



AKWESASNE COMMUNITY JUSTICE PROGRAM

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OHENTEN KARIWATEKWEN

Now all listen to the words that become before all else. We bring together our minds as one and give thanks to one another.

So be it in our minds.

We bring together our minds and give thanks to our mother the earth, for the life she gives.

So be it in our minds.

We bring together our minds and give thanks for the first fruits that grow, the strawberry.

So be it in our minds.

We bring together our minds and give thanks for all the medicines.

So be it in our minds.

We bring together our minds and give thanks to the tobacco we use to send our messages to the Creator.

So be it in our minds.

We bring together our minds and give thanks to all the different kinds of animals that help sustain our lives.

So be it in our minds.

We bring together our minds and give thanks to all the different kinds of trees, the maple is the most special of all.

So be it in our minds.

We bring together our minds and give thanks to all the waters, great and small.

So be it in our minds.

We bring together our minds and give thanks to all the different birds that entertain us.

So be it in our minds.

We bring together our minds and give thanks to all the forces that work together with the earth, our grandfathers the thunderers, who bring the rain to renew the earth.

So be it in our minds.

We bring together our minds and give thanks to our eldest brother the sun who gives us light and warmth.

So be it in our minds.

We bring together our minds and give thanks to our grandmother the moon, she controls all life cycles on earth.

So be it in our minds.

We bring together our minds and give thanks to the stars that are our relatives, they beautify the sky.

So be it in our minds.

We bring together our minds and give thanks to the four messengers who give us guidance.

So be it in our minds.

We bring together our minds and give thanks to the Creator of all, for it is the Creator that has brought us together as one.

So be it in our minds.

AKWESASNE COMMUNITY JUSTICE PROGRAM



The Akwesasne Community Justice Program (ACJP) is administered through and under the direction of the **Akwesasne Justice Department** (under the Mohawk Council of Akwesasne), located in the Angus Mitchell Memorial Administration Building at Akwesasne.

The Akwesasne Community Justice Program is made available to you through the **Mohawk Council of Akwesasne** with funds provided jointly by the Department of Justice Canada, Justice Quebec, Ontario Ministry of the Attorney General, and the Ministry of Child & Youth Services.

The Akwesasne Community Justice Program serves to not only administratively optimize the workload of the Akwesasne Mohawk and Provincial Courts but to do so in a manner that enable the Mohawks of Akwesasne to incorporate their traditional practices in the re-integration process. This incorporation of traditional practices is one of the many tools that the Justice Program seeks to use to encourage peace and harmony by resolving disputed and conflicts within Territorial Akwesasne.

Since the development of the Akwesasne Community Justice Program, it has earned the respect of various police agencies, the Courts, federal and provincial governments and other related agencies.

More important, however, is that it has earned the gratitude of the many Akwesasnoron who have been helped through difficult times by the patient dedication of the Akwesasne Community Justice Program.

CONTACT

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Akwesasne Community Justice Program



GOALS OF THE AKWESASNE COMMUNITY JUSTICE PROGRAM

- To enable the Mohawks of Akwesasne and other Indigenous people not within the Akwesasne Community to reassert their **traditional practices**
- To encourage **peace and harmony** by resolving disputes and conflicts in the Akwesasne community, thereby enabling Akwesasnoron to grow stronger and more united
- To facilitate the greater **involvement** of Akwesasnoron in the administration of justice
- To restore a greater degree of **responsibility** to the Akwesasne community for the conduct of its people who come into conflict with the justice system both on and off the territory
- To provide an Indigenous **alternative to the mainstream court process** which respects the basic tenets of the Kaiahnerekowa ("the Great Law") and encourages Mohawk persons in conflict with the law to accept responsibility and accountability for their conduct by working to rectify the wrong that contributed to their conflict with the justice system
- To **reduce** the rate of **repeat offences** among participants in the program
- To continue and expand the work of the **Community Neh-Kanikonri:io Council** (Neh-Kanikonri:io means "Good Mind")
 - hearing cases diverted by the local Crown attorneys in Cornwall, Ontario and Valleyfield, Quebec or pre-charge diversion cases referred by local police services
 - making recommendations to the court as an appropriate sentence through the probation officer, when a Justice of the Ontario Court of Justice or the Ontario Superior Court of Justice orders a pre-sentence report and requests an "Old Ways" hearing be conducted.
- To **reduce the rate of convictions** for Akwesasnoron over time both on and off the territory

INDIGENOUS COURTWORKER

The main job of the Indigenous Courtworker is to help Indigenous people who are **in conflict with the law**.

HOW COURTWORKERS HELP

Courtworkers assist Indigenous individuals starting at the earliest possible stage of the justice process by acting as a **liaison** between the individual and the Court.

Courtworkers work with various officials of the court to ensure that an individual receives **fair treatment**.

Although Courtworkers know about the law and justice system, they are not lawyers. Courtworkers are not intended to be interpreters for the court. Courtworkers do not supervise bail or probation.

Akwesasne Community Justice Program



INFORMATION AND ASSISTANCE

Courtworkers can provide information and assistance to clients in conflict with the law by:



- explaining the nature and consequences of their charges, their legal rights and responsibilities
- explaining and referring them to the Akwesasne Community Justice Program processes available
- obtaining the services of Indigenous language interpreters
- obtaining interpreters of Indigenous culture when it has a bearing on the case
- making contact with the area Native Inmate Liaison Office if the client is sentenced to a provincial institution (see page 8)
- explaining to a person placed on probation what this means and what is expected of them

CONTACT

Patti Bova

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patti.bova@akwesasne.ca

NATIVE INMATE LIAISON OFFICER(NILO)

WHO IS ELIGIBLE?

Any First Nations, Inuit, or Métis inmate at Ottawa-Carlton Detention Centre.

PURPOSE

- The ideology behind the NILO program is based on traditional principles and concepts that combine traditional teachings and ways of life with contemporary Western views
- Foundational connection is built through traditional ceremonies such as the offering of thanksgiving prayers, smudge ceremonies, sweat lodge ceremonies and other medicine ceremonies
- Approaches, such as individual and group talking circles, substance abuse treatment centre referrals target recidivism reduction within our Indigenous and Inuit populations

CULTURALLY APPROPRIATE COUNSELLING PROCESS

The NILO prepares and delivers culturally appropriate counselling:

- such as contemporary Life Skills Teachings in a group or one-on-one session
- that promotes healthy lifestyle in their communities upon release
- that supports clients in their pursuit of culturally appropriate service providers upon release



LIAISON SERVICES

● **Liaise with Stakeholders**

The NILO liaises with

- area Police Services, CBSA, Crown Attorneys, Defense Council, Legal Aid, Band Councils, Provincial Parole Board, etc.
- families of Indigenous inmates when needed, such as for transportation back to community upon release
- organizations such as Elizabeth Fry, John Howard Society and the Salvation Army for services

● **Provides Referrals and Access to Resources**

The NILO assists the individual in obtaining necessary resources, ensuring their legal and human rights, such as:

- links to the outside community to assist and facilitate release and reintegration
- communication resources upon request / when available
- transportation to released inmates when necessary
- treatment referral services

CULTURAL TEACHINGS PROCESS

The NILO can provide cultural teaching processes through

- holding eight (8) Sweat Lodge ceremonies for individuals
- preparing individuals with teachings in relation to use of sacred items during Sweat Lodge Ceremonies
- conducting group and one-on-one pipe ceremonies
- conducting group and one-on-one sessions for medicine teachings
- ensuring cultural sensitivity of non-native staff and other personnel

CONTACT Native Inmate Liaison Officer

613 575 5000 ext. 2409
ocdc-nilo@ontario.ca

GLADUE UNIT SERVICES

WHO IS ELIGIBLE?

The Gladue Worker will assess the eligibility for a Gladue Report upon request for an Indigenous client who

- finds themselves in the jurisdiction of the Akwesasne Mohawk Territory or who is a member of the Mohawks of Akwesasne.
- has been charged with an offence and is applying for bail OR has plead guilty OR has been found guilty of a criminal offence and is being sentenced

Gladue Reports can be used for: Bail Hearings, Sentencing, and Parole Hearings.

PURPOSE

R v Gladue is a 1999 Supreme Court of Canada decision that said Judges must take into consideration the unique circumstances of Indigenous people when passing sentence on Indigenous persons in conflict with the law.

R v Gladue focused on section 718.2(e) of the Criminal Code of Canada:

718.2 A Court that imposes a sentence shall also take into consideration the following principles:

- (e) all available sanctions other than imprisonment that are reasonable in the circumstance should be considered for all offenders, with particular attention to the circumstances of Indigenous offenders.

Judges must also consider Gladue at the bail hearing (*R v Ipeelee*, 2012 SCC 13, [2012] 1 S.C.R. 433)

ACJP offers the services of a Gladue Writer and a Gladue Aftercare Worker:

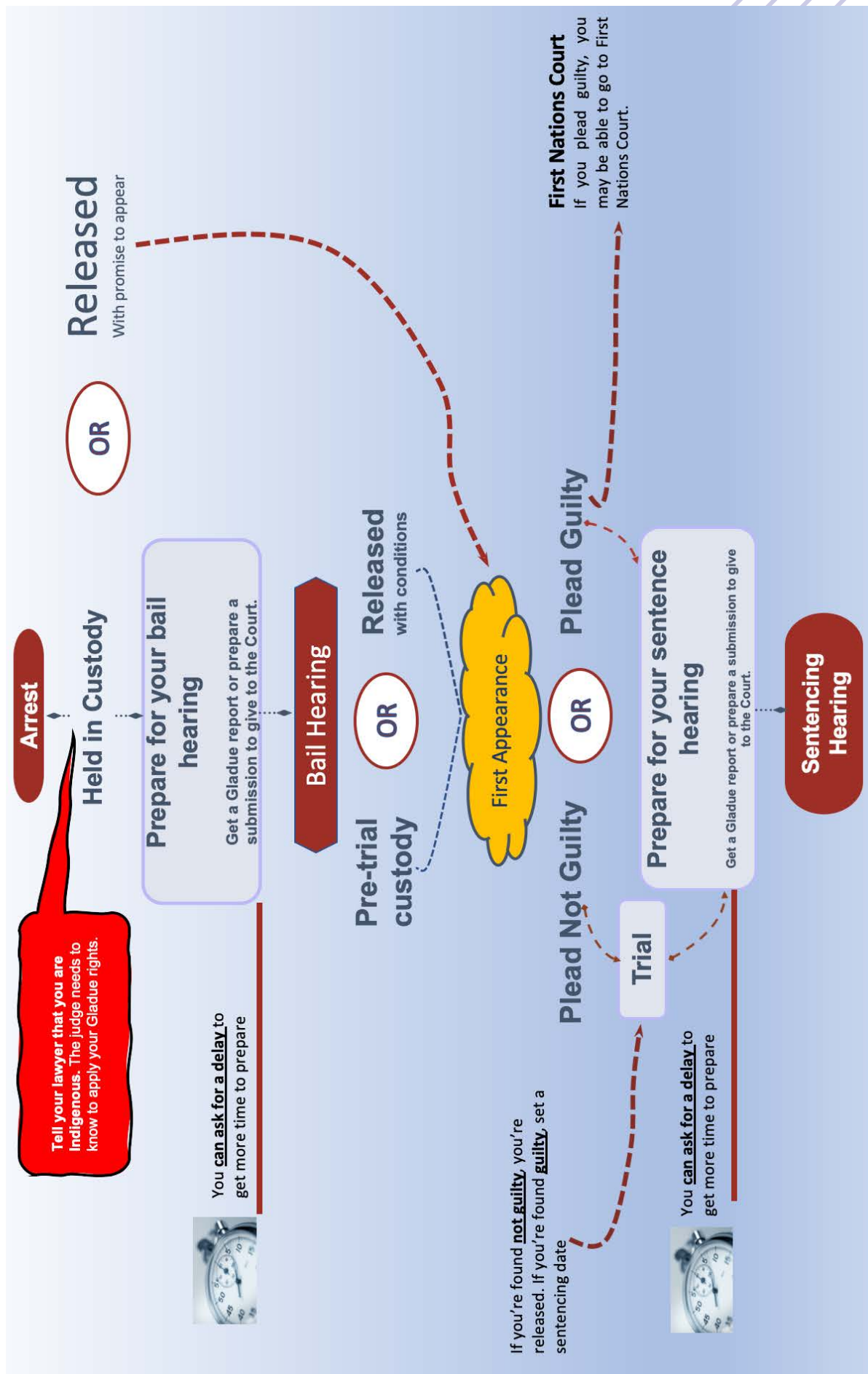
Gladue Writer

The Gladue Writer interviews the client to prepare a **Gladue Report**, which gives the court a detailed account of the Indigenous person's life, background information, Indigenous community, and the circumstances that brought them before the court. It will link the life story of the client to the broader issues facing Indigenous people, for example the intergenerational trauma of residential schools and the 60s Scoop. The report makes sentencing recommendations as alternatives to incarceration, for example, restorative justice, healing circles or culturally appropriate treatment options.

Gladue Aftercare Worker

The Gladue Aftercare Worker assists with the implementation of Gladue recommendations by providing direct services and necessary referrals to programs and services to support the client in addressing and achieving the report's recommendations.

Gladue Unit Services



Gladue Unit Services

PROCESS

- 1 The individual is charged with an offence and is applying for bail OR has plead guilty OR has been found guilty of a criminal offence and is being sentenced (occurs pre-sentence)

Requesting the report:

- 2 At the **BAIL** stage, tell your lawyer, duty counsel or the Judge you have a Gladue right and would like a Gladue Report. A Gladue Report for a bail hearing can take approximately 2 weeks to 3 months to prepare, depending on the circumstances and the complexity of the case.

At the **SENTENCING** stage, tell your lawyer or the Judge you have a Gladue right and would like a Gladue Report. A Gladue Report can take 6 weeks or longer to be completed.

NOTE: It is an Indigenous person's choice to exercise their Gladue right. It is also an Indigenous person's choice to waive their Gladue right and to inform the Court (Judge, lawyer, duty counsel).

- 3 Your lawyer can refer you to the Gladue Writer, who will assess your eligibility for a Gladue Report.

If approved:

- 4 Gladue writer will interview the client, immediate family members, and others from their community about background information.

- 5 Probation Officer writes the pre-sentence report giving the court a picture of the client based on the client's criminal record, the criminal behaviour and risk of re-offending

The Judge needs to be able to answer two questions:

- 1) Why is this particular Indigenous person before the Court?
- 2) What sentencing options other than jail are available that might help address the reasons why this Indigenous person is before the Court?

- 6 If recommendations are adopted by the Judge, the Gladue Aftercare Worker will assess and support the Indigenous person as they complete the recommendations.

CONTACT

Gladue Writer & Gladue Aftercare Worker

613-575-5000

COMMUNITY NEH-KANIKONRI:IO COUNCIL

PURPOSE

The Community Neh-Kanikonri:io Council (CNC) is involved in **diversion** and **release** processes (pages 14-17). The CNC receives and makes decisions on applications, offering opportunities for people to take ownership of their conflicts through an alternative process. The CNC will take restorative and wholistic approaches with the safety and protection of the community of Akwesasne in mind.

The Council consists of members of the Akwesasne Mohawk Territory who have been trained to facilitate community justice values and principles. They are committed to offering cultural-based responses to conflict to strengthen the community and to re-establish social harmony.

PRINCIPLES



RESPECT

All those involved in a crime or conflict are provided with an opportunity to provide their input. CNC recognizes that diverse points of view are part of creating wise, effective decisions



REPAIR

Includes restoring the peace & healing of individuals and community with a reasonable plan of accountability. This is an opportunity to repair the harm to the fullest extent possible.



RELATIONSHIP

Each party involved is entitled to be heard and included in the development of a plan of action in a manner respectful of needs.



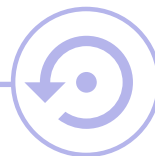
RESPONSIBILITY

Offenders are accountable to the victim and community for their actions. We share responsibility for community members, recognizing that our actions, thoughts and attitudes affect others.



REINTEGRATION

The community takes an active role in integrating all those involved in the crime or conflict with the community.



RESTORATION

Support must be made available to each party as to their needs and participation in a restorative plan of action.

PROCESS

When a circle has been coordinated, the Ohenton Kariwatekwen (Thanksgiving Address) is read. Welcoming and introductions are made. Then the CNC will ask for the individual to tell their side of the story.

Everyone in the circle contributes to the fair, attainable measures for offenders to repair the harm that has been done. Agreement is signed by CNC members and the individual.

The individual will tell the Council:

- What happened?
- How did you become involved?
- What were you thinking of at that time?
- What have you thought about since?
- Who has been affected by what you have done? In what way?
- What do you think you need to do to make things right?

DIVERSION

Pre-charge Diversion, Post-charge Diversion, Old-Ways Conference

WHAT IS EXPECTED:

- ✓ Accept responsibility for the charge
- ✓ Cooperate and be respectful
- ✓ Participate and be on time
- ✓ Complete the recommendations in the time provided
- ✓ Follow up with the Akwesasne Community Justice Program when required to do so

Your file will be returned to the referring agency and dealt with accordingly in the mainstream court system if:

- You do not attend the scheduled intake meeting, conference or appointments
- You fail to complete the recommendations in the signed agreement in the time given

WHO IS ELIGIBLE?

Any indigenous person (youth or adult) accused or charged with any Class I offence and some Class II offences under the Criminal Code of Canada

PURPOSE

Diversion programs are alternatives to prosecution. Examples: community service, fasting, researching and learning one's family tree

Pre-charge Diversion are interventions that happen without the use of the court system. The process occurs before the charge and the goal is for the measures to replace a formal charge.

Post-charge Diversion occurs after the person is charged with the offence. The goal is for the charge to be withdrawn or stayed (suspended for a year and withdrawn if no new offences are committed within that year).

Old Ways Conference are alternative measures to traditional sentencing after pleading guilty to offence(s).

CONTACT

Youth Diversion

613-551-7129

Adult Diversion

613-551-7272

613 575 5000 ext. 2409

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Patti Bova

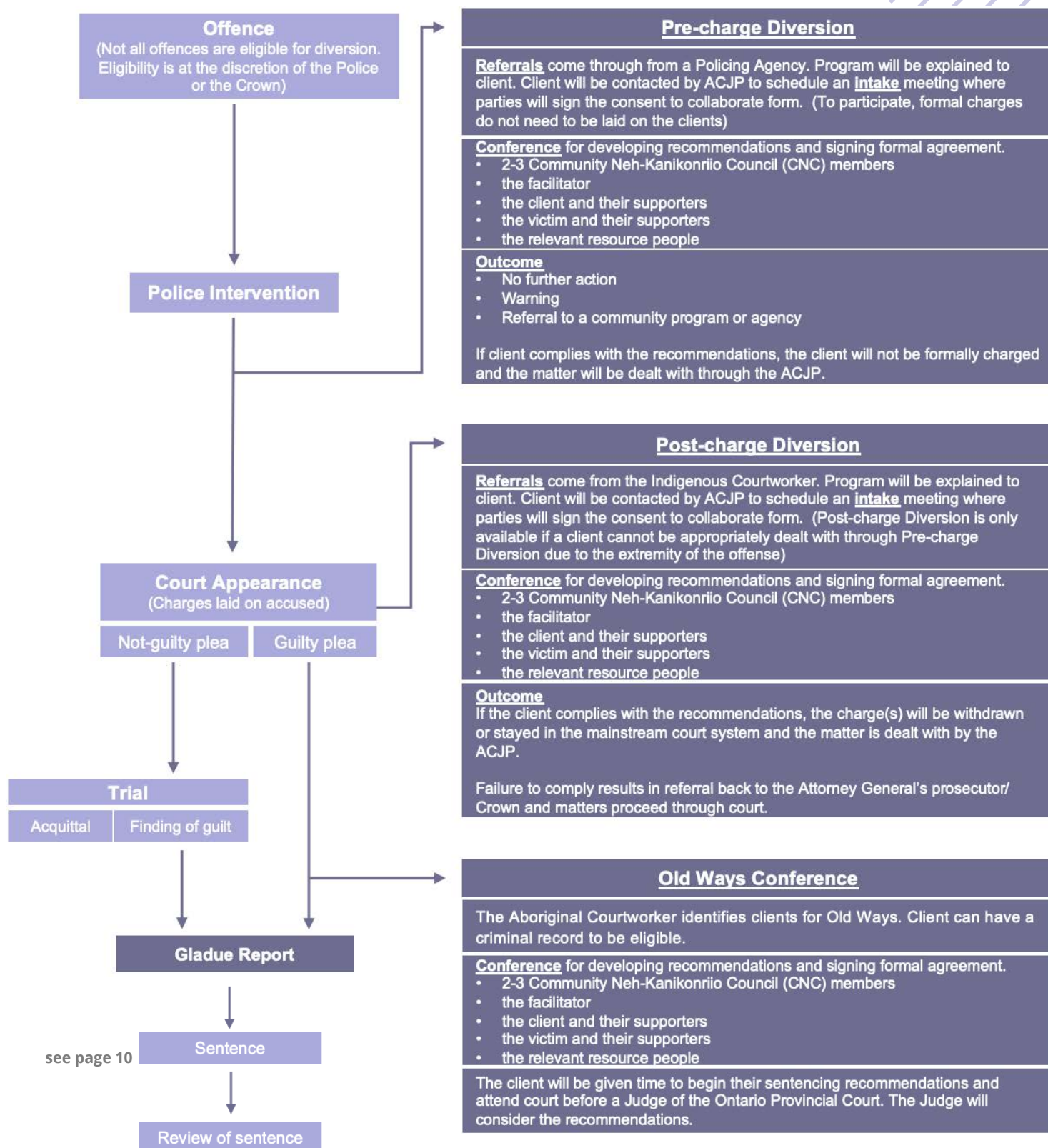
patti.bova@akwesasne.ca

Rena Smoke

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Pre-charge and Post Charge Diversion, Old Ways

PROCESS



RONATHAHI:IO RELEASE PROGRAM

WHO IS ELIGIBLE?

To be an eligible candidate for the Ronathahi:io Release Program, the applicant:

- Must be a first time federal offender, subject to the provisions of the Correctional and Conditional Release Act
- Must have been classified as at low risk to re-offend
- Must have a medium to high reintegration rating
- Must have served one sixth of his/her sentence to be eligible for Day Parole
- Must be eligible for accelerated Parole Release

PURPOSE

In accordance with the section 84 legislation, Correctional Services Canada (CSC) must provide:

- Adequate notice of the inmate's parole application
- Give the community an opportunity to propose a plan for the inmate's release to, and integration into, the Indigenous Community
- Section 84 is legislation enacted by the Correctional and Conditional Release Act (CCRA) which allows an Indigenous inmate the opportunity to serve a part of their sentence in the community, if the community agrees

PROCESS-Step 1

The Applicant

- 1 Writes a letter of request to the Akwesasne community via the Justice Designee (an Akwesasne Community Justice Official) asking for the Community Neh Kanikonri:io Council to be involved in his/her release planning and supervision
- 2 The Justice Designee will confirm that letter has been received and will send an information package. The applicant fills out the paperwork, signs forms and returns the documents to the Justice Designee

The review will begin as soon as all the documents are in the possession of the Community Neh Kanikonri:io Council (arrest record, criminal record, pre-sentence report, court transcript, assessments and institutional records)

RONATHAHI:IO Release Program

PROCESS-Step 2

The Community Neh Kanikonri:io Council

- 1 Will review all applicant's documentation accumulated during his/her incarceration
- 2 Will interview applicant's family, supporters, potential employers, and the victim(s)
- 3 Will make culturally appropriate recommendations to the applicant's correctional release plan and will make recommendations to the conditions the applicant will need to abide by while in the community

To find out more about the Community Neh Kanikonri:io Council, please turn to page 13.

What Happens Next?

- 1 A representative from the review panel will meet with the Institutional parole officer and the applicant to finalize the correctional Release Plan
- 2 The applicant will take that Correctional Plan to their National Parole Board (NPB) hearing, if the NPB approves of the plan, then the applicant will be released into the community
- 3 The successful applicant will report to their Parole Officer and the police department in the community that they are residing in upon their release
- 4 The Ronathahi:io Parolee will serve the remainder of their sentence under supervision in their community

Note: An applicant can only apply ONCE for the Ronathahi:io Early Release Program

YOUTH REINTEGRATION PROGRAM

WHO IS ELIGIBLE?

Indigenous youth (status and non-status), Métis, and Inuit between the ages of 12-17 years at the time of offence, who have been found guilty and are currently on probation, conditional supervision, or community supervision.

PURPOSE

To provide services that address assessed individual needs of Indigenous youth

To support and assist in rehabilitation and reintegration of Indigenous youth back into the community

To assist parents/caregivers and youth in understanding their rights and responsibilities

To work closely with all agencies and facilities to effectively meet youth needs through coordinated case management, consultation and case conferences

To offer continuous support and supervision to youth and their families

SERVICES

Work collaboratively with Youth Probation Officers and youth to ensure conditions and recommendations are met

Provide intervention trainings/workshops to youth, parents, and/or caregivers

Maintain contemporary Life Skills Teachings in a group or one-on-one session

CONTACT

Erin Seymour (Youth Justice Worker)

613-551-7129

erin.seymour@akwesasne.ca

QUEBEC COMPENSATORY WORK PROGRAM

WHO IS ELIGIBLE?

Open to adults unable to pay their fines (of over \$12k) for sentences within the province of Quebec. The person who agrees to carry this out must respect certain rules.

PURPOSE

- Provides the opportunity for individuals to be involved in restorative justice by working for non-profit organizations in their community.
- Gives municipal and provincial courts an alternative way to manage cases of fines that are difficult to collect.
Participants perform different tasks for free for a program partner.
Partners include food banks, parishes, soup kitchens, recreations, and other non-profits.

PROCESS

1

- Contact the Onkwehonwe Program Development Officer (OPDO) for notices in the mail (either French or English)
- OPDO will notify the Fine Collector in Valleyfield, QC by email and see if the person would be eligible for payment arrangements

2

Fine Collector will send a letter to the applicant and the OPDO with the documents needed:

List of documents required:

- Copy of your last income tax returns and notices of assessment
- Copy of a document proving ownership of your residence or copy of the lease of your dwelling
- Copy of your bank statements for the last four months
- Financial profile from each institution you deal with
- Copy of your last paystub if you are employed, or a statement of any other income
- Budget of your monthly expenses

3

Fine Collector will send an Affidavit of Service for the person to sign and return to the agency within a specified amount of time

4

- You will receive the official Order stating that you have been accepted into the program
- A formal agreement is sent to the OPDO from the Centre de Benevolat de la Riv-Sud stating how many hours need to be completed within a certain amount of time
- Once the official Order has been received, the OPDO will contact you for placement in Akwesasne
- All converted hours of Quebec Compensatory Work depend on the amount of the fine.

The schedule must be followed and adhered to.

CONTACT

Fallon David (OPDO)

613-575-5000
fallon.david@akwesasne.ca

IETSIATAHÓNHSATAT VICTIM SERVICES

WHO IS ELIGIBLE?

The victim services program aims to assist Indigenous victims and their families in the wake of any past or ongoing suffering or harm committed against them.

The Department of Justice Canada defines a victim as "...any person who is harmed, killed, or suffering as a result of an accident or intentional act or situation. The victim may experience suffering and loss, e.g. physical, psychological, emotional, financial, social, medical, and others."

"Any person" - anyone can become a victim and there may be one victim or many victims from any situation.

"Harmed, killed or suffering" - there can be primary, secondary or tertiary victims involved in any situation.

Primary victims - those directly involved in the critical event, e.g. the deceased, the injured and their loved ones

Secondary victims - those who are in some way observers of immediate traumatic effects on primary victims, e.g. eyewitnesses, rescuers, converging rescuers.

Tertiary victims - those removed from the critical event but who are nonetheless impacted through encountering a primary or secondary victim, e.g. immediate neighbours, community members, former victims

"Accidental or intentional act or situation" - victimization may result from acts or situations which may or may not be a crime and may or may not have a perpetrator.

Contact Ietsiatahónhsatat Victim Services if YOU or someone you know has experienced:

Abduction, assault, criminal harassment, domestic violence, elder abuse, homicide, human trafficking, motor vehicle accident, natural disaster, robbery, sexual assault, or for any other tragic circumstance

CONTACT

Jenna David

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Canadian Victim Bill of Rights Act

CRIMINAL JUSTICE CONTINUUM

Investigation

Right to information about the status and outcome of the investigation of the alleged offence, location of proceedings, and available services.

Right to protection by having their security and privacy considered during the investigation.

Right to participation by conveying their views when decisions are made by authorities that affect their rights under the Act, and to have those views considered.

Remedy: Victims who feel that their rights have been breached by a federal department, agency or body can file a complaint through its complaints process.

Note: * NCR: Not Criminally Responsible;
UST: Unfit to Stand Trial

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Gouvernement
du Canada

Trial

Right to information about the location and time of the proceedings and outcome.

Right to protection by having their security and privacy considered; to have reasonable and necessary measures taken to protect them from retaliation and intimidation; to request that their identity be protected; and to request testimonial aids.

Right to participation by conveying their views when decisions are made by authorities that affect their rights under the Act, and to have those views considered.

Remedy: Victims who feel that their rights have been breached by a federal department, agency or body can file a complaint through its complaints process.

Sentencing

Right to information on reviews while NCR / UST* offender is subject to Review Board hearings and about the location and timing of sentencing hearings and their outcome.

Right to protection by having their security considered at sentencing.

Right to participation by conveying their views when decisions are made that affect their rights under the Act, and to have those views considered as well as to present victim impact statements.

Right to Restitution by having the Courts consider a restitution order in all cases and have it entered as an enforceable judgment in Civil Court.

Remedy: Victims who feel that their rights have been breached by a federal department, agency or body can file a complaint through its complaints process.

Federal Corrections and Conditional Release

Right to information about the date, destination and conditions attached to an offender's release under the *Corrections and Conditional Release Act* (CCRA) and about available programs and services, including Restorative Justice programs.

Right to protection by having their security considered and to have reasonable and necessary measures taken to protect them from retaliation and intimidation.

Right to participation by conveying their views when decisions are made that affect their rights under the Act, for example, at a parole hearing, and to have those views considered.

Remedy: Victims who feel that their rights have been breached by a federal department, agency or body can file a complaint through its complaints process.

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