

*Public Inquiry Commission on relations  
between Indigenous Peoples and  
certain public services in Québec:  
listening, reconciliation and progress  
(CERP, Viens Commission)*

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# *Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress (CERP, Viens Commission)*

Mandate: Investigate, address facts and conduct analyses in order to make recommendations ... in the delivery of the following public services to Québec's Indigenous people:

- Police
- Correctional
- Justice (criminal and penal justice, Indigenous law)
- Health and social services
- Youth protection services



Final report: September 2019

# CHAPTER 6

## GENERAL FINDINGS

### Systemic discrimination

« Having completed my analysis, it seems impossible to deny that members of First Nations and Inuit are victims of **systemic discrimination** in their relations with the public services that are the subject of this inquiry.

While the problems may not always be systemic, the Commission hearings have revealed that our current structures and processes show a clear lack of sensitivity toward the social, geographical and cultural realities of Indigenous peoples. As a result, notwithstanding certain efforts to make changes and despite a clear desire to promote equal opportunities, **many current institutional practices, standards, laws and policies remain a source of discrimination and inequality**, to the point where they significantly taint the quality of services offered to First Nations and Inuit. »

## 6.2. Key principles for reconciliation

- 6.2.1 Recognizing the special status of First Nations and Inuit
- 6.2.2 Promoting self-determination
- 6.2.3 Taking concerted, systemic action
- 6.2.4 Acting early

## 6.3. Cross-disciplinary calls for action

- 6.3.1 Acknowledging our mistakes
- 6.3.2 Building the foundation for a space for nation-to-nation collaboration
- 6.3.3 Producing a clear portrait of the situation
- 6.3.4 Improving living conditions
- 6.3.5 Breaking down language barriers**
- 6.3.6 Improving communications and facilitating relationships with public services
- 6.3.7 Raising public awareness

## 6.3.5 Breaking down language barriers

First language for Indigenous people in Québec:

- 77%: Indigenous languages
- 14%: French
- 9%: English

## 6.3.5 Breaking down language barriers

According to Statistics Canada Census 2016, this is the situation of French and English for Indigenous people in Québec:

- 30,5% speak French and do not speak English
- 41% speak English and do not speak French
- 21,5% speak French and English
- 7% do not speak French and do not speak English

**\*\*\*This data has major limitations: these percentages might not be accurate**

# CHAPTER 8

## FINDINGS ON JUSTICE SERVICES

“Despite the many resulting recommendations, the attempts to adapt the justice system to Indigenous realities and cultures has not produced the desired results. For many of the Indigenous and non-Indigenous witnesses, there is no doubt about it: the justice system has failed in its dealings with Indigenous peoples.

... we must acknowledge that the justice system as described in the hearings discriminates against Indigenous peoples in a systemic way, whether they are victims or accused. All is not lost, however. Although the accommodation measures introduced over the years to adapt the system have proven insufficient, little has been done to strengthen Indigenous governance from a justice standpoint. That means a wide range of measures can be put forward. **[In my opinion, there is enormous value in the expression of Indigenous traditions in matters of justice.]** Consequently, the most important calls for action proposed in this chapter are aimed at supporting the necessary self-determination of First Nations and Inuit peoples when it comes to justice. ”

# CHAPTER 8

## FINDINGS ON JUSTICE SERVICES

Two types of calls for actions:

### SELF-DETERMINATION

CALLS FOR ACTION 40 to 43

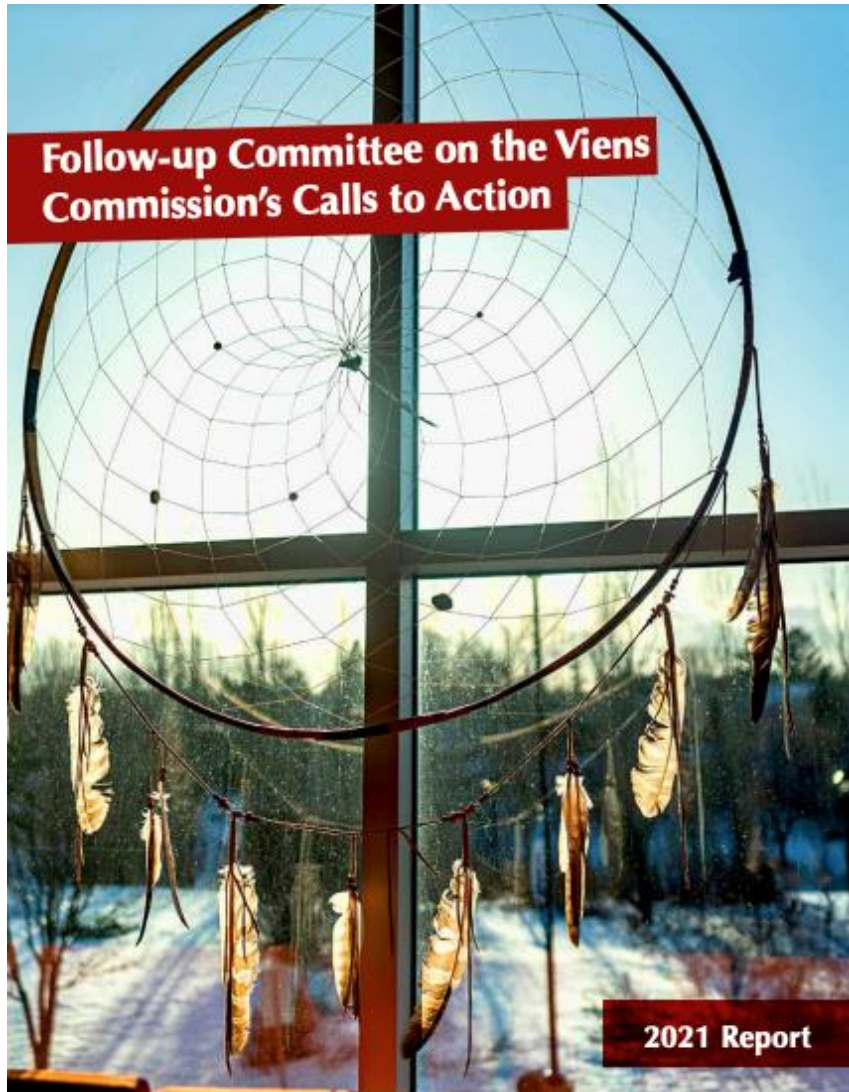
(Revitalize Indigenous law, allow agreements with Crown to create specific justice administration system with Indigenous nations, communities and organizations, enhance and better support for community justice programs, more alternative justice programs)

### ACCOMMODATION

CALLS FOR ACTION 44 to 55

(Special fees for Legal Aid, develop adequate premises for courts, stop incarcerating people for non-payment of fines for municipal offences and develop programs on this topic, institute videoconference for bail hearings in remote areas, enhance and better support the development of Gladue reports and letters)





# September 30, 2021, two years after the report: report of the follow-up committee

In matters of justice:

- “Accommodation” calls for action: some calls for action are completed, all of them are started, various funding envelopes were provided.
- “Self-determination” calls for action, little progress:
  - « The Committee notes... that there has been little progress on the calls that are most likely to lead to autonomy in the area of justice, namely calls 40 (documenting and revitalizing Indigenous law), 41 (creating specific justice administration systems) 42 and 43 (Indigenous community justice programs). »

# Data and documents available on the CERP website: documents

- 1369 documents were filed as evidence and are available on the website (list available in the appendices of the report)

- A table of content by topic is available on the website (libraries):

## Libraries

Library - Bureau du Coroner (P-712)

- [Consult the table of contents](#) 

Library - Correctional Services (P-798)

- [Consult the table of contents](#) 

Library - Jordan's Principle (P-772)

- [Consult the table of contents](#) 

Library - Justice Services (P-839)

- [Consult the table of contents](#) 

Library - Police Services (P-871)

- [Consult the table of contents](#) 

Library - Secrétariat aux Affaires autochtones (P-805)

- [Consult the table of contents](#) 

Library - Health, Social and Youth Protection Services (P-791)

- [Consult the table of contents](#) 

# Data and documents available on the CERP website: summary documents

- A number of “summary documents” summarize the evidence gathered. For example, in matters of criminal justice:

**Les rapports Gladue**, document de synthèse produit par la CERP en date du 12 décembre 2018

**Les comités de justice**, document de synthèse produit par la CERP en date du 12 décembre 2018

**Le programme de mesures de rechange pour adultes en milieux autochtones et les comités de justice**, document de synthèse produit par la CERP en date du 12 décembre 2018

**Les juges de paix**, document de synthèse produit par la CERP en date du 12 décembre 2018

**Les suramendes et les travaux compensatoires**, document de synthèse produit par la CERP en date du 12 décembre 2018

**Violences conjugales, familiales et sexuelles et les services de police et de justice**, document de synthèse produit par la CERP en date du 12 décembre 2018

**Statistiques sur le nombre de diverses requêtes civiles déposées par cinq nations différentes**, document de synthèse produit par la CERP en date du 12 décembre 2018

**Les troubles du spectre de l'alcoolisation fœtale**, document de synthèse produit par la CERP en date du 12 décembre 2018

**Expérience et rétention des procureurs aux poursuites pénales et criminelles de la Cour itinérante**, document de synthèse produit par la CERP en date du 12 décembre 2018

**Enquêtes sur remise en liberté provisoire des personnes autochtones**, document de synthèse produit par la CERP en date du 12 décembre 2018

**Les séjours en détention préventive**, document de synthèse produit par la CERP en date du 12 décembre 2018

**Les infractions à caractère sexuel rapportées par les Autochtones aux services policiers**, document de synthèse produit par la CERP en date du 12 décembre 2018

**Portrait des accusations en matière de violence conjugale impliquant des personnes autochtones**, document de synthèse produit par la CERP en date du 12 décembre 2018

**Portrait de la judiciarisation autochtone au Québec**, document de synthèse produit par la CERP en date du 12 décembre 2018

# Data and documents available on the CERP website: preuve documentaire

- 24 “preuve documentaire” (documentary evidence) was produced by the public inquiry and are available on the website (list available in the appendices of the report), for ex:
  - ✓ PD-1: CERP documentary evidence on ethno-cultural data collection
  - ✓ PD-6 to 11: Literature reviews on all 5 public services
  - ✓ PD-20: Analysis of survey made on justice actors working with Indigenous people in Quebec

## Data and documents available on the CERP website: witnesses

- 765 witnesses were heard: all testimonies are available on the website, both in French and English (live translation)
- Amongst these witnesses, many experts came to summarize their findings, and shared documents which are also available on the website

# Testimonies and documents on Indigenous law

**\*\*\*All documents provided by witnesses or connected to their testimonies are available on the website under the recordings of their testimonies. Transcription are also available at the same place.**

- **Indigenous law - general**
  - **Val Napoleon et Hadley Friedland (December 4 to 6, 2017)**
    - ✓ **December 4, 2017: Indigenous law, theory, challenges, sources, ressources, methodology**
    - ✓ **December 5, 2017: Critical and gendered analysis, violence against Indigenous women spectrum**
    - ✓ **December 6, 2017: Implementation of Indigenous law, Application of Indigenous law to violent crimes**
  - **Aimée Craft (January 15, 2018) : Indigenous law and its connection to reconciliation with Indigenous people, the Truth and Reconciliation Commission**
  - **Michel Morin (December 7, 2017): The history of imposition of canadian justice system on Indigenous legal orders**

# Testimonies and documents on Indigenous law

## - Algonquin/anishinaabe law:

- [André Mowatt et Marie-Pierre Bousquet](#) (April 11, 2018) – Conflict resolution
- [Aimée Craft](#) (January 15, 2018) – Water law
- Other: [Anishinabek Legal Traditions Report](#) (Chippewas of Nawash First Nation, Ontario)

## - Atikamekw law:

- [Christian Cocoo, Mylène Jaccoud, Marie-Ève Sylvestre](#) (February 22, 2018) – Conflict resolution, response to violence, fundamental principles
- [Anne Fournier, Lucie Dubé](#) (February 22, 2018) – Youth protection

## - Cree law:

- [Paul John Murdoch](#) (June 18, 2018) – Contracts
- [Hadley Friedland](#) (community partner: Aseniwuche Winewak, Alberta) (December [4-5-6](#), 2017) – Response to violence and victimization

# Testimonies and documents on Indigenous law

## - Inuit law:

- [Lisa Qiluqqi Koperqualuk](#) (January 26, 2018) – Conflict resolution and response to violence
- [Lucy Grey](#) (November 23, 2018) – Conflict resolution and response to violence, social regulation
- [Marie-Hannah Angatookalook, Phoebe Atagotaaluk and Martin Scott](#) (Justice committee of Kuujjuarapik, Inukjuak and d'Aupaluk) (November 16, 2018) – Conflict resolution and response to violence, social regulation

## - Innu law:

- [Jean-Paul Lacasse](#) (January 19, 2018) – Conflict resolution, relation with the land, contracts
- [Sébastien Grammond](#) (September 22, 2017) – customary adoption, youth protection

## - Kanien'kehá:ka (Mohawk) law:

- [Kevin Fleischer](#) – Kahnawà:ke Court (February 15, 2018)
- [Joyce King et Bonnie Cole](#) – Akwesasne Court and Water law (February 15, 2018)



# Other testimonies and documents in line with the theme of this conference

- [Opitciwan justice committee](#): Mario Chachai, Paul-Yves Weizineau, Isabelle Picard (June 18, 2018)
- [Whapmagoostui and Mistissini, justice committes and Justice Department of the Cree Nation](#)  
[Government of Eeyou Istchee](#): Donald Nicholls, Ruth Masty and Louise Coonishish (June 15, 2018)
- [Justice committee of Kuujuarapik, Inukjuak and Aupaluk](#): Marie-Hannah Angatookalook, Phoebe Atagotaaluk et Martin Scott (November 16, 2018)
- [Lyne St-Louis](#): former regional coordinator of Justice Committees in Nunavik, Gladue writer and Gladue writer trainer (June 5, 2018)
- [Lucy Grey](#) : held many roles in and around the criminal justice system in Nunavik (November 23, 2018)
- [Kevin Fleischer](#) – Alternative Dispute Resolution Program, Kahnawà:ke (February 15, 2018)
- [Joyce King et Bonnie Cole](#) – Akwesasne Community Justice Program (February 15, 2018)

# Other testimonies and documents in line with the theme of this conference

- [Aboriginal Legal Services of Toronto](#) - Jonathan Rudin (February 14, 2018)
- [Cindy Blackstock](#) – Jordan’s principle (September 4, 2018)
- [Montreal First Peoples Justice Centre](#) – Vivien Carli et Serge Tremblay (February 20, 2018)
- [Rachel Deutsch](#), Intervener at the Montreal First People Justice Centre (challenges of PAJIC program for Indigenous people in Montreal) (November 20, 2017)
- [Pierre Rousseau](#), former crown prosecutor and prosecutor in chief in the three canadian territories, former regional coordinator BC-Yukon for the Aboriginal Justice Strategy (January 25, 2018)
- [Gladue court in Ontario](#) – Jonathan Rudin and Justice Mara Greene (February 16, 2018)
- [Mylène Jaccoud](#), alternatives to criminal justice in Indigenous communities (February 16, 2018)
- [Wigobisan Program in Lac Simon](#), Judith Morency, Adrienne Jérôme et Lucien Wabanonik (April 18, 2018)
- [Miroskamin Program in Wemotaci](#), Mary Coon and Jessica Vollant (September 5, 2018)
- [Anne Fournier](#): le Système d’intervention en autorité Atikamekw (youth protection system in the Atikamekw Nation and their agreement with the government of Québec) and customary adoption (October 23, 2017)

# Other testimonies and documents in line with the theme of this conference

- [John Paul Murdoch](#): sexual violence (August 20, 2018)
- [Armand MacKenzie](#): criminal justice system in Innu communities (October 20, 2017)
- [Bill Namagoose, executive director of the Cree Nation Government](#): Key milestones in the history of Cree people of Eeyou istchee, specifically in matters of self-governance and self-determination
- [Sarah Plamondon and Clara Lafrance-Egervari](#), lawyers at the circuit court in Cree and Inuit territories (September 6, 2018)
- [Court of Québec \(Justices Chantale Pelletier, Robert Proulx, Lucille Chabot, Danielle Côté and Richard Côté\)](#) (December 10, 2018)
- [Commission de la santé et des services sociaux des Premières Nations du Québec et du Labrador \(CSSSPNQL\)](#) (Richard Gray and Marie-Eve Sylvestre): data in matters of criminalization of Indigenous people (December 12, 2018)

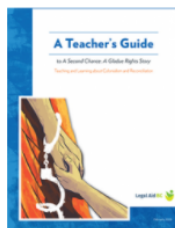
## Legal Aid BC (LABC) Gladue guides: 7 different guides on Gladue (different level of language) and one poster



### A Second Chance

Graphic novel about Gladue rights for Aboriginal peoples

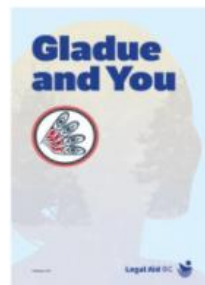
[VIEW](#)



### A Teacher's Guide to A Second Chance: A Gladue Rights Story

A resource to help high school teachers teach students about Gladue rights for Indigenous people.

[VIEW](#)



### Gladue and You

Explains Gladue principles under the Criminal Code of Canada

[VIEW](#)



### Gladue Report Guide

Plain language guide for Gladue report writers about how to prepare and write a Gladue report

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[VIEW](#)

\*\*\*The *Gladue Report Guide* and the *Gladue Submission Guide* are in the process of being updated. The updated versions should be available in 2022.



### Gladue at Bail and Sentencing (infographic poster)

Infographic poster shows when Gladue principles apply for Indigenous people during the criminal court process

[VIEW](#)



### Gladue Submission Guide

Explains how to prepare an oral or written submission for a hearing

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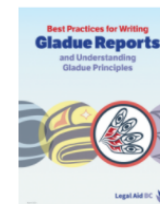
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### Guide for the Legal Review of Gladue Reports

Guidelines for lawyers who review Gladue reports for legal accuracy before reports are submitted at bail and sentencing hearings for Indigenous people

[VIEW](#)



### Best Practices for Writing Gladue Reports and Understanding Gladue Principles

Guidelines to support Gladue report writers in preparing reports to submit at bail and sentencing hearings for Indigenous people

[VIEW](#)

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<https://legalaid.bc.ca/publications/subject/8> or <https://aboriginal.legalaid.bc.ca/resources/category/aboriginal-peoples>

[Important tools for practitioners drawing on the CERP](#)

# Important tools for practitioners drawing on the CERP: LABC's Gladue guides

- Legal Aid BC's Gladue guides: Practical contribution to the conversation on Indigenous law and Gladue for practitioners and Gladue writers. This part went under peer review and is published in the UBC Law Review, and in French in *Développements récents en droit des Autochtones*:

Marie-Andrée Denis-Boileau, "[The Gladue Analysis: Shedding Light on Appropriate Sentencing Procedures and Sanctions](#)" (2021) 54:3 UBC L Review 537.

Marie-Andrée Denis-Boileau, « [L'analyse Gladue : Mettre en lumière les types de procédures de détermination de la peine et de sanctions appropriées à l'héritage autochtone](#) » in *Développements récents en droit des Autochtones* (2021) vol 493 (Cowansville, Yvon Blais) 89.