

Access to Justice in Remote Communities

The Law Society of Yukon recognizes the serious problem with access to justice in remote and northern communities across Canada. The three northern territories have the highest rates of violent and sexual offending in Canada coupled with few social and legal resources available in remote communities to address the underlying causes. These issues are not unique to the territories, as they also exist in remote and northern communities in the provinces which experience high rates of violent crime and aboriginal overrepresentation.

The Law Society has identified four main areas of concern regarding the underlying causes for criminality and aboriginal overrepresentation in the criminal justice system.

1. *Lack of Social Resources* - the lack of resources available in remote communities to address issues that are the underlying contributing causes of criminality including, but not limited to, residential school trauma, poverty, alcohol and drug addiction and mental health treatment. Inability to address these issues within the community represents a failure to address the underlying contributing causes of the majority of criminal behavior.
2. *Lack of Legal Resources* - access to legal services in remote communities is limited to retaining legal counsel in major centers for civil matters, and to legal aid coverage for matters involving criminal charges and child protection. Legal aid counsel travel to communities for circuit court, occurring infrequently, and are overburdened with the volume of matters and time constraints. Poverty rates and low literacy rates result in significant legal needs within the communities being unmet, with no attention being given by legal practitioners to effect proactive change to address criminality rates.
3. *Lack of Alternative Measures and Restorative Justice Programs* - few communities have established alternate measures or restorative justice programs operating within the community and there is a lack of the specialized skills necessary to develop programming and to develop partnerships with court process participants. Restorative justice programs and alternative measures programs when operating within communities can help address criminality within the community and focus on correcting the harm done by repairing relationships and addressing matters for the overall benefit of the community.
4. *Lack of Gladue Information before the Courts* - despite the Supreme Court of Canada decisions of *R. v Gladue* (1999) and *R. v Ipeelee* (2012) stating that crown, defense and the judiciary share the responsibility for ensuring that the requisite information regarding aboriginal heritage and hardships is before the court, there is an alarming failure to address this concern across Canada. There has been recognition of the significant overrepresentation of aboriginal offenders in the criminal justice system and correctional

facilities which is exacerbated in remote and northern communities. The failure of governments and court participants to recognize this and to appreciate the need for the relevant information when addressing aboriginal offenders further compounds the problem.

The Law Society recognizes that it will require government resources to address these issues. An approach is required that involves educating the government and the public to develop support for proactive change. It also recognizes the need to work with local and national governments to bring attention to the areas of concern.

The society proposes an approach involving:

1. Local education and lobbying with the territorial government to bring attention to the concerns listed along with public education to develop support for change. These issues require a commitment from the territorial government to prioritize the concerns and to commit resources to the communities.
2. Working with our Federation of Law Societies of Canada partners to encourage a consistent message nationally to provincial and territorial governments and to provide one collective national voice on this initiative to the federal government.

Gladue Report 2015 is available in **PDF** (Portable Document Format) here: [Gladue Report 2015](#)

