and sentences for serious crimes are more likely to be the same as for non-Indigenous offenders.

While Gladue reports are now standard in Ontario, Alberta, British Columbia, Manitoba and Nova Scotia, other provinces lag behind. In 2014, judicial commentators noted that Gladue reports were virtually non-existent in Saskatchewan, and called on the judicial community to adopt the practice. However, a Saskatchewan judge responded that while the reports are not often prepared, the relevant details are made available, and judges do often apply restorative justice principles in cases of Indigenous offenders.

### **Over-representation of Aboriginal People in Criminal Justice System**

Aboriginal peoples are the most over-represented population in Canada’s criminal justice system. As a group, they have been placed at a serious disadvantage in society due to a number of socio-economic factors that stem from the generational effects of colonization, including displacement and the residential school system

In federal penitentiaries across Canada, twenty three percent of incarcerated people are Aboriginal. In the western provinces, sixty percent of inmates are identified as Aboriginal. That is more than half of the prison population in the most densely populated area of Aboriginal communities. Considering that Aboriginal people only make up roughly three percent of Canada’s population these numbers are alarming.

A *Gladue* report is not just a sentencing report. It serves as a holistic approach that often begins the first step in an Aboriginal offender’s healing journey.

Members are encouraged to write to the Prime Minister, Minister of Justice and our local Member of Parliament, and urge them to:

- Become aware of the need to fully implement the Gladue decision
- Ensure that judges, lawyers and legal personnel ask for and use comprehensive, individualizes Gladue reports in correctional decision making for Indigenous people.

**Prime Minister Justin Trudeau, House of Commons, Ottawa, Ontario, K1A 0A6**

**Minister of Justice and Attorney General of Canada, Jody Wilson-Raybould  
Jody.Wilson-Raybould@parl.gc.ca, House of Commons, Ottawa, Ontario, K1A 0A6**

**Timmins--James Bay (Ontario), Charlie Angus, House of Commons Ottawa, Ontario  
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Blessings.

*Shirley Gravel*