

# 5TH NATIONAL CONFERENCE ON ABORIGINAL CRIMINAL JUSTICE POST-GLADUE



Photo courtesy of Sharon Reynolds

Join an expert, multi-disciplinary faculty from across Canada to discuss current challenges and ways to improve the criminal justice system as it affects Aboriginal people:

- Aboriginal people in custody: what are the conditions they face 16 years Post-Gladue
- Practical application of Gladue principles in Bail Court
- Factoring in Gladue when a custodial sentence is required
- Gladue Reports: what's really important
- Innovations in Aboriginal communities in addressing systemic issues
- Update on the leading Gladue cases
- An Aboriginal approach to justice: the role of Indigenous peoples own laws in working towards community regulation and dispute resolution

**Co-Presented with  
Aboriginal Legal Services  
of Toronto**



**Aboriginal Legal Services of Toronto**

**"THIS IS AN AMAZING  
PROGRAM WITH A GREAT  
RANGE OF TOPICS AND  
PERSPECTIVES.  
THE SPEAKERS WERE  
VERY INFORMATIVE  
AND ENGAGING."**

**Defence Lawyer**

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**Webcast Available**

### **Chairs**

**The Hon. Justice Lise Maisonneuve**  
*Associate Chief Justice of the Ontario  
Court of Justice*

**Jonathan Rudin, Program Director**  
*Aboriginal Legal Services of Toronto*

### **Date and Time**

Saturday, April 11, 2015  
9:00 a.m. - 4:40 p.m. EDT

### **Location**

Osgoode Professional Development  
1 Dundas St. W., 26th Floor  
Toronto, ON

**Criminal Lawyers' Association  
(CLA) 25% discount**

## 5TH NATIONAL CONFERENCE ON ABORIGINAL CRIMINAL JUSTICE POST-GLADUE

Aboriginal people have long been overrepresented in Canada's criminal justice system. The 1999 landmark Supreme Court of Canada decision in *R. v. Gladue* and its 2012 decision in *R. v. Ipeelee*, along with section 718.2(e) of the *Criminal Code*, make it clear that there is a positive duty on counsel to adduce, and for judges to consider, information related to the unique circumstances of Aboriginal people who come before the courts.

This **5th National Conference on Aboriginal Criminal Justice Post-Gladue**, jointly presented by Aboriginal Legal Services of Toronto and *OsgoodePD*, continues to build on the challenges and solutions advanced in our previous groundbreaking conferences.

An expert and widely respected faculty of judges, Crowns, defence lawyers, academics, The Correctional Investigator and front line Aboriginal justice and community workers will examine key challenges facing Aboriginal offenders and the Canadian justice system. They will share their practical experience as they examine what's working and what isn't and what the priorities should be going forward. This conference will be a forum for discussion and there will be plenty of opportunity for your questions and comments.

**REGISTER NOW BY VISITING [WWW.OSGOODEPD.CA](http://WWW.OSGOODEPD.CA),  
CALLING 416.597.9724 OR 1.888.923.3394,  
EMAILING [OSGOODEPD@OSGOODE.YORKU.CA](mailto:OSGOODEPD@OSGOODE.YORKU.CA)  
OR FAXING 416.597.9736**



### Chairs

#### **The Hon. Justice Lise Maisonneuve**

*Associate Chief Justice of the Ontario Court of Justice*

#### **Jonathan Rudin**

*Program Director, Aboriginal Legal Services of Toronto*

### Faculty

#### **The Hon. Justice Deborah Austin**

*Ontario Court of Justice*

**Fred Bartley**, *Assistant Crown Attorney, Ministry of the Attorney General (Ontario)*

#### **Patti Laboucane-Benson**

*Director of Research, Training and Communication, Native Counselling Services of Alberta*

#### **Professor John Borrows**

*Faculty of Law, University of Victoria, BC*

**Sarah D. Dover**, *Barrister & Solicitor*

#### **Trevor Jukes**, *Counsel*

*Ministry of the Attorney General (Ontario), Crown Law Office - Criminal*

#### **Shaunna Kelly**

*Hicks Adams LLP*

#### **The Hon. Justice Harry S. LaForme**

*Court of Appeal for Ontario*

#### **Her Worship Louise Logue**

*Justice of the Peace*

**Jillian A. Rogin**, *Community Legal Aid Clinic, University of Windsor*

**Howard Sapers**, *Correctional Investigator, Canada*

**Jeremy Schaffer**, *Assistant Crown Attorney, Gore Bay Ministry of the Attorney General (Ontario)*

**Mandy Wesley**, *Senior Manager, Gladue Program Specialist, Aboriginal Legal Services of Toronto*

**"THE TOPICS COVERED WERE VERY RELEVANT TOUCHING ON MANY ASPECTS RELATED TO GLADUE. THE SPEAKERS WERE OF VERY HIGH QUALITY FROM VARIOUS FIELDS OF WORK. I APPRECIATED THE NETWORKING AND THE SHARING OF EXPERIENCE."**

**First Nations Case Worker**

# AGENDA - SATURDAY, APRIL 11, 2015

**8:15-9:00**

## **Registration and Continental Breakfast**

**9:00-9:15**

## **Opening Ceremony & Welcome and Introduction from the Chairs**

**9:15-9:45**

## **Latest Case Law Update**

**Sarah D. Dover**, *Barrister & Solicitor*

In *R. v. Ipeelee*, the SCC cleared up some, but not all of the confusion regarding the application of the *Gladue* principles. In this session, Sarah Dover will canvas some of the leading post-*Ipeelee* cases and discuss if and how the recent case law impacts the *Gladue* principles.

**9:45-10:45**

## ***Gladue* and Bail**

### **Her Worship Louise Logue**

*Justice of the Peace*

**Jillian A. Rogin**, *Community Legal Aid Clinic*

*University of Windsor*

**Jeremy Schaffer**, *Assistant Crown Attorney, Gore Bay*

*Ministry of the Attorney General (Ontario)*

While there is widespread recognition that the *Gladue* principles apply to bail hearings, there is a great deal of confusion about what this means in practice. Research shows that the application of *Gladue* in the bail context has often led to Aboriginal accused persons being released on more serious conditions than would otherwise be expected. In this session, the panel will review reported *Gladue* bail decisions and discuss the practical application of the *Gladue* principles in Bail Court.

**10:45-11:00**

## **Refreshment Break**

**11:00-12:00**

## **Aboriginal People and Corrections**

**Howard Sapers**, *Correctional Investigator, Canada*

In *Gladue*, the Supreme Court found that discrimination against Aboriginal people in correctional facilities was "rampant". What has and has not changed in the past 16 years? In this session, Howard Sapers will discuss the current conditions for Aboriginal people in Canadian corrections facilities.

**12:00-1:00**

## **Networking Luncheon**

**1:00-1:45**

## **Factoring in *Gladue* When a Custodial Sentence is Required**

**The Hon. Justice Harry S. LaForme**

*Court of Appeal for Ontario*

**Trevor Jukes**, *Counsel, Ministry of the Attorney General (Ontario) Crown Law Office - Criminal*

**Shaunna Kelly**, *Hicks Adams LLP*

*Ipeelee* confirms that *Gladue* considerations should apply, even when a custodial sentence is required. However, Courts have made it clear that *Gladue* does not provide an automatic sentencing discount. This panel will discuss how *Gladue* considerations can be applied on a principled basis to determine the appropriate custodial sentence.

**1:45-2:30**

## **Interpreting and Making Effective Use of a *Gladue* Report**

**The Hon. Justice Deborah Austin**, *Ontario Court of Justice*

**Mandy Wesley**, *Senior Manager, Gladue Program Specialist*  
*Aboriginal Legal Services of Toronto*

**Fred Bartley**, *Assistant Crown Attorney, Ministry of the Attorney General (Ontario)*

While the SCC referenced *Gladue* Reports in *Ipeelee*, there is no one definition or understanding of what makes an effective report and how it should be used. With the increasing availability of, and reliance upon *Gladue* Reports in Canadian courts, it is critical that counsel and judges understand how to interpret and best use them. This session will consider what aspects of *Gladue* Reports are particularly useful in the sentencing process and why.

**2:30-2:45**

## **Refreshment Break**

**2:45-3:30**

## **Innovation: How Aboriginal Communities are Addressing Systemic Issues**

**Patti Laboucane-Benson**, *Director of Research, Training and Communication, Native Counselling Services of Alberta*

One of the challenges in applying the principals set out in *Gladue* and *Ipeelee* is the serious lack of resources available in some Aboriginal communities which impairs their ability to effectively address systemic issues. This session will discuss innovative programs.

**3:30-4:15**

## **Teaching an Aboriginal Approach to Justice**

**Professor John Borrows**, *Faculty of Law, University of Victoria, British Columbia*

This session will address the role of Indigenous peoples own laws in working towards community regulation and dispute resolution in Canada. In particular, Professor Burrows will consider how Anishinaabe Law can be used as a resource for reasoning through complex justice issues. Analogies from Anishinaabe courts in the United States will be drawn to illustrate these principles.

**4:15-4:40**

## **Concluding Remarks and Closing Ceremony**

**4:40**

## **Conference Concludes**

# REGISTRATION

Please complete all registrant information.

## 5th Aboriginal Criminal Justice Post-Gladue

I will attend:  On site  Via webcast (single viewer)

Unable to attend? Please contact us to order the Materials/Program Archive.

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### Fee Per Delegate

Course only: \$495 plus 13% HST

Group discount: Register 4 members of the same organization at the same time, and receive 25% off each registration fee.

**Criminal Lawyers' Association (CLA) members receive 25% off.**

Fees include attendance, program materials, continental breakfast, lunch and break refreshments. Group discounts are available. Visit [www.osgoodepd.ca](http://www.osgoodepd.ca) for details. Please inquire about financial assistance.

### Date & Time

Saturday, April 11, 2015

9:00 a.m. - 4:40 p.m. EDT

Please arrive a half hour early for sign-in and material pick-up.

Dress is business casual.

### Location

Osgoode Professional Development

1 Dundas St. W., 26th Floor, Toronto, ON

### Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

### Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund (less \$75 administration fee) is available if a cancellation request is received in writing 5 days prior to the program date. No other refund is available.

*"THIS PROGRAM WAS VERY INFORMATIVE COVERING VITAL TOPICS, WAS PRACTICAL AND GAVE US SOME IMPORTANT PRINCIPLES TO TAKE BACK TO OUR COMMUNITY TO HELP MOVE GLADUE FORWARD."*

**Correctional Services Case Worker**

## WHO SHOULD ATTEND

If you work with Aboriginal people in the justice system, this is an important event that you should not miss.



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSUC.



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## 4 Convenient Ways to Register

1. **MAIL** your registration form to:  
Osgoode Professional Development  
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1 Dundas St. W., 26th Floor  
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2. **ONLINE** at  
[www.osgoodepd.ca](http://www.osgoodepd.ca)
3. **FAX** your registration to 416.597.9736
4. **CALL US** at 416.597.9724 or 1.888.923.3394