

CIAJ Presentation - Gladue Video Project

I would like to acknowledge that we are on Treaty 6 territory, homeland of the Métis and to thank the organizers of the conference for having me. In particular I want to thank Marilyn Poitras, who connected me with Lorne Sossin, Dean of York's Osgoode Hall Law School, which has led to me being here today.

I'm Lisa Jackson and I'm an Anishinaabe filmmaker from the Aamjiwnaang First Nation in southern Ontario, raised in Toronto and Vancouver. I've been directing films for over 10 years, mainly documentaries.

The topic of this panel is innovation and I'm here to talk about a project that will test out the use of video as part of the Gladue Process.

Osgoode Hall is very interested in visual advocacy in the legal system and one of their pilot initiatives is the Gladue Video Project, which I'll be directing. The Gladue Video Project aims to assist judges in carrying out the Gladue Process by meaningfully supplementing written Gladue Reports.

Gladue Reports, as many of you are aware, are court-mandated reports that provide comprehensive information about an Aboriginal offender's background and their community, and present options for sentencing or bail that offer realistic and viable alternatives to prison. The Gladue process is intended to address the over-representation of aboriginal people in the prison system by taking into account socio-economic factors stemming from the generational effects of colonization.

What will we produce as part of the pilot project?

By May of 2016, we will create 4-7 five-minute-long video profiles of aboriginal offenders. These will include "day-in-the-life" footage as well as interviews with the offender and people in their life, such as family, friends, and legal or community workers.

The production style will be "stripped down" and plain – with minimal editing, no musical score, etc. Whereas the trial is about the crime, sentencing must take into account that person's life outside of the crime—and that's what we'll aim to show. As in some Gladue reports, the video may include interviews with elders or others from the offender's community regarding traditional approaches to dealing with crimes, providing information on how a sentence could incorporate aboriginal justice practices.

We're working on a proof of concept, and will be aiming to make the video-production process replicable—meaning that the time and financial investment required will be reasonable, and our protocols will be available as a guide. The technology is there to create these videos cheaply and effectively.

Isn't film inherently biased in order to sway our emotions?

We're making videos; lawyers make arguments in court. Both are narrative constructions.

The same way you can craft style in writing, choosing a tone and terminology that is legal or journalistic, poetic or academic, so you can control style in filmmaking. And with the “low-fi” approach I’m taking the crafting or manipulation of the video content will be minimal and transparent. My primary aim in these films will not be an artistic portrayal but a fair depiction of the offender and their community. It will not attempt to be as complete as a 20-page Gladue report but will offer something else that I think can be valuable.

Here’s a short profile clip from one of my previous films – Hidden Legacies - that comes closest stylistically to what I’d be aiming to produce.

-----**Hidden Legacies Clip** -----

What can video do that writing or an in-court appearance can’t?

Firstly, as they say, a picture is worth a thousand words and videos provide the opportunity to see an offender’s home, community (whether on the reserve or in the inner city), and hear directly from the people in their lives. As you can see from the less-than-2-minute clip I showed just now, a lot can be conveyed in a short time.

Second, sitting in on Toronto’s Gladue Court I was struck by how challenging communication with the offender is in the context of a courtroom, even when the judge’s communication skills and commitment to hearing the offender’s point of view are exemplary.

And one thing I know a lot about as a documentary filmmaker are the subtleties of making people feel comfortable and safe to talk freely about their lives, person by person. I’ve had the privilege of listening to scores of personal stories, many of them painful or traumatic. And even small disruptions such as a crew member fussing with a light or my attention wandering for a moment, and the safe environment for communication can be lost.

And given that the Gladue process calls on the courts to bridge the gap in order to understand the unique circumstances of each aboriginal offender, video—though not an unproblematic medium—could provide a more complete picture of an offender’s life.

What are some of the considerations and cautions?

We recently completed a roundtable meeting to determine protocols on how the videos would be most useful and where potential pitfalls may be. The participants included representatives from every part of the legal system that intersects with Gladue cases and we hope to work with Aboriginal Legal Services Toronto and similar groups outside the GTA to select pilot project participants.

For the pilot, we’re only working with people convicted of victimless crimes, where there is a collegial attitude between the Crown and the Defense, and no major discrepancy in their sentencing submissions. Videos will be prepared with the consent of the offender

who can revoke it at any time during production. There is the possibility that the films or parts of them could also be useful in legal education or broader educational initiatives, in which case there are issues of consent and privacy that have to be dealt with. We're still in the planning stages of the project, so it's as yet a work-in-progress.

Finally I want to close with a short clip and some thoughts on Gladue and reconciliation.

The clip is from my film HOW A PEOPLE LIVE which chronicles the history of the Gwa'sala-'Nakwaxda'xw nations, who were affected by a heavy death toll from diseases in the late 1800s, generations of children attending residential school, and in 1964 a forced government relocation from their traditional village sites that was extremely poorly executed. This clip talks about the aftermath of that move.

----- How a People Clip -----

I've heard a number of times that aboriginal offenders are often before the court repeatedly. I wanted to show this clip to illustrate the possibility of change even in the face of seeming hopelessness.

Reconnecting to traditional practices were key in the community's rehabilitation process, and I'm reminded of Jeffery Hewitt's example of the cultural program at Rama First Nation where the recidivism rate for participants was 5%.

Another thing I've been hearing anecdotally since joining the Gladue Video Project is how many aboriginal offenders have little or no connection to their traditions and culture. Wednesday's lunchtime discussions about the meaning of reconciliation got me thinking about whether part of reconciliation is the opportunity to help forge re-connections to culture in meaningful ways where colonial impacts have severed them, and whether there's a larger role for the Gladue Process in supporting this.

Chi Miigwetch