

and guns and everything, like you know. I was losing my drinking buddies though; they were being murdered and dying.¹³⁴

Action is required now to overcome the legacy of residential schools that has played a major role in the over-incarceration of Aboriginal people.

Call to Action

- 30) We call upon federal, provincial, and territorial governments to commit to eliminating the overrepresentation of Aboriginal people in custody over the next decade, and to issue detailed annual reports that monitor and evaluate progress in doing so.

Community programs

In 1996, Parliament legislated principles that would allow offenders who might otherwise be imprisoned to serve their sentences in the community. A centrepiece of these reforms was Section 718.2(e) of the *Criminal Code*, which instructs judges that “all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders.”¹³⁵

In 1999, in *R. v. Gladue*, the Supreme Court stated that Section 718.2(e) of the *Criminal Code* was enacted in response to alarming evidence that Aboriginal peoples were incarcerated disproportionately to non-Aboriginal people in Canada.¹³⁶ The court stressed that this section is a remedial provision, enacted specifically to oblige the judiciary to make special efforts to find reasonable alternatives to imprisonment for Aboriginal offenders and to take into account the background and systemic factors that bring Aboriginal people into contact with the justice system.¹³⁷

In some jurisdictions, the *Gladue* decision has resulted in the production of more extensive pre-sentence, or “Gladue,” reports that detail the background and contextual circumstances of Aboriginal offenders. These reports help inform judges’ sentencing decisions and are meant to encourage alternative options to incarceration. However, bringing these reports to court has not been without difficulty and controversy. Some jurisdictions provide few resources for the intensive, specialized, and culturally sensitive work that is necessary to produce an adequate Gladue report, despite the clear mandate given by the Supreme Court.¹³⁸

In 2012, the Supreme Court revisited and reaffirmed *Gladue*. In *R. v. Ipeelee*, the Supreme Court pointed out that some judges had erred in their application of *Gladue* by concluding that it did not apply to serious offences or that it required an offender to demonstrate a causal connection between the commission of the crime and the legacy of residential