

**Re-storying, truth-telling, and response-abilities:
An autoethnographic genre analysis on Gladue reporting, methodologies, and
settler accountability within the colonial legal system**

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This is not just an Indigenous issue, this is not just a criminal law issue, this is a Canadian issue.

—*Melissa Atkinson, Han, Tlingit, and Kaska, Senior Lawyer with Yukon Legal Services Society,
Not Just an Indigenous Issue: The North of 60 Perspective on Gladue, January 2, 2018*

TABLE OF CONTENTS

TABLE OF CONTENTS	3
ABSTRACT.....	6
RÉSUMÉ	7
GUIDING CALLS FOR JUSTICE.....	9
DEDICATION	10
ACKNOWLEDGEMENTS	11
1. CHAPTER ONE: Project Foundations and Methodological Framework	14
1.1. Introduction.....	14
1.2. Research Objectives and Research Questions.....	16
1.2.1. Critical Discourse Studies as Research Methodology	17
1.2.2. Genre Analysis	18
1.2.3. Critical Autoethnographic Self-Study.....	19
1.3. Decolonial-Intercultural Theoretical Framework.....	21
1.4. Re-Storying, Truth-Telling, and Response-abilities.....	23
1.5. Contributions.....	25
1.6. Positionality and Relationality	28
1.6.1. Settler Accountability and Responsibilities	28
1.6.2. Settler Storying	29
1.7. Overview of Thesis.....	30
2. CHAPTER TWO: A Brief History, Current Realities, and the Emergence of Gladue Reports	32
2.1. Legal Context and Foundations.....	35
2.1.1. Section 718.2(e) of the Criminal Code of Canada.....	36
2.1.2. R. v. Gladue (1999)	36
2.1.3. R. v. Ipeelee (2012)	37
2.2. Gladue Reports: Emergence and Implementation.....	39

2.2.1. The Genre of Pre-Sentence Reports	39
2.2.2. The Emergence of Gladue Reports.....	40
2.2.3. Gladue Principles: Sentencing Sanctions and Restorative Alternatives.....	42
2.2.4. What Is a Gladue Report?	44
2.2.5. Who Are Gladue Writers?	47
3. CHAPTER THREE: Gladue as Institution: What Processes Are Involved in Gladue Reporting?	49
3.1. Becoming a Gladue Writer.....	50
3.1.1. Application..	52
3.1.2. Training.....	57
3.1.3. Fees, Payment, and Compensation	58
3.1.4. Contract Work	61
3.2. Preparing Reports.....	63
3.2.1. Assigning Clients to Writers.....	63
3.2.2. Arranging Interviews: Contact and Communication Between Clients and Writers	66
3.3. Gladue Reporting Institutional Processes.....	69
4. CHAPTER FOUR: Gladue as Relation: Gladue Interviews	71
4.1. Becoming a Gladue Client.....	73
4.1.1. Client Relationality	75
4.1.2. Participation, Informed Consent, Confidentiality, and Standards of Care	77
4.1.3. Collateral Contacts.....	79
4.2. Writer-Client Relationality.....	81
4.2.1. Eliciting Life Stories.....	81
4.2.2. Trust, Rapport, and Trauma.....	81
4.2.3. Disclosing Trauma.....	84
4.2.4. Vicarious Trauma	85
4.2.5. Relationality and Community Among Writers.....	88
4.3. Relationship with Institution....	90
4.3.1. Institution and Client	90
4.3.2. Institution and Writer.....	91

4.3.3. Relationality at Its Limits	95
4.4. Relational Accountability.....	97
5. CHAPTER FIVE: Gladue Report as Text/Genre: How is a Gladue Report Written?....	99
5.1. Gladue Reports as Written Documents: Textual Features	100
5.1.1. Organization	102
5.1.2. Gladue Template.....	104
5.1.3. Client Voice	106
5.1.4. Evidential References and Credibility	109
5.1.5. Linguistic Devices	111
5.2. How are Indigenous Life Stories Told? Discursive Features	114
5.2.2. Summarizing.....	116
5.2.3. Narrative Choices and Re-storying.....	117
5.2.4. Neutrality and Objectivity	120
5.2.5. Erasure of Authorial Voice.....	121
5.3. Analysis of Sample Gladue Reports.....	123
5.3.1. Excerpts from Report #1: Randa	124
5.3.2. Excerpts from Report #2: Cole Pine.....	125
5.3.3. Discussion.....	126
5.4. Feedback and Directions for Revision	127
5.5. Gladue as Genre: Alignments and Disalignments.....	128
6. CHAPTER SIX: Re-envisioning Justice.....	130
6.1. Sentencing.....	131
6.2. Central Learnings.....	132
6.3. Reflections and Parallels.....	134
6.4. Re-Envisioning Justice.....	137
6.4.1. Ethical Relationality.....	139
6.5. Future Work, Possibilities, and Critical Hope.....	139
REFERENCES.....	142

ABSTRACT

Gladue reporting was introduced by the Canadian judiciary over twenty years ago as a response to the overcriminalization and incarceration of Indigenous people. Gladue reports are a form of pre-sentencing reports that provide contextualized backgrounds of Indigenous offenders, emphasizing the ongoing impacts of settler colonialism and systemic factors that may have contributed to their involvement with the criminal justice system. The responsibility of Gladue writers in the Gladue reporting process is significant; the translation of a client's story into this legal (and inherently colonial) document can influence judicial decisions and the course of a person's life. Despite the significant role of Gladue writers, there is limited research on the processes involved in producing these reports and their impact on sentencing decisions.

This study examines the efficacy of Gladue reporting by analyzing how Indigenous individuals' life stories are translated by Gladue writers, acknowledging both the potential for harm and further injustice, as well as the initiative's role in challenging settler colonialism and conventional sentencing approaches. Through an analysis of key documents including report templates, sample reports, and writing resources, I explore how the genre, function, processes, and features of Gladue reports, combined with the individual style, positionality, and experience of a writer, affect their interpretation and application by the judiciary.

Layered with this discourse analytic approach, I apply critical autoethnographic self-study to discuss my five years as a Gladue writer, providing a first-person account of the processes, choices, and tensions involved in navigating the colonial justice system to submit 28 Gladue reports to the court as one of the few non-Indigenous writers. This project aims to

inform Gladue stakeholders about the complexities and nuances of report production, emphasizing the need for more thoughtful, accountable, and responsive approaches to mitigate the colonial harm inherent in Gladue reporting.

RÉSUMÉ

Les rapports Gladue ont été introduits par la justice canadienne il y a plus de vingt ans en réponse à la surcriminalisation et à l'incarcération des peuples autochtones. Les rapports Gladue sont une forme de rapport présentenciel qui fournit un contexte détaillé sur les contrevenants autochtones, mettant ainsi en évidence les impacts continus du colonialisme de peuplement et les facteurs systémiques qui ont pu contribuer à leur implication dans le système judiciaire. La responsabilité des rédacteurs de rapports Gladue est significative puisque l'interprétation de l'histoire d'un client dans ce document juridique (et intrinsèquement colonial) peut influencer les décisions judiciaires et le cours de la vie d'une personne. Malgré le rôle important des rédacteurs de rapports Gladue, il existe peu de recherches sur les processus impliqués dans la production de ces rapports et de leur impact sur les condamnations.

L'étude qui suit examine l'efficacité des rapports Gladue en analysant comment les histoires des individus autochtones sont interprétées par les rédacteurs de rapports Gladue, en tenant compte à la fois du potentiel de préjudice et d'injustice additionnel, et du rôle que joue l'initiative dans la contestation du colonialisme de peuplement et de son approche conventionnelle face aux condamnations. À travers une analyse de documents clés, y compris des modèles de rapports, des exemples de rapports et des ressources rédactionnelles, j'explore la façon dont le genre, la fonction, les processus et les caractéristiques des rapports Gladue,

combinés au style individuel, à la position et à l'expérience d'un rédacteur, ont une incidence sur leur interprétation et leur application en justice.

En complément de cette approche analytique, j'applique également une auto-ethnographie critique adressant mes cinq années en tant que rédactrice de rapports Gladue et témoignant des processus, des choix et des tensions impliqués dans la navigation du système judiciaire colonial afin de soumettre 28 rapports Gladue à la cour en tant que l'une des rares rédactrices non autochtones. Ce projet vise à informer les parties prenantes de la complexité et des nuances qu'implique la production de rapports, en mettant l'accent sur la nécessité d'approches plus réfléchies, responsables et réactives pour atténuer les préjudices coloniaux inhérents à la rédaction de rapports Gladue.

GUIDING CALLS FOR JUSTICE

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.

—*Truth and Reconciliation Commission of Canada: Calls to Action, Article 30, 2015*

States shall take effective measures to ensure that [I]ndigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary, through the provision of interpretation or by other appropriate means.

—*UNDRIP, Article 13(2), 2007*

We call upon federal, provincial, and territorial governments and all actors in the justice system to consider Gladue reports as a right and to resource them appropriately, and to create national standards for Gladue reports, including strength-based reporting.

—*Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, Article 5.15, 2019*

We call upon federal, provincial, and territorial governments to thoroughly evaluate the impacts of Gladue principles and section 718.2(e) of the Criminal Code on sentencing equity as it relates to violence against Indigenous women, girls, and 2SLGBTQQIA[+] people.

—*Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, Article 5.17, 2019*

DEDICATION

This work is dedicated to all those who have had to navigate the colonial legal system, and who have shared of themselves through—or otherwise been impacted by—the Gladue reporting process.

To the Gladue clients I have worked with, it has been an honour to hear and to hold your stories. Thank you for your generosity and trust in sharing with me.

To the Gladue writers I know whose dedication to this work has made me a better writer and person and has transformed the lives of those you work with.

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Some of the research and writing for this project also took place in the United Kingdom, a major colonizer whose legacy continues to impact Black, Indigenous, and other communities of the global majority worldwide through ongoing colonial violence.

I recognize that territorial acknowledgements are not metaphors, but rather a commitment to honouring Treaty relationships through actions rooted in accountability, transparency, and integrity. As a settler, I am committed to the ongoing work of listening, learning, and acting in accordance with community for the purpose of unsettling systems of injustice and righting relations.

Thank you, Dr. Stephen Peters, for your enduring guidance and belief in me. While there are many words in these pages, none can fully express the depth of my gratitude to you for inviting me to take on this project and for your mentorship, kindness, patience, and generosity along the way. Thank you for this opportunity to learn together.

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To my canine companions, Po and Bailey, for being continuous sources of comfort, joy and love.

To Dr. Dawn Wiseman, who told me I should write a thesis from the beginning. Thank you for your belief in me. Thank you also for your commitment to responsible research grounded in settler accountability and relationality. Your work has guided me in this project, and in my life and work outside of academia.

Finally, to A. F. Barlow, and all those contributing to the ongoing study of the Gladue initiative. Thank you for your vital contributions toward making Gladue reporting a more ethical, just, and less harmful process. Your dedication to this work inspires me.

NOTE: In writing this thesis on settler colonialism and Indigenous self-sovereignty, I have been acutely aware of the parallel struggles faced by oppressed peoples experiencing

genocide and dispossession experienced by Palestinians under Israeli settler-colonial occupation. This crisis deeply resonates with me, as I grapple with the emotional and familial complexities of having Zionist family members and relatives living in Israeli-occupied territories while Palestinians endure daily violence, displacement, and erasure.

The structures of oppression and violence that sustain settler colonialism are not confined to any single geographic region or any one issue; they are interconnected and perpetuated through global systems of power (Glenn, 2015). Acknowledging these parallels is crucial not only for understanding the broader context of settler colonialism but also for strengthening alliances of solidarity and resistance among communities (Abdul Hadi, 2020). Just as Indigenous peoples in Canada assert their rights to land, culture, and self-determination, so too do Palestinians persevere for their own sovereignty and survival. It is incumbent upon us, particularly those of us who benefit from, and are complicit in, these systems to recognize and challenge these injustices wherever they occur.

This thesis, therefore, is not only a contribution to the discourse on Indigenous rights in Canada but also a call to accountability and action for global justice and decolonization. By situating the struggles of Indigenous peoples within a global context, we can better understand the pervasive nature of settler colonialism and work towards a more just, equitable, and liberated world for all.

The truth is, no one of us can be free until everybody is free.

—*Maya Angelou, poet, civil rights activist*

1. CHAPTER ONE: Project Foundations and Methodological Framework

1.1. Introduction

Our people are criminals until they can prove they're not. That's not reconciliation.

—Ray Yellowknee, Justice Manager at Bigstone Cree Nation,
Alberta Indigenous Justice Gathering, March 2, 2023

Within their authoritative interpretation of the 1996 addition of Section 718.2(e) to Canada's Criminal Code, the Supreme Court instituted a change in sentencing processes aimed to address the over-incarceration of Indigenous peoples. What emerged was the "Gladue reporting framework," developed to improve access to justice for Indigenous people when facing sentencing by providing contextualized information about the systemic background factors that contributed to an individual's criminality, such as intergenerational trauma and racism resulting from settler-colonialism. This ruling acknowledged that settler-colonialism, disenfranchisement, and dispossession persist in Canada, perpetuated through systemic violence against Indigenous peoples. Furthermore, the Court recognized the importance of considering the distinct values and approaches to justice within Indigenous communities, often centering healing, community restoration, and reintegration, which contrast with punitive measures in the colonial legal system (Borrows, 2005; Corntassel et al., 2009).

The Gladue framework requires judges to consider alternative or reduced sentencing options for Indigenous offenders in support of healing and restorative justice. However, the program has failed to close the gaps of the incarceration rates between Indigenous and non-

Indigenous populations. My own experiences as a Gladue report writer suggest some of the origins of these failings as well as some of the promises of the reporting framework.

For five years, I worked as a part-time contracted Gladue report writer for Indigenous Initiatives¹ with the Government of Alberta. In this role, I authored 28 Gladue reports and six Attempts to Contact letters to the court. Throughout my time as a Gladue writer, I grappled with ethical questions surrounding the Gladue reporting process. I found myself reflecting on the complexity of translating² someone's life experiences into a formal court document—a document subject to processing and judgement in a legal, colonial setting.

The responsibility of Gladue writers in the Gladue reporting process is significant; the way a judge interprets how a writer translates a client's³ story into this legal document can influence the course of a person's life. Despite the significant role Gladue writers play, there is limited research on the interviewing and report writing processes, and the impact procedural processes have on how Gladue reports are read and acted upon by the judiciary in sentencing decisions. This master's thesis analyzes the efficacy of the Gladue reporting process through the

¹ Specifically, the Indigenous Policy and Services administration team within the Strategy, Support, and Integrated Initiatives Division at Alberta Justice and Solicitor General.

² The process of translation in this context refers to the cultural and narrative transformation of **oral accounts** into **written reports**, rather than language interpretation from one language to another, such as from nêhiyawêwin to English. This involves translating cultural contexts and lived experiences into a format that is hearable and understandable within the legal framework.

³ Throughout this project, I utilize the term “client” to refer to participants involved in Gladue reports. “Client” is the phrase is used by Alberta Justice in Gladue programming and implies being in service to these individuals. In my project, this choice reflects a commitment to employing language that upholds the dignity and personhood of Indigenous individuals who are criminalized within the colonial legal system. By referring to participants as “clients,” the focus is shifted away from stigmatizing labels and toward recognizing their rights and agency throughout the Gladue process.

ways individual Indigenous life stories are translated by Gladue writers, recognizing both the potential for harm and further injustice, as well as the initiative's role in challenging settler colonialism and conventional sentencing approaches.

1.2. Research Objectives and Research Questions

Sentencing decisions alone will not lower Indigenous incarceration rates; however, the application of Gladue principles represents an effort by the State to integrate Indigenous legal traditions and restorative justice within the colonial criminal justice system. Expanding the available knowledge on Gladue reporting is necessary given the program's impact on judiciary processes, sentencing outcomes, incarceration rates, and, most significantly, greater justice for Indigenous peoples⁴ across Canada.

My research aims to better understand the processes involved in the preparation of Gladue reports and their influence on the re-storying⁵ of Indigenous lives in sentencing decisions. Through this work, I hope to contribute to the expanding literature on Gladue reporting by offering a close examination of the experiences, challenges, and decision-making processes involved from my perspective as a former contracted Gladue writer with Alberta Justice.

⁴ While this research aims to provide a detailed analysis of Gladue reporting processes, I acknowledge the risk of perpetuating pan-Indigenizing—homogenization that overlooks the diversity of Indigenous cultures, histories, and experiences (Younging, 2018). Efforts have been made to address and mitigate this concern by highlighting the distinct contexts and specificities of different Indigenous communities wherever possible.

⁵ Re-storying refers to the process of interpreting and translating an individual's experiences into a narrative. In the context of Gladue reports, this involves writers gathering testimony shared during client interviews and reshaping it into a coherent and respectful narrative that honours the client's experiences while meeting the formal requirements of the report.

Utilizing a combined approach of critical autoethnographic self-study, critical discourse analysis, and genre analysis, this project investigates how the specific procedures and forms of writing involved in Gladue reporting affect a report's capacity to present contextualized evidence of an individual's lived experiences within a colonial state that judges utilize as a basis for sentencing.

To pursue this objective, my research questions were:

- How do Gladue reports (by way of the processes through which they are created and the ways in which they are written) serve Indigenous clients and/or the colonial justice system?
- How do Gladue reports allow for the Gladue principles to be achieved?

To answer these broader questions, this research project employed Critical Discourse Studies (CDS) within a decolonizing framework. This methodology facilitated an investigation of the Gladue reporting process while also critically examining my role as both a Gladue writer and a researcher in the context of settler-colonialism in the pursuit of decolonial justice.

1.2.1. Critical Discourse Studies as Research Methodology

CDS is a research methodology employed to examine and understand how language is operated to shape, influence, and reflect power dynamics and social structures (Farrelly, 2020; Fairclough, 1992a; Locke, 2004). In this project, I utilized CDS to assess how language is constructed and acted upon within the Gladue reporting process.

Gladue reports are not merely textual documents; they are an attempt to embody Indigenous principles of justice within the colonial legal system. While adhering to institutional requirements, these reports challenge conventional colonial proceedings by asserting the presence of Indigenous voices in the pursuit of decolonial justice. This dual nature makes

discourse studies in the tradition of Fairclough and others particularly valuable for exposing how systemic ideologies are reproduced or challenged within written and spoken texts.

A close textual analysis, combined with autoethnographic insights within CDS can reveal the intricate processes involved in producing these reports; particularly in interpreting Indigenous life stories, initially told orally to a Gladue writer then translated into written, formalized court documents. Below, I outline my use of the methods of genre analysis and critical autoethnographic self-study to further explore sub-questions within my research.

1.2.2. Genre Analysis

Genre analysis examines how language is used, considering the conventions, structures, and functions of genres, to reveal patterns and rhetorical strategies that impact how a text is read, understood, and acted upon (Devitt, 1993; Fairclough, 1992a; Freedman & Medway, 1994; Locke, 2004). This method contributes to a deeper understanding of how language conveys meaning, power relations, and ideologies within discourse communities (Fairclough, 1992b; Farrelly, 2020; Gunnarson et al., 1997; Paré, 1991). Through an analysis of key Gladue documents including report templates, sample reports, and other writing resources provided to Gladue writers, I investigated the production processes of Gladue reports and meta-discourse (directions to Gladue writers about how to write Gladue reports) to understand how reports translate Indigenous life stories to serve the needs of Indigenous participants and/or the judicial system.

Research Questions:

1. How are Gladue reports written and how does the genre allow for the presentation of Indigenous life stories?

- a. What are the processes that surround the Gladue report? For example, what is involved in assigning a client to a writer, contact and communication between a client and writer; conducting an interview, timelines and submission procedures, etc.
- b. How are Gladue reports constructed, organized, and prepared? How do these features impact how Indigenous life stories are told?
- c. What unique choices does a writer make when crafting a report to ensure that life stories are both hearable and actionable by the judiciary during sentencing decisions?
- d. Accordingly, how do writers adapt their writing given the functions these reports serve in the judicial system?

1.2.3. Critical Autoethnographic Self-Study

Critical autoethnography centers personal narrative to record and analyze one's lived experiences. This research method fosters a deep, reflexive understanding of how an individual is implicated in the discourses they study, and how language and power operate within their personal narratives. Chang (2013) identified autoethnography as both a personal and social process:

The personal experiences of researchers themselves are the foundation of autoethnography [while autoethnographers also] carefully examine how they have interacted with other people within their socio-cultural contexts and how social forces have influenced their lived experiences. Therefore, in a public light, autoethnographies reveal their author's personal, professional, relational, and socio-cultural identities. (p. 107)

Utilizing autoethnography allowed me to examine my experiences and reflections as a Gladue writer in relation to discursive practices, power structures, and intercultural relationships inherent

in Gladue reporting. The inclusion of autoethnographic methods was particularly pertinent given the institutional positionality of Gladue writers as liaisons between Indigenous lived experiences and the settler legal system. This dual role underscores the importance of understanding Gladue writers' unique position to navigate and translate between these distinct frameworks.

Autoethnographic self-study within CDS provided a framework for “inside-out...analytical investigations of self and culture” (Boylorn, 2014, p. 315). This method allowed me to actively interrogate my positionality and relationality⁶ as a settler Gladue writer through principles of interconnectedness and accountability (Smith, 2001), driven by my responsibility to make the colonial legal system a less violent and harmful process.

Research Questions:

2. In what ways do Gladue report writers navigate the interface of Indigenous ways of knowing and the ongoing impacts of settler-colonialism?

- a. How do I, as a non-Indigenous writer, reflect on my identity in relation to my role in Gladue reporting?
- b. What questions do I navigate with regards to my identity in this work?
- c. What impact(s) can I have in this work?

⁶ Relationality refers to the quality, state, or intentionality of being relational, emphasizing the interconnectedness and interdependence of individuals within a network of relationships. According to Indigenous scholars, relationality recognizes that one's identity, actions, and existence are profoundly shaped by and through relationships with others, including people, communities, the land, and spirituality. This holistic understanding of relating to others highlights the sacredness of these connections and the responsibility to maintain balance and reciprocity in all interactions (Wilson, 2008). In scholarly contexts, relationality often underscores the importance of understanding these connections and the ways they influence social, cultural, and political dynamics, particularly in frameworks such as decolonization, Indigenous studies, and critical theory. Centering relational values in research helps to minimize the perpetuation of colonial power dynamics, ensuring that scholarly work aligns more closely with community values and practices.

Given my negotiations above:

- d. What do the experiences of a non-Indigenous writer reveal about the Gladue report writing process?
- e. What have I learned from my five years of involvement in this work?

In examining my experiences as a Gladue writer, I have worked to foster a nuanced understanding of my own complicity and resistance within coloniality. While there was a risk of centering a settler experience, this study aimed to interrogate settler subjectivity and emphasize settler accountability within the pursuit of more equitable justice (Epp, 2003; Regan, 2010). As Epp (2003) emphasized, for settlers, it is crucial to “make [ourselves] the subject under closest scrutiny” (p. 228) as part of decolonial efforts.

A combined approach of autoethnography and genre analysis within decolonial CDS allowed me to scrutinize the decisions I made as a Gladue writer and analyze how these decisions functioned—and whom they served—within the genre of Gladue reports.

1.3. Decolonial-Intercultural Theoretical Framework

Rooting this work within a decolonial framework has been necessary to engage in scholarly inquiry and critical (self) reflection while seeking to unpack, examine, challenge, and dismantle legacies of colonialism (Barlow, 2023; Fullerton 2021; Nisa-Waller & Piercy, 2024; Regan, 2010; Walsh, 2023). A decolonial approach to this master’s thesis has involved recognizing the historical and ongoing impact of settler colonialism that underlies—and pervades—scholarly endeavours and interrogating the power dynamics embedded in research processes within knowledge systems and myself (Davis et. al, 2016; Dei & Asgharadeh, 2001; Kovach, 2005; Simpson, 2011; Tuck & Yang, 2012; Tuhiwai Smith, 1999). This decolonial framework has guided my questioning, attuned me to my biases, and directed my role in

responsibilizing knowledge (re)theorizations and (re)production—a process of critically revisiting and transforming the theoretical foundations and methods of producing knowledge to ensure they contribute to accountability and ethical engagement—in my interrogation of Gladue processes.

Gladue reports are addressed to a colonial legal system with the intent of espousing Indigenous approaches to justice, inherently functioning as intercultural documents. Intercultural research involves examining how identities are negotiated and reconciled within different social, political, and environmental contexts to reveal how this negotiation process shapes communication and understanding (Kraven, 2019). Durham (2020) identified the study of intercultural communication as a form of advocacy-oriented inquiry developed by Black feminist scholars to interrogate power, privilege, culture, and identity (p. 51). This framework is particularly relevant to Gladue reporting, where “intercultural” refers to the relationship between the colonial legal system and Indigenous lived experiences.

The intercultural nature of Gladue reporting requires Gladue writers to balance restorative justice and Indigenous legal traditions (Chartrand & Horn, 2016) with the legal frameworks and procedures of the colonial state. Navigating these intercultural dynamics involves negotiating between community relationality and the settler colonial legal system, with the aim of creating reports that respect individuals while adhering to legal requirements (Clark, 2016; Ralston, 2021; Rudin, 2005). This dual process underscores the complex interplay between honouring Indigenous lived experiences and the constraints of a legal system rooted in colonial dynamics.

Gladue reports are shaped by writers who navigate both colonial frameworks and relationships with Indigenous communities and knowledge systems. The interculturality of

Gladue processes reflects the persistent challenges inherent in applying restorative justice⁷ and Indigenous legal traditions⁸ while deeply embedded within legal and social frameworks that sustain colonial structures dynamics. While existing within a colonial academic system, this project of examining the Gladue program through an autoethnographic genre analysis aims to attune Gladue stakeholders to processes and procedures whereby this work can be approached with greater intention, purpose, accountability, and justice in making Gladue reporting a less violent colonial process.

1.4. Re-Storying, Truth-Telling, and Response-abilities

The use of narrative within justice processes has been recognized for its power in bringing individualized and contextualized experiences into the courtroom, challenging “one-size-fits-all” approaches (Maurutto & Hannah-Moffat, 2016). Through personal accounts, narrative provides offenders a platform for their voices to be heard within a system that continues to marginalize them.

Truth-telling is a crucial aspect of re-storying (Good, 2023), where linking Indigenous offenders’ experiences to the broader socio-historical contexts that have influenced their lives confronts and reframes dominant narratives of the “Indigenous experience” (McCaslin, 2005; Phelps, 2004). By challenging colonial narratives, re-storying through Gladue reporting holds the

⁷ Restorative justice refers to an approach to “crime and conflict” that seeks to repair harm through relational processes with a focus on healing, accountability, and the restoration of relationships (Chartrand & Horn, 2016, p. 4). Examples of reconciliatory restorative justice practices include family group conferencing and sentencing circles.

⁸ Chartrand & Horn (2016) describe Indigenous legal traditions as being rooted in culture and spirituality, encompassing principles, practices, and laws that often involve “proactive/preventative strategies mediated through kinship networks” (p. 3). These traditions typically emphasize collective well-being, relational accountability, and the restoration of harmony.

justice system accountable to address these ongoing barriers and challenges. Consequently, Lyackson scholar Qwul'sih'yah'maht (2005) has advocated for “re-storying” as a form of resistance to colonial consciousness.

While re-storying provides a method for voicing individuals' experiences within the colonial context, this process can also be disempowering. As Barlow (2023) asserted, Gladue reports are ultimately “a tool of the Crown” (p.7), which limits “the ability to speak” and be understood through “one's own voice” (Corntassel et al., 2009, p. 146). Re-storying in the Gladue context “often involves digging up complex and raw information” (Barlow, 2023, p. 59), which must then be scrutinized by the colonial court system. Whereas narrating involves the direct recounting of events, re-storying in Gladue reporting involves interpreting and translating an individual's experiences to retell their narratives in a way that is hearable for the court. This raises the question: What may be lost in this process?

Yet, Gladue reports “give rise to new legal practices” (Maurutto & Hannah-Moffat, 2016, p. 452). Through their very existence, the reports challenge conventional carceral proceedings, expose systemic injustices and historical trauma inflicted by colonial practices, and question the assumptions and biases inherent in the legal system.

bell hooks (2016) emphasized that “the heart of justice is truth-telling” (p. 33), suggesting that through “uncover[ing] myths, reveal[ing] hidden truths, [and] accurately describing reality” (Strega, 2005, p. 127), re-storying through such approaches as Gladue reporting not only challenges the Canadian nation-state's version of history but also demands “ethical accountability” (Murdocca, 2018).

An ethically accountable response to the presentation of truths in the Gladue framework requires the judiciary to move beyond passive reception of the reports. Instead, courts must

actively engage with and *respond* to the narratives presented by recognizing and addressing the legacies and ongoing realities of settler colonialism. This means applying responsive sentencing decisions, and also implementing systemic changes that redress the historical and ongoing injustices faced by Indigenous peoples as a result of the colonial project.

Examining the Gladue framework through the principles of re-storying, truth-telling, and response-abilities highlights the tension between the reports' restorative potential and their institutional function. Gladue reports challenge conventional carceral proceedings, expose systemic injustices, and support transformative justice by promoting critical reflection and responsive action. However, these principles also underscore the limitations within the judicial system that can constrain their effectiveness. The process of re-storying, while aiming to be restorative, involves the complex navigations of a colonial legal framework that often restricts the authentic representation of Indigenous voices. This duality illustrates both the transformative possibilities of Gladue reports and the ongoing struggles to fully realize their aspirations within an institutional context.

1.5. Contributions

Despite the considerable body of literature on the Gladue program, most existing studies focus primarily on program application and outcomes (Barkaskas et al. 2019; Legal Services Society 2018; Parsons 2018; Department of Justice Canada 2017; Pfefferle, 2008; Quigley, 2016; Roach, 1999; Rudin, 2008; Truth and Reconciliation Commission of Canada 2015). However, there is limited scholarly work focused on the procedural and discursive aspects of the Gladue reporting process, which is crucial in understanding the effectiveness and integrity of the Gladue (Appelbaum & Zaitchik, 1995; Barlow, 2023; Boudakian, 2015; Murdocca, 2018). For instance, there is minimal research on how Gladue writers approach the interview process, the translation

involved in transforming oral testimony into a written document, and the extent to which the choices writers make in preparing the reports influence judicial decisions.

Given these research gaps, it is crucial to understand how these limitations manifest in judicial interactions with Gladue reports, for both the judges deciding on cases and the report writers. A 2021 study examining judges' experiences with Gladue reports revealed significant issues contributing to their underutilization. Only 16.9% of respondents felt that Gladue reports provide "comprehensive, case-specific information;" additionally, only 10% of courts considered the reports to be well-written, and merely 9.7% of judges found the sentencing options provided in the reports to be helpful in their decisions (Dickson & Smith, 2021, p. 32). These findings indicate that Gladue reporting processes must be re-evaluated, particularly to confront perceptions of their practical utility and relevance in applying restorative justice principles.

Furthermore, the number of Gladue report writers in Alberta has decreased from 45 report writers in 2019 (Barkaskas et al., 2019) to 26 report writers in 2024, despite the program's steady growth (Indigenous Policy and Services, Alberta Justice, personal communication, July 11, 2024). This decline suggests challenges in recruiting and retaining writers, underscoring the importance of research that provides first-hand insights into the experiences of Gladue writers. Importantly, this project offers a unique, firsthand perspective on the role of Gladue writers as translators between Indigenous clients and the colonial court system. Existing research has yet to thoroughly explore the experiences, challenges, and decision-making processes of Gladue writers or the writing processes through which these key documents are produced. As frontline contributors to the implementation of Gladue reports, writers' insights offer valuable perspectives which can guide potential program improvements.

This lack of scholarly interest in judicial procedures has scholars questioning the ethics underlying the process of Gladue report writing. For instance, Barlow (2023) asserts, “most Gladue work has yet to fully consider the ethical impacts of Gladue reporting” (p. 59). This call to inquire into the ethics of Gladue reporting dovetails with the TRC Calls to Action and the MMIWG Calls for Justice, emphasizing the necessity of addressing such gaps to ensure more equitable and culturally responsive legal processes. This project aims to address this critical research gap by exploring the intricacies of how Gladue reports are constructed, prepared, interpreted, and utilized within the colonial court system, and their impacts on the judiciary’s understanding and application, in addition to evaluating the ethical considerations involved in representing Indigenous clients’ lived experiences.

Along with systemic improvement of the utilization and access to Gladue reports, improving existing mechanisms for administering Gladue reports is imperative to avoid further perpetuating systemic inequities by impeding on clients’ well-being (Boudakian, 2015; Green, 2012; Murdocca, 2018). Barlow (2023) emphasized the urgent demand from community stakeholders for a deeper understanding of “the impacts of re-storying the trauma of [Gladue] participants,” noting that currently, “there is no comprehensive investigation of the implications of Gladue’s re-storying of Indigenous lives” (p. 34). By shedding light on how these reports are realized, this project aims to address this gap in knowledge by deepening understandings of Gladue reporting processes. Ultimately, this knowledge serves to improve sentencing equity, mitigate the inherent violence in legal proceedings, and foster a more just and less harmful process for Indigenous individuals in the carceral system.

1.6. Positionality and Relationality

In my experience as a Gladue writer, I have questioned the ethics of Gladue reporting and my role in this work. Am I, as a white settler, “inadvertently” perpetuating systemic oppression by interpreting individuals’ lived experiences into colonial court documents? Am I not an extension of the state, subjecting my clients to further state violence by exposing their vulnerabilities to the carceral court system? To what extent does my participation in this program (further) entrench clients in the settler-colonial narrative of Indigeneity through the categorization of Gladue factors? *Who am I to be doing this work?* I explore these questions throughout this project.

1.6.1. Settler Accountability and Responsibilities

Throughout my previous work and graduate studies, I experienced apprehension about sharing my thoughts and knowledge as a settler in community spaces, aware that doing so could be counterproductive and contrary to the role of an “ally.” This unease aligns with what Margaret Kovach (2005) described as a common dilemma for many non-Indigenous individuals committed to working in solidarity: “am I creating space or taking space?” (p. 26; Wiseman, 2018).

My late friend and colleague, Dr. Jennifer Ward, asserted that the work of decolonization is deeply personal and political, requiring individuals to confront their own positions of privilege and complicity within colonial systems (personal communication, 2018). Similarly, Taiaiake Alfred (2005) emphasizes that “true reconciliation and justice requires settlers to confront their own complicity in colonial systems and to actively support Indigenous struggles for sovereignty and self-determination” (p. 182). These perspectives underscore the necessity for settlers to engage in critical self-reflection as a step in meaningfully contributing to decolonial justice.

Building on this need for self-reflection, critically reflecting on experiences is a necessary step in settler accountability. Jo-Ann Archibald (2008) reminds us that experiential knowledge is a valuable form of learning and, as Margaret Kovach (2005) and Linda Tuhiwai Smith (1999) encouraged, akin to the values of storytelling; knowledge gains its fullest meaning when it is shared and passed on. Autoethnography allows for a deep, reflective examination of one's own experiences and positionality, offering insights that can inform and enhance the practice of Gladue reporting in the pursuit of ethical and decolonial justice. As such, I share the insights gained from engaging in this self-examination with the hopes that I can expand current understandings of Gladue reporting and contribute toward the decolonial struggle for transformative justice⁹ through settler accountability.

1.6.2. Settler Storying

Engaging in autoethnography in this project has involved navigating what to share of my personal experiences, and to what extent, which has been uncomfortable and vulnerable. Translating these vulnerabilities into written form, in the genre of a “master’s thesis” within a formal institutional context, where I—my words, my story—will be subject to scrutiny, has felt daunting. And yet, the degree of personal exposure and vulnerability is a fraction of what the legal system demands of Gladue clients.

While I have had the privilege of choosing to engage in this process, there are parallels with Gladue clients in disclosing intimate details and sharing personal narratives within

⁹ Transformative justice seeks to address and transform the systemic conditions that perpetuate harm, focusing on collective healing, community accountability, and social change (brown, 2023), whereas restorative justice primarily aims to repair relationships between “victims” and “offenders” through reconciliation (Zehr, 2002; Kaba & Hassan, 2019). Transformative justice emphasizes the dismantling of structural violence and inequality, fostering environments where justice and equity are integral to daily life (Walia, 2013)

institutionalized spaces. I hold a similar sentiment as Barlow (2023), who acknowledged in their master's thesis "how much more difficult it indeed is for a Gladue participant to have their story re-told and witnessed and how this must be more troubling in the context of facing judicial sentencing" (p. 12). Honouring the importance of vulnerability, which is central to relational accountability and decolonial praxis (Nisa-Waller & Piercy, 2024), I seek to honour the Gladue clients who trusted me with their life stories as I share my experiences as a Gladue writer. By engaging in this critical self-reflexivity, I aim to contribute to the broader efforts of dismantling colonial structures, while acknowledging the ongoing challenges inherent in the transformative journey towards a more just and equitable academic landscape.

1.7. Overview of Thesis

In this first chapter, I have discussed the foundations of this project, including the urgent need for further inquiry into Gladue reporting processes. I outlined my methods of CDS, autoethnography and genre analysis, which are rooted within decolonial, inter-cultural theoretical frameworks. I discussed the principles of re-storying, truth-telling, and response-abilities to illustrate the tension between Gladue reports' aspirational goals and their institutional constraints. As a former Gladue writer in Alberta, I situated myself within settler-colonial identity and privileges in relation to my research aims, emphasizing the responsibilities of settlers in decolonizing efforts to redress the violence of the carceral system.

In the following chapter, Chapter Two, I provide context for the Gladue framework, including an overview of the transformative precedents set by Section 718.2(e) of the Criminal Code and the decisions in *R. v. Gladue* and *R. v. Ipeelee*. I go on to discuss the development of Gladue reports, and the roles and responsibilities of Gladue writers.

Chapter Three analyzes the Gladue framework as an *institution*, detailing the institutional processes and procedures involved in their production, from becoming a Gladue writer to arranging and conducting interviews with clients, to the submission procedures, and sentencing.

Chapter Four examines Gladue reports as *relational* documents, focusing on the nuanced relational dynamics between the writer, the client, and other key stakeholders. I explore how report information is elicited through Gladue interviews, which is crucial for how the judiciary comes to understand a client.

Chapter Five involves an analysis of Gladue reports as a unique *genre*, exploring their structural elements, organization, and the autonomy exercised by writers, particularly in language and word choice. This exploration considers how the unique features of the Gladue genre impact the interpretation and translation of a client's story into a written document to be made hearable for the court.

Chapter Six synthesizes reflections, discussions, implications, recommendations, limitations, and possibilities for further investigation. I provide a critical analysis of the findings from preceding chapters, discussing their broader implications for policy, practice, and the ongoing process of decolonization.

Examined together, these chapters investigate the efficacy of the Gladue reporting process, aiming to detail the processes involved in the preparation of Gladue reports and their impact on the re-storying of Indigenous lives.

With this in mind, I humbly extend an invitation to you, the reader, to engage with this project not just as an academic exercise, but as a call to meaningful reflection and action. As Sium and Ritskes (2013) posited, may this “go beyond the moment of reading, beyond the intellectualization and mental response, to challenge your heart and feet to action” (p. VIII). In

doing so, I hope this engagement will encourage a deeper recognition of the legacies and ongoing realities of settler colonialism, and our responsibilities in addressing them.

2. CHAPTER TWO: A Brief History, Current Realities, and the Emergence of Gladue Reports

Colonialism is a narrative in which the Settler's power is the fundamental reference and assumption, inherently limiting Indigenous freedom and imposing a view of the world that is but an outcome or perspective on that power.

—*Taiaiake Alfred & Jeff Corntassel, Being Indigenous:*

Resurgences Against Contemporary Colonialism, 2005, p. 601

Through assimilationist and cultural genocidal policies, laws, acts, and practices, colonial authorities and the Canadian nation-state have operated to estrange Indigenous peoples from social, political, and cultural systems for hundreds of years. Indian Residential Schools were one such colonial project, and today, the Millennial Scoop exists as an extension of the Sixties Scoop, involving the systematic removal of Indigenous children from their homes and their overrepresentation in the child-welfare system (CBC Radio, 2018; Vowel, 2016). These systemic injustices have isolated and sought to dispossess Indigenous communities of their traditions, languages, spirituality, and relationships to the land for generations, with impacts that continue to be experienced today (Nichols, 2018).¹⁰

¹⁰ Importantly, the presentation of these current realities is not intended to perpetuate a “deficit” framing of Indigenous peoples. Instead, I aim to underscore the extensive damage caused by the settler colonial project and its role in the over-incarceration of Indigenous individuals. The emphasis is on highlighting systemic issues and advocating for necessary changes to address these injustices.

This ongoing colonial violence manifests in the criminal justice system through overcharging, excessive policing, bail denials, less time with—and limited access to—legal representation, higher rates of guilty pleas, and increased instances of custodial sentences (Monchalin, 2016; Nichols, 2018). In the early 1990s, provincial and federal inquiries¹¹ investigated the (mis)treatment of Indigenous people in correctional institutions and their disproportionate contact with the legal system (Dickson & Stewart, 2022; Ralston, 2021). The Royal Commission on Aboriginal Peoples (1996) described Indigenous overcriminalization as “injustice personified” (p. 28), calling for reforms in the *Criminal Code of Canada* and court processes. Still, in 1999, the extent and severity of overrepresentation of Indigenous peoples in all aspects of the legal system was identified as “a crisis in the Canadian criminal justice system” (*R. v. Gladue*, 1999).

Despite these reforms and the introduction of the Gladue framework nearly thirty years ago, incarceration rates for Indigenous people have worsened (Department of Justice Canada,

¹¹ Such influential reports included the “Final Report: Task Force on Aboriginal Peoples in Federal Corrections” (Ottawa: Solicitor General of Canada, 1988); “Access to Justice: Report of the Justice Reform Committee” (Victoria, BC: Ministry of the Attorney General, 1988); the “Royal Commission on the Donald Marshall, Jr., Prosecution” (Nova Scotia, 1989); “Native Justice Consultations: Progress Report and Action Plan” (Victoria, BC, 1990); “Report of the Osnaburgh/Windigo Tribal Council Justice Review Committee, Tay Bway Win: Truth, Justice and First Nations” (Ontario, 1990); The Public Inquiry into the Administration of Justice, “The Aboriginal Justice Inquiry of Manitoba” (Manitoba, 1991); Task Force on the Criminal Justice System and its Impact on the Indian and Metis People of Alberta, “Justice on Trial,” (Alberta, 1991); “Report on Aboriginal Peoples and Criminal Justice: Equality, Respect and the Search for Justice” (Ottawa: Law Reform Commission of Canada, 1991); Reports of the Saskatchewan Indian and Métis Review Committees (Saskatchewan, 1992); “Report of the Commission on Systemic Racism in the Ontario Criminal Justice System” (Ontario, 1995); “Justice for and by the Aboriginals: Report and Recommendations of the Advisory Committee on the Administration of Justice in Aboriginal Communities” (Quebec, 1995); “Bridging the Cultural Divide: A Report on Aboriginal People and Criminal Justice in Canada,” Royal Commission on Aboriginal People (Ottawa: Supply and Services Canada, 1996).

2018; Department of Justice Canada, 2023). This failure to address the overcriminalization of Indigenous peoples is not only a critical concern but also remains a national crisis that demands urgent attention and intervention (Clark, 2019; Department of Justice Canada, 2023).

The Canadian “justice”¹² system’s persistent violence against Indigenous peoples is evident in the disproportionate¹³ rates by which they are incarcerated, which are ten times higher than those of non-Indigenous Canadians. Indigenous peoples, who make up four percent of the Canadian population, account for almost 30% of all inmates in provincial and territorial correctional institutions and 29% of admissions to federal custody (Department of Justice Canada, 2023). Since 2007, incarceration rates for Indigenous men have risen by 28%, and for Indigenous women by 66% (Department of Justice Canada, 2019). Monchalin (2016) found that “Indigenous as opposed to non-Indigenous incarcerated peoples are sentenced to longer terms, spend more time in segregation and maximum security, and are less likely to be granted parole and more likely to have parole revoked for minor infractions” (p. 145). These findings highlight the persistent and egregious inequities within the criminal justice system, underscoring the systemic discrimination that Indigenous peoples face at every state of the legal process:

¹² I utilize scare quotes here in referring to the colonial legal system to critique its claim to uphold and apply justice, given its long history of violence and injustice towards Indigenous peoples and other marginalized and racialized populations. This usage challenges the legal system’s claims of neutrality and equality, while acknowledging historical injustices, systemic biases, and ongoing disparities, highlighting the need for systemic reform.

¹³ Scholars including Nichols (2018) and Barlow (2023) have critiqued the use of terms such as “disproportionate” and “over-representation” as rhetorical strategies employed by colonial powers. This language obscures the broader systemic and institutional racism rooted in settler colonialism. By framing Indigenous incarceration as an issue of “population management” rather than a result of colonial violence, such rhetoric shifts responsibility away from the state, deflecting attention from the enduring impacts of colonial governance, while normalizing “carceral expansion” (Nichols, 2018, p. 53).

It is clear that Indigenous peoples are being disproportionately criminalized by the criminal justice system—from arrest to incarceration...due to racial discrimination in charging, judging, and sentencing Indigenous peoples who do commit crime, as well as the socioeconomic and cultural differences that make Indigenous peoples more vulnerable to having crimes brought to the attention of the authorities. (Monchalin, 2016, p. 144)

This disproportionate mass punishment is evidence of the continuation of colonial violence, representative of how the “justice” system is fundamentally at odds with not only Indigenous conceptions of justice but Indigenous existence (Borrows, 2005; Monchalin, 2016; TRC, 2015). As Regan (2010) asserts, “colonial violence is woven into the fabric of Canadian history in an unbroken thread from past to present” (p. 6), with this violence “effectively and smoothly enacted” through “routinized, bureaucratized” operations (Nichols, 2018, p. 58). These contentions underscore the persistent, systemic nature of colonial violence, which is critical to understanding the ongoing over-incarceration of Indigenous peoples and emphasizes the necessity of examining the Gladue framework in addressing these injustices.

2.1. Legal Context and Foundations

Canadian criminal courts are challenging the boundaries of mainstream legal practices by developing techniques and normative practices that locate individual criminal behaviours among Aboriginal peoples within histories of colonialism, race relations, and discrimination.

—*Paula Maurutto & Kelly Hannah-Moffat, Aboriginal Knowledges in Specialized*

Courts: Emerging Practices in Gladue Courts, 2016, p. 451

2.1.1. Section 718.2(e) of the Criminal Code of Canada

Section 718.2(e) of the Criminal Code of Canada, introduced in 1996, mandates that sentencing judges must consider alternatives to imprisonment for all offenders, with “particular attention to the [unique] circumstances of [Indigenous] offenders” (*R. v. Gladue*, 1999, para. 5). This principle aims to mitigate the overcriminalization of Indigenous people in the criminal justice system by promoting sentencing decisions that incorporate a restorative approach, considering specific background factors “which may have played a part in bringing the [Indigenous] offender before the courts” (*R. v. Gladue*, 1999, para. 6).

Prior to this sentencing reform, details about an individual’s background, accounts of their circumstances, and “narratives of cultural and race histories” were frequently disregarded as neither pertinent nor relevant in legal proceedings (Maurutto & Hannah-Moffat, 2016, p. 455). However, with this amendment, judges are required to consider non-custodial sentencing options based on the unique contexts of Indigenous individuals, acknowledging the impacts of settler-colonialism on criminal conduct (Carlson, 2022).

This process necessitates informed decision-making, requiring the consideration of information not conventionally presented in court. Gladue reports have become essential tools in this process, providing relevant systemic and personal contextual information to inform sentencing decisions. By mandating the consideration of systemic factors, Gladue reports opened new pathways within conventional colonial legal proceedings, integrating approaches to justice that promote more equitable and restorative sentencing practices.

2.1.2. R. v. Gladue (1999)

“Gladue” of Gladue reports originates from the landmark Supreme Court of Canada (SCC) decision *R. v. Gladue* (1999), marking the first instance in which the SCC assessed the

applicability and implications of s. 718.2(e) of the Criminal Code. This case involved Jamie Tanis Gladue, an iskwêw-Métis woman, who was denied the consideration of her circumstances during sentencing because she lived off-reserve (*R. v. Gladue*, 1999).

The SCC recognized the error in dismissing Ms. Gladue's Indigenous identity and established key principles guiding the sentencing of Indigenous people:

1. S. 718.2(e) applies to all Indigenous peoples, regardless of where they live.
2. Sentencing must consider the specific context and experiences of each individual.
3. This provision is remedial in nature, aiming to reduce Indigenous overrepresentation in prisons through a restorative approach to sentencing.
4. Sentencing measures should be relevant and responsive to the individual's cultural background and unique circumstances.

The *R. v. Gladue* ruling has set a precedent for integrating a more culturally aware and contextually informed approach to sentencing Indigenous individuals, broadening the possibilities for approaches to justice within Canada's legal landscape (Mohan, 2022).

2.1.3. R. v. Ipeelee (2012)

The *R. v. Ipeelee* (2012) decision further clarified the application of Gladue principles, emphasizing the importance of judicial notice of the underlying effects of colonization and the necessity of culturally appropriate sentencing measures. The Ipeelee decision established that:

1. Gladue rights apply to all Indigenous persons, regardless of status, residence, or cultural connection (or lack thereof).
2. Judges must take judicial notice of the effects of colonization.
3. Gladue rights apply to all crimes under the Criminal Code, from minor to serious offences.

4. Sentencing must actively address systemic and background factors

contributing to an individual's circumstances to mitigate their impact.¹⁴

R. v. Ipeelee clarified that every Indigenous person before the court has Gladue rights, requiring judges to acknowledge the effects of colonization even if these rights are waived or if there is no direct link between an individual's background and the offence committed (Department of Justice Canada, 2023; Legal Services Society BC, 2018; Pfefferle, 2008). This decision reinforced the judiciary's responsibility to confront and address the ongoing legacies of settler colonialism, ensuring that sentencing practices contribute to a more equitable and responsive legal framework.

The SCC identified Gladue reports as “indispensable” tools in this process, underscoring their role as formalized, written legal documents to communicate necessary context to the courts for informed sentencing decisions (*R. v. Ipeelee*, 2012, para. 7). Notably, in the 2014 Alberta Court of Appeal *R v. Mattson* decision, the court determined that all future sentencing hearings involving Indigenous individuals in Alberta must include a formal Gladue report to ensure comprehensive consideration of the effects of colonization, thus “elevating” the process to a preferred format (para. 50).

Despite the critical role of Gladue reports in considering the effects of colonization for Indigenous offenders, sentencing can still proceed without one. If an individual declines their right to a report, or if the opportunity to have one written is overlooked, the judiciary must use

¹⁴ This involves sentencing decisions that not only recognize these factors but also seek address the underlying issues. For example, if an individual's criminal behavior is linked to intergenerational trauma and resulting addictions, the sentence should include access to culturally appropriate addictions treatment programs and support services, rather than solely focusing on punitive measures.

alternative sources to assess the impacts of colonialism, such as historical records, community resources, and literature on Indigenous experiences.

2.2. Gladue Reports: Emergence and Implementation

Gladue [reports] can be understood as integrating contextualized knowledges into existing legal structures defined by white, Western principles of justice. These courts and their practitioners are struggling to interpret and navigate [this] new legal terrain.

—Paula Maurutto & Kelly Hannah-Moffat, 2016, *Aboriginal Knowledges in Specialized Courts: Emerging Practices in Gladue Courts*, 2016, p. 468

2.2.1. The Genre of Pre-Sentence Reports

A pre-sentence report (PSR) is a legal document prepared by a probation officer or other court-appointed authority to assist a judge in determining an appropriate sentence for a defendant pleading guilty to a crime. PSRs are not ordered for every sentencing but are requested by a judge on a case-by-case basis. Generally, PSRs are ordered where the offence is serious or complex, or when additional information is needed. This information may include an individual's family situation, mental health or addiction issues, treatment history, risk of recidivism based on community testimony, or behaviour patterns during previous sentences (Government of British Columbia, 2021). The primary purpose of a PSR is to assist the court in understanding the individual's background and circumstances to inform sentencing decisions, particularly to assess the risk of recidivism.¹⁵

¹⁵ Recidivism is a legal term that refers to the likelihood of an individual reoffending. It is often measured by "risk factors" such as prior criminal history, substance use, lack of stable housing or employment, mental health challenges, community supports, and access to resources (Ralston, 2021).

PSRs provide comprehensive information about an individual's personal and criminal history, circumstances of the offence, and mitigating or aggravating factors, along with sentencing recommendations such as probation, community service, or incarceration (Bonta et al., 2005). They also assess the individual's amenability and motivation for rehabilitation programs, as well as the availability of such programs (Bonta et al., 2005).

Judges may request a PSR when there are concerns regarding an individual's capacity to comply with specific sentences, seeking detailed information about social supports and living situations. This information aids a judge in assessing the likelihood of compliance with sentencing conditions (Ralston, 2021). For instance, individuals with a supportive family and a stable home may be better positioned to adhere to probation requirements, attend rehabilitation programs, or complete community service due to having access to a reliable, supportive environment. Conversely, individuals lacking such supports may face significant challenges in meeting the conditions of their sentence, thereby increasing the risk of non-compliance and recidivism. Risk assessments, which focus on the potential for future offending and the need for control measures, are a central feature of PSRs.

2.2.2. The Emergence of Gladue Reports

Initial investigations into the hyper-incarceration of Indigenous people highlighted the inadequacies of pre-sentencing reports (PSRs) in addressing the unique circumstances of Indigenous offenders (Department of Justice Canada, 2023; Government of British Columbia, 2021; Ralston, 2021). Recommendations called for more consistent use of these reports and emphasized the need to incorporate community perspectives, provide greater detail, improve cultural sensitivity, and focus on the specific circumstances of Indigenous people to ensure more equitable and responsive sentencing (Ralston, 2021, p. 221).

Gladue reports emerged as specialized PSRs to better address the unique contexts of Indigenous individuals in the sentencing process (Maurutto & Hannah-Moffat, 2016; Ralston, 2021). Following the *R. v. Gladue* decision, Gladue reports, first developed in Ontario by Aboriginal Legal Services, were piloted as unique PSRs in several jurisdictions across Canada. By 2011, the SCC recognized the importance of Gladue reports as key resources in providing case-specific information to inform sentencing decisions (*R. v. Ipeelee*, 2012, SCC).

Consistent across different regional jurisdictions Gladue reports focus on four general themes: 1. Indigenous community or Nation history, 2. Family history, 3. Personal history, and 4. Current circumstances. Through these themes, a Gladue report details an individual's unique life circumstances impacted by the legacy of settler colonialism, highlighting systemic factors known as "Gladue factors." These factors encompass direct and indirect experiences of intergenerational trauma and include displacement, Indian Residential Schools, poverty, experiences of abuse, early exposure to substance use, domestic violence, apprehensions and foster care, as well as limited access to stable housing, healthcare, education, and employment. By outlining these factors, the reports provide sentencing judges with a fuller understanding of the cumulative effects of colonial violence underlying an individual's circumstances, enabling a sentencing approach that prioritizes healing.

Standard PSRs serve as an "antecedent genre" to Gladue reports, focusing primarily on an offender's behavior and rehabilitation prospects based on risk assessments. In contrast, Gladue reports incorporate social and systemic contexts to present a more comprehensive understanding of an offender, enabling more culturally, historically, and individually appropriate sentencing based on principles of restorative justice.

Unlike risk-focused PSRs prepared by probation officers, the methodology guiding the preparation of Gladue reports has been characterized as restorative in principle. As discussed in more detail in Chapter 3-5, the genre of Gladue reports is distinct in its features of being written by an “empathetic peer” (Ralston, 2021, p. 245), the presence of subject self-reflection, input from family, friends, and community members, and a broader consideration of intergenerational contexts and histories (Maurutto & Hannah-Moffat, 2016; Department of Justice, 2023).

While “risk assessment” is a central feature of PSRs, Gladue reports emphasize understanding individual and systemic factors impacting the client's life and addressing these factors to prevent reoffending. This includes considerations such as community support, housing security, counselling, motivation, and hope for the future. Both genres outline potential rehabilitative options for convicted persons.

2.2.3. Gladue Principles: Sentencing Sanctions and Restorative Alternatives

As per Section 718.2(e), judges are required to consider all possible,¹⁶ available¹⁷ alternatives to incarceration that may be appropriate for an offender based on their unique circumstances and cultural background. This is an opportunity for the court to consider restorative options that could be applied in sentencing, which may be more conducive to rehabilitation for an offender. Alternatives to imprisonment include a custodial sentence in the individual’s community, such as house arrest or curfew, or non-custodial sentences such as

¹⁶ “Possible” refers to sentencing options that are attainable for the individual, considering their specific circumstances and capabilities, such as their location, transportation options, personal health, and other logistical factors that might affect their ability to participate in or benefit from the alternative.

¹⁷ “Available” refers to sentencing options that have open spaces or capacity, such as treatment centers or programs with vacancies, and that are operational and accessible to the individual, ensuring they can realistically participate in the proposed program.

community-based sanctions, conditional sentencing, or participation in programs related to culture, counselling, employment, housing, addiction treatment.

A restorative approach to sentencing aims to reduce the overrepresentation of Indigenous peoples in prisons by responding to the “needs, experiences, and perspectives of aboriginal people or aboriginal communities” (R. v. Chantalquay, para 69). Restorative approaches strive to address underlying issues through rehabilitation and reducing recidivism, meaning “that the sentence will help the offender address the issues that got the offender in trouble with the law in the first place” (Alberta Justice and Solicitor General, 2021). Through restorative sentencing, “the offender, the victims of the crime, and the community [are given] a chance to move forward” with a sentence that is more appropriate and meaningful, supporting “the offender so that they will not feel the need to turn to crime in the future” (Alberta Justice and Solicitor General, 2021).

Yet, in order for restorative justice to be actionable, there must be an understanding of the realities at play. Even if given a restorative sentence, Indigenous communities face significant barriers in accessing the established services (Rudin, 2005; Vowel, 2016). These barriers are exacerbated by limited resources, geographic isolation, and systemic barriers.

For example, consider a situation from my experience as a Gladue writer, wherein an individual receives a conditional sentence requiring the completion of an employment program. While the program operates in Edmonton, the individual resides on their reserve, where there is no public transportation into the city. Due to a condition of their sentence prohibiting the operation of a motor vehicle, the individual relies on friends for transportation to attend the program. However, the distance, combined with early morning hours and reliance on friends creates barriers to consistent attendance. This leads to their removal from the program, which

constitutes a breach of their sentencing conditions. Such setbacks can significantly impact a person's sense of self-worth and, ultimately, their feelings of self-efficacy to be able to work towards a more stable and self-sufficient future.

This example illustrates how systemic barriers perpetuate existing systemic inequalities and potential recidivism. Without the means or opportunity to access meaningful or viable alternatives to incarceration, individuals may face significant challenges in participating in rehabilitative programming. This reality hinders the effectiveness of Gladue principles in promoting rehabilitation and reducing recidivism within Indigenous communities. Addressing these structural barriers and investing in community-driven solutions is essential to realize the full potential of Gladue sentencing in fostering healing, reconciliation, and justice for Indigenous peoples.

2.2.4. What Is a Gladue Report?

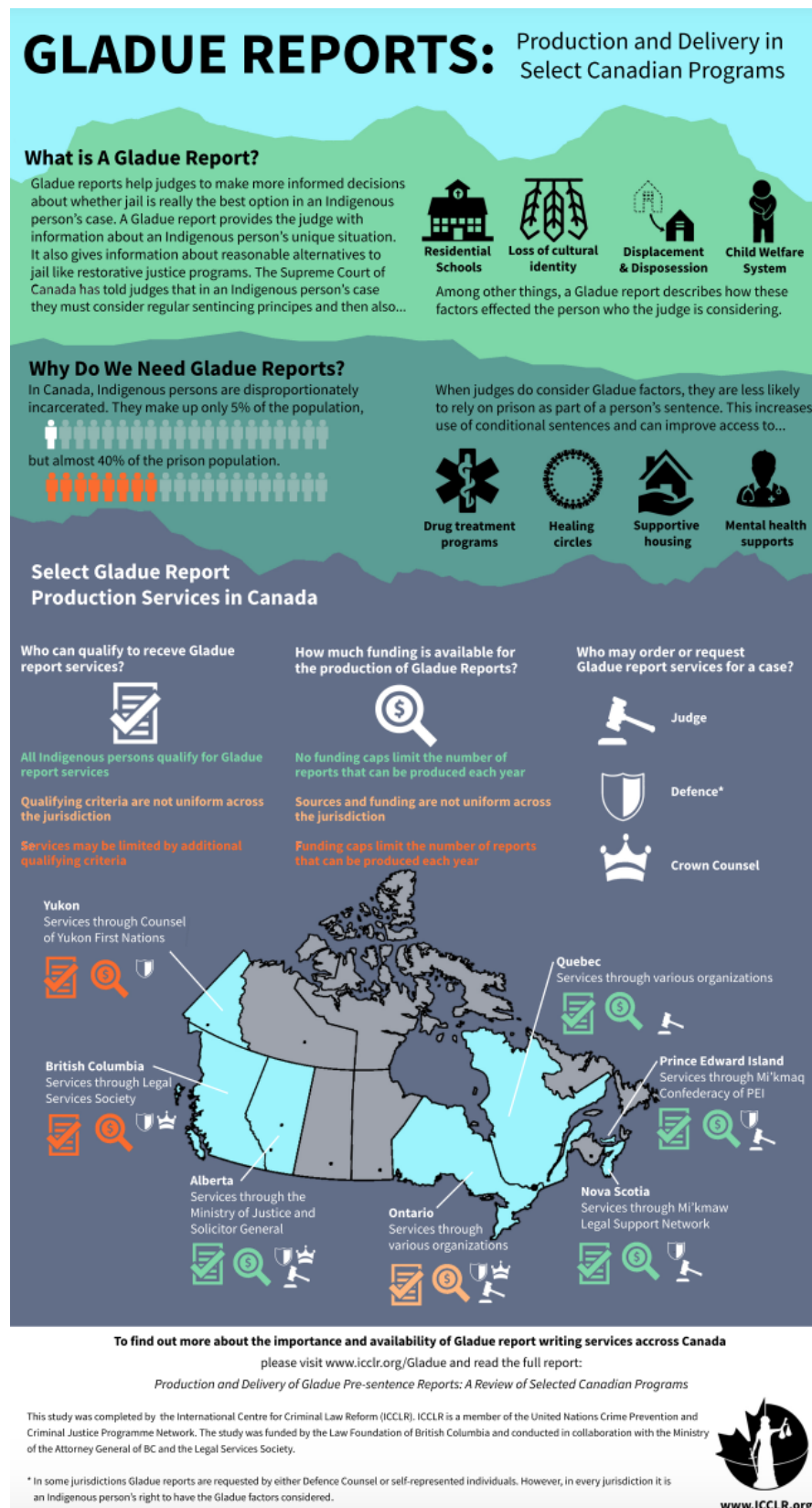
In a legal context, "Gladue" refers to a "principle, a right, a report, and a sentencing recommendation," rooted in restorative and transformative justice principles (Boudakian, 2015, p. 5). Section 718.2(e) of the Criminal Code mandates the consideration of intergenerational experiences that have shaped the lives of Indigenous offenders during sentencing (Hannah-Moffat & Maurutto, 2010). Gladue reports emerged as a specialized pre-sentencing legal document, prepared for the judiciary in the sentencing of Indigenous offenders in Canada to contextualize Indigenous individuals' systemic and background experiences through a narrative-based approach that may demonstrate variability in the way they are drafted. These reports situate an offender's circumstances "in a broader social-historical group context" and "holistically positio[n] the individual as part of a broader community and as a product of many experiences" (Hannah-Moffat & Maurutto, 2010, p. 274). Recognizing the impacts of

colonization on an individual's actions, judges consider alternative or reduced sentencing that might be appropriate to support the healing and restorative justice (LSS, Best Practices, 2021).

While the SCC has identified Gladue reports as the preferred method for presenting this information to inform sentencing decisions, there is no federal mandate instructing the specific format for Gladue submissions (Carlson, 2022, p. 11; Ralston, 2021). Consequently, there is significant variation in the use, form, quality, detail, creation processes, and agencies involved in the production of Gladue reports across provinces, territories, and jurisdictions (Ralston, 2021, p. 244).

Figure 1

Gladue Reports: Production and Delivery in Select Canadian Programs.



Note. This infographic provides an overview of Gladue report production services across Canada. From The International Centre for Criminal Law Reform and Criminal Justice Policy [ICCLR], 2020, <https://icclr.org/wp-content/uploads/2020/02/Gladue-Infographic-2.pdf?x27685>. Copyright 2024 by ICCLR.

Gladue reports are prepared by various entities, including legal aid agencies, community organizations, governmental departments, defence counsel, or privately contracted writers. In Alberta, they are typically authored by contracted Gladue writers, caseworkers, or Indigenous Court Workers employed through Alberta Justice.¹⁸

2.2.5. Who Are Gladue Writers?

The B.C. First Nations Justice Council (2023) describes Gladue writers as “members of a unique and important group that is working to change the landscape of the criminal justice system in Canada” (para. 3). Writers come from diverse backgrounds with specialized qualifications and experience, varying across provinces and territories. Although there are no formal national hiring standards, several consistent qualities are generally prioritized.

Given the extensive information required for these reports, Gladue reports are “best prepared” by writers who have strong connections with Indigenous communities and organizations, while also possessing a foundational understanding of Indigenous histories and experiences under colonialism (LSS, 2022, p. 24; Ralston, 2021; Rudin, 2005). Many Gladue report writers have educational and/or employment backgrounds in law, criminology, sociology, or social work and have specialized experience, such as cultural sensitivity and trauma-informed

¹⁸ For an extensive examination Gladue programming in various provinces and territories, see the 2019 comparative analysis “Production and Delivery of Gladue Pre-sentence Reports: A Review of Selected Canadian Programs” by Barkaskas et. al.

Figure 2

GLADUE REPORT WRITERS NEEDED



**DO YOU AGREE THAT
CREES SHOULD RECEIVE
RESTORATIVE JUSTICE?**



**DO YOU WANT TO HELP
BUILD A BRIDGE BETWEEN
CRIMINAL JUSTICE AND OUR
UNIQUE CREE EXPERIENCE?**



**DO YOU ENJOY
WRITING?**



Gladue Reports represent an opportunity for our people to receive **restorative sentences** that consider the **life experiences** of the offender.

Skills

- Writing
- Time Management
- Interviewing
- Computer skills
- Professionalism
- Empathy

Qualifications

- Secondary 5 completed
- 18 years +
- Able to travel
- Reliable
- Independent

 Able to successfully pass a Criminal Record Check

 Training provided

Please contact _____ TEL _____ EMAIL _____

For full description of the responsibilities of a Gladue Writer, please visit cnejustice.ca.



ALLIANCE*
Cree Nation Government
Alliance des Nations crie et des
Département de Justice et Correctionnel Services

[https://www.creejustice.ca/index.php/ca/news/30-docjs-eng/news-eng/latest-news/367-a-call-for-](https://www.creejustice.ca/index.php/ca/news/30-docjs-eng/news-eng/latest-news/367-a-call-for)

[gladue-writers](#). Copyright 2015 by Cree Nation Government—Department of Justice and Correctional Services.

Gladue report writers are expected to maintain an unbiased perspective throughout the reporting process. Writers are not meant to advocate for the individual whose report they are preparing; instead, they are to serve as impartial correspondents and neutral liaisons between the individual and the court, responsible for gathering relevant information about the individual's background and circumstances, and presenting this information in a “neutral,” “factual,” and “objective” manner.¹⁹

Gladue reporting process requires a nuanced negotiation between cultural sensitivity and procedural impartiality. Writers must adeptly weave together detailed personal histories with broader socio-historical contexts, all while presenting the information in a way that is comprehensible and useful to the court. This positioning places Gladue writers in the challenging dynamics of working towards justice for Indigenous peoples within a colonial system notorious for perpetrating harm against Indigenous communities.

3. CHAPTER THREE: Gladue as Institution: What Processes Are Involved in Gladue Reporting?

The Gladue decision was a recognition that the traditional sentencing process had failed Aboriginal people. The challenge now is to ensure that the promise of Gladue is fulfilled.

—Jonathan Rudin, *Indigenous People and the Criminal Justice System:*

A Practitioner's Handbook, 2018, p. 86

¹⁹ The role and challenges of maintaining neutrality and objectivity in Gladue reports will be discussed in detail in Chapters Four and Five.

This chapter examines the institutional procedures involved in the preparation, production, and delivery of Gladue reports in Alberta, reflecting on the extent to which these processes shape how Gladue narratives are read and acted upon by the judiciary. Drawing primarily on autoethnography, this analysis explores how my personal experiences and observations as a Gladue writer inform the understanding of these institutional practices.

In the following sections, I apply discourse analysis to uncover the implications of institutional procedures on the interpretation and application of Gladue reports. My objective is to illuminate how these processes impact the effectiveness of Gladue reports in achieving justice for Indigenous individuals, and to evaluate the broader implications for the institutionalization of Indigenous knowledges within the legal framework.

3.1. Becoming a Gladue Writer

In 2014, the Alberta government, in partnership with Native Counselling Services of Alberta, launched a pilot program to develop a provincial Gladue report initiative. This involved establishing a province-wide group of writers responsible for interviewing clients and preparing the reports. As awareness of the program increased, so did the requests for reports, eventually exceeding available resources (Barkaskas et al., 2019). In 2015, the Ministry of Justice and Solicitor General (JSG) assumed responsibility for the program, overseeing its administration. Today, Alberta's Gladue Pre-Sentence Report Program contracts over 26 community-based writers situated across the province's 11 court districts (Barkaskas et al., 2019, p. 50; Indigenous Policy and Services, Alberta Justice, personal communication, July 11, 2024). Notably, the number of report writers in Alberta has decreased from 45 writers cited in Barkaskas and colleague's 2019 study. This decline, despite the program's growth, suggests the ongoing challenges in recruiting and retaining qualified individuals.

For five years, I worked part-time as a contracted Gladue report writer based in Edmonton, Alberta. I came to this work with little prior knowledge of Gladue reports, but with a keen interest in the processes involved. In learning about the reports, I was interested in the program as an attempt at reconciliatory practice in Indigenizing and decolonizing Canada's police-legal-incarceration system. I was intrigued by the work of Gladue reporting as an Indigenous initiative utilizing stories and storytelling as mechanisms for social change within the colonial legal system. This, combined with my commitment to prison abolition, awareness of the violence of colonialism, and sense of responsibility as a settler to engage in anti-colonial praxis motivated me to apply for a position as a Gladue writer.

My background coming into Gladue reporting was in Treaty relationship-building and cultural exchange programming. I worked as a Cultural Liaison supporting experiential, student-directed education about Indigeneity and colonial realities, and I advocated for restorative justice practices in schools. When a friend and former colleague invited me to apply to work as a Gladue writer, I appreciated the opportunity as a way by which I could meaningfully contribute to decolonial praxis in a new way.

While I had neither a background in law nor social work, I felt that my experiences working in settler (re)education and my relationships with the community prepared me with valuable skills and competencies that could be applicable and meaningful in the Gladue context. I was also aware of my social position, and I questioned whether it was my place to engage in this work as a white settler. I was eager to expand my understanding of possible settler roles, responsibilities, and impacts in effecting greater equity within our colonial institutions.

3.1.1. Application

Becoming a contracted Gladue writer with Alberta Justice involved a daunting and obscure application process. The job posting was not easily accessible through common job platforms, but was instead located within a maze of websites, making it difficult to locate. Reflecting on the process, it seemed nearly impossible to find the application without a connection to someone involved in the program.

The application process involved submitting a bid to be hired as an independent contractor to “perform the services” of Gladue report preparation (Alberta Justice Procurement Services, 2023, p. 43). The proposal spanned over forty pages and was complex and difficult to follow. Applicants were termed “proponents” and “Pre-Qualified Contractors,” and the application itself was called a “pre-qualification request” (PQR), using bureaucratic terminology that I was unfamiliar with and felt disconnected from the role’s community-focused nature. With the support of my friend, who helped clarify questions I had along the way, the application process became less intimidating and more manageable.

The proposal outlined job requirements, such as having a computer and access to Microsoft Word, personal transportation, and a phone. These resources ensured that contracted writers could effectively fulfill their duties, including working remotely and travelling for client interviews. Additional desirable attributes included proficiency in Indigenous languages and cultural knowledge. References and criminal record checks were also required.

Workload Estimation

As part of the proposal submission, applicants needed to indicate the number of reports they anticipated being able to complete per month. When I first applied, I estimated having the capacity to complete three reports per month; however, my subsequent experience revealed this

was unrealistic. As a part-time Gladue writer, I realized the complex and demanding nature of this work required significantly more time and, realistically, I was only able to complete one report approximately every four to six weeks. This discrepancy highlighted the difficulty of accurately predicting work output during the application process, particularly when unfamiliar with all that is involved in Gladue reporting. Additionally, the pressure to provide an optimistic estimate may further complicate the process. In my experience, I feared that admitting to a lower output might jeopardize my chances of being hired.

To support with the demanding workload, the PQR acknowledged that writers may wish to access support from subcontractors to assist with various tasks, such as coordinating interviews, gathering information, conducting research, transcribing interviews, and writing the reports (Alberta Justice Procurement Services, 2023). The opportunity for applicants to propose a “Resource” person demonstrates a recognition of the diverse needs and working styles of Gladue writers, allowing for an individualized approach to report preparation. However, determining whether to utilize external support upfront in the application process may be challenging for applicants without prior Gladue reporting experience. This challenge echoes the previous discussion on the difficulty of claiming specific outputs without knowing the full scope of the job.

Writing Sample

Applicants were also evaluated on a writing sample submitted as part of their proposal. The writing sample required applicants to respond to questions pertaining to Indigenous justice and the enduring impacts of settler-colonialism. Evaluation criteria, which was outlined in the PQR, included effective communication, adherence to document structure, appropriate grammar, clarity, and quality of ideas (Alberta Justice Procurement Services, 2023). While these criteria

aim to ensure clear and well-structured reports, they also reflect colonial standards of language and formality. This tension is explored in further detail in Chapter Five.

Notably, interviews were not a part of application process, despite the pivotal role of relationships in Gladue reporting. The focus on writing skills over other aptitudes or qualifications raises questions about how applicants' interpersonal skills, cultural competency, and ability to engage in trauma-informed, culturally-responsive practices are assessed. Interviews also establish a foundational relationship through mutual exchange between candidates and the hiring organization. In the Gladue context, conducting interviews allows applicants to ask detailed questions and gain a comprehensive understanding of the role's expectations and responsibilities. This process helps ensure that applicants are well-prepared and informed, enhancing the quality and accuracy of the Gladue reports they produce.

The absence of interviews in the hiring process is particularly concerning, as it may prioritize technical writing abilities over the essential interpersonal skills needed to navigate the complexities of Gladue reports effectively, potentially impacting the quality and relevance of the information provided to the courts.

Reflections, Questions and Critiques on Gladue Application

Reflecting on my experience applying to become a Gladue writer, the application process felt intimidating. This raises concerns about the inaccessible, exclusionary nature of the process, which risks limiting applicants and perpetuating colonial barriers. The application stated Alberta Justice's goals of "promoting fair and equitable access" to justice (Alberta Justice Procurement Services, 2023, p. 6), yet the complex and convoluted application process contradicts these intentions. As Barkaskas et al. (2019) identified, Gladue programs generally aim to recruit Indigenous community members or non-Indigenous writers with extensive community

connections (p. 50). However, difficulty in accessing the application could undermine the justice it seeks to achieve. This critique explores three main areas of concern: accessibility and language barriers as institutional biases, evaluation criteria, and intercultural tensions.

1. Accessibility and Language Barriers as Institutional Biases:

The specialist language used in the application, such as “Standing Offer,” “Executive Summary,” “procurement,” “FOIP compliance,” and “duty to perform the services” reflects the challenge Gladue writers face in bridging legal, terminology, formalities, and procedures and the lived experiences of clients. Specifically, Gladue writers must navigate complex institutional processes to produce written narratives that accurately and sensitively reflect the personal and cultural realities of their clients. This specialized language and the convoluted application process may deter potential qualified applicants who possess relevant experience but are discouraged by its specialized language. Moreover, by emphasizing procedural requirements without sufficiently acknowledging the deeply personal, relational and cultural nature of the work, the application process may inadvertently prioritize institutional norms over the realities involved in Gladue reporting.

2. Evaluation Criteria:

In its comprehensiveness, the PQR details the evaluation process, including criteria and rubrics. Despite the extensive information provided, significant gaps in transparency remain. For instance, how are applicants’ criminal records assessed and evaluated in the context of Gladue hiring? The contract states: “Pre-Qualified Contractors or their Resources who in the opinion of Justice and Solicitor General (JSG), have an unacceptable criminal record may be rejected and will not be permitted to perform any of the Services” (Alberta Justice Procurement Services, 2023, p. 14); what does the JSG deem as “acceptable?” Such biases may inadvertently hinder the

hiring of capable candidates, perpetuating colonial assumptions of privilege and access, and reinforcing systemic inequities within the Gladue program.

By hiring solely based on writing samples and documentable qualifications, the hiring organization risks failing to adequately assess interpersonal skills and cultural competency, which are critical to the work of Gladue writers. This approach prioritizes judges' interest in "readable" reports over the clients' interest in a safe and productive relationship with the writer. Consequently, it undermines Alberta Justice's commitment to promoting greater access to justice by centering relationships as a critical aspect of achieving equitable justice.

3. Intercultural Tensions

The Gladue application process mirrors a tension inherent in Gladue writing itself: Indigenous values within a colonial construct. Certain requirements emphasize the importance of the cultural competency and community connection for Gladue writers, yet the process itself reflects complexities in navigating intercultural dynamics and conflicting expectations of colonial norms. Gladue reports, while rooted in personal narratives, must meet legal standards and procedural requirements while authentically representing the cultural contexts and lived experiences of Indigenous offenders.

This negotiation between adhering to legal frameworks and honouring the voices and perspectives of clients is a recurring finding, underscores the complexity of the Gladue writing process. Writers are tasked with authentically representing their clients' lived experiences informed by cultural values within institutional expectations. The conflicting demands on Gladue writers highlights the complexity of being liaisons between Indigenous communities and the court system while adhering to Western-centric assessment frameworks and application procedures. This is a theme I will continue to explore throughout my analysis.

3.1.2. Training

Once selected to join the pool of contracted writers, Alberta Justice, which coordinates Gladue services, provides twelve hours of guided distance learning. This training details relevant court proceedings, the role of Gladue reports in sentencing, and a breakdown of report content (Barkaskas et al., 2019, p. 50). When I was hired in spring 2017, training was facilitated by the PGRC via teleconference. The PGRC provided instruction on effective interview techniques aimed at fostering meaningful conversations with clients. This training not only equipped us with foundational Gladue knowledge necessary for our work, but it also served as our initial connection with fellow writers. The opportunity to connect with other writers in these sessions underscored the deeply personal commitment each writer brings to the process and is informed by throughout their work.

One of the most valuable experiences in my development as a Gladue writer, although not a formal or required component of the preparation program, was the shadowing other writers during their client interviews. This experience provided critical insights into the complex role of translating clients' experiences into a format comprehensible to colonial court system. Shadowing revealed different methods for introducing clients to the Gladue process explaining its purpose, navigating sensitive questions, refocusing conversations, and responding to the emotional toll of the interviews. Shadowing other writers also illuminated various strategies for recording and documenting clients' stories, whether through recording devices or shorthand notes. These practical techniques are crucial in ensuring the accurate and respectful translation of clients' experiences. Observing different approaches to these processes highlighted the intricate balancing act required to honour clients' narratives while meeting the court's demands.

Formalizing shadowing would also foster collaboration and knowledge-sharing among writers, creating a supportive network in a field that is often emotionally taxing and isolating. Current training practices emphasize centralized instruction and training; however, shadowing and peer mentoring fosters a community-centered, distributed approach. By integrating shadowing as a formal component of training, the Gladue program would acknowledge the unique challenges Gladue writers face and better support them in their crucial role of translating Indigenous perspectives within a colonial legal framework. This shift towards a more relational and community-oriented model would help de-conventionalize training norms, making them more inclusive, supportive, and aligned with the principles of relational accountability and community engagement inherent in the Gladue framework.

3.1.3. Fees, Payment, and Compensation

Beyond the training process, other contractual obligations and financial considerations impact Gladue writers' work experiences. Upon hiring, writers are required to obtain general liability insurance and provide evidence of vehicle insurance. While these requirements are accepted as standard practice, the necessity of liability insurance, particularly the significant coverage amount of two million dollars, presents a financial barrier for some writers, costing approximately \$500 annually.

This issue was highlighted during discussions at the 2023 Alberta Aboriginal Justice Gathering, where it was voiced that part-time writers who produce only a few reports annually, including those who also serve the community as knowledge keepers, cultural advisors, and elders, experience this requirement as a significant barrier. Considering alternative approaches to costly requirements, such as providing financial assistance or establishing insurance reimbursement programs, could help alleviate the financial burden placed on writers and ensure

greater longevity within the Gladue writing community. Addressing these barriers can make Gladue writing more accessible to a broader range of qualified candidates, particularly individuals with community commitments, benefiting the program by employing writers who understand and respect clients' cultural backgrounds while honouring their capacities.

Writers are entitled to \$650.00 for start-up costs when initially hired, and they can claim travel expenses for each file, including mileage for client interviews. Contracts stipulate that payment is processed at a strict "fixed flat rate" of \$1200 per completed report, with compensation for incomplete reports up to \$200,²⁰ and report updates²¹ up to \$600 based on case complexity (Alberta Justice and Procurement Services, 2023). The \$1200 for a completed report includes all Gladue reporting activities: communicating with the Gladue program team, scheduling and conducting interviews, researching, preparing and completing the report, invoice preparation, and submission. Notably, writers are not compensated for the cost of training and program meetings.

Compensation remains a contentious issue among writers, with ongoing concerns emphasizing the need for a more sustainable and fair payment structure. Addressing these concerns could potentially help retain experienced writers and ensure the quality and sustainability of Gladue reporting in Alberta. The payment of \$1200 per report has remained unchanged in Alberta since the program's inception in 2015, despite inflation and rising living costs. This stagnant rate has created financial strain for many writers, particularly for those who

²⁰ If a writer is unable to complete a Gladue report due to the client being unavailable, unreachable, or unwilling to participate, the writer may be compensated to a maximum value of \$200. In these circumstances, the writer outlines the type and frequency of attempts made to contact the individual in a letter to the court.

²¹ A report update is for clients who have previously had a Gladue report written for them.

rely on this work as a primary source of income. Writers have reported that the fixed rate does not adequately reflect these economic changes, nor the significant time investment required for each report, impacting their ability to continue working in this role.

Some writers have advocated for a tiered compensation structure based on experience, arguing that those with years of service and demonstrated expertise should not earn the same amount as new writers. While this approach incentivizes long-term commitment to the program, it could also create a hierarchy among writers. This hierarchy could potentially lead to disparities in the perceived fairness of client assignments and consistency of the reports, potentially affecting clients' experiences and even their sentencing outcomes.

Exacerbating concerns about appropriate compensation is the issue of unpaid program meetings and training sessions. Significantly, the majority of Gladue writers in Alberta are Indigenous individuals, who are hired for their cultural understandings, expertise, and relationships to community. Despite their crucial role in the Gladue program, writers are “invited” to provide their invaluable knowledge and time by attending program meetings and trainings without compensation. In contrast, the Gladue program team, employed as government staff with Alberta Justice, were predominately non-Indigenous individuals during the majority of my time as a writer.²² Not only were the employees paid for these meetings and trainings, unlike the contracted Gladue writers, but government staff are also entitled to health insurance, pension plans, paid leave, employee assistance programs, union representation, and pay increments.

This disparity highlights a clear colonial hierarchy within the program, where the declared value placed on Indigenous knowledge is not reflected in compensation for these

²² During my training in 2017, it was disclosed that the program team was predominantly non-Indigenous; this may not reflect the current composition of the staff.

contributions. The lack of compensation perpetuates systemic barriers to economic prosperity among Indigenous communities and reinforces colonial power dynamics by undervaluing Indigenous knowledge and labour (IPCA Knowledge Basket, n.d.). These dynamics reflect broader colonial legacies of resource extraction and dispossession, where Indigenous knowledge and labour have been undervalued and exploited for the benefit of settler institutions (Fernandez & Silver, 2017; Camfield, 2023).

3.1.4. Contract Work

The choice to opt for contract work is often driven by the historical mistrust towards institutions, which can discourage or create hesitancy about working within such systems (Canada Management Advisory Board, 2023; Joweski et al., 2023). During my employment as a writer, Indigenous colleagues voiced the value and empowerment in maintaining independence through contracted work, which allows a sense of agency and autonomy in navigating constraints and mandates imposed by government agencies. Working independently, rather than being directly employed by colonial institutions, enables many individuals to retain control over the extent of their institutional involvement.

Moreover, the flexibility of contract work allows writers to take on as much or as little as they have the capacity for at any given time, which is essential for managing the emotional and psychological demands of Gladue reporting. This independence can help prevent burnout by enabling writers to control their workload and pace, take necessary breaks, and engage in self-care practices, which can potentially lead to sustained engagement with the work. By maintaining distance from legal institutions, writers may experience a greater sense of agency, allowing them to prioritize the needs and perspectives of their clients with more autonomy from control, monitoring, regulations, and surveillance.

Despite its advantages, the complexities and precarity of Gladue work as contracted work are deeply intertwined with issues of fair compensation and broader colonial-institutional processes. Josewski et al. (2023) expounded how recent increased opportunities for contracted work is not solely “a response to Indigenous demands over [service] delivery” but is indicative of “the global rise of neoliberalism” (p. 6). Neoliberalism is ideologically grounded in the “efficiency of the free market, individualism, free choice, autonomy, and the [concept] of a minimalist state”, which fundamentally conflicts with the substantiation of Indigenous rights (Josewski, 2023, p. 3).

Instead of fostering relationships based on mutual respect, responsibility, reciprocity, and local relevance, contractual work upholds systemic governance and a “culture of compliance” focused on efficiency and cost-effectiveness (Josewski, 2023, p.19). These parameters reinforce a “culture of compliance” that perpetuates assimilationist ethos as discriminatory colonial approaches to policy and justice administration (Josewski, 2023, p. 20). Such frameworks hinder the delivery of culturally safe programs and services within Indigenous communities, prioritizing compliance over culturally relevant and relational practices (Josewski, 2023, p.6).

The contracting model for Gladue report writing underscores a precarious landscape where fair compensation and equitable service delivery are undermined by broader colonial and neoliberal imperatives that prioritize cost-efficiency and output over cultural responsiveness and agency. However, it is essential to recognize that independent contract work also provides significant opportunities for empowerment and cultural preservation. The ability to work autonomously can enable individuals to resist assimilation into colonial frameworks, maintain cultural integrity, and practice autonomy.

3.2. Preparing Reports

3.2.1. Assigning Clients to Writers

Upon receiving a service request, a writer evaluates the (limited) information provided: the client's court date, location, and custodial status, deciding whether to accept the file based on these factors. The rationale for withholding certain information from writers at this stage, such as current charges and criminal records, is to avoid forming preconceived notions about the offender. This concern, shared by the majority of writers, helps ensure that the writer remains unbiased, allowing for a more objective interview project and a more impartial Gladue report (Parsons, 2018). If accepted, the Provincial Gladue Report Coordinator (PGRC) shares the client information, and both parties sign a confirmation form to formalize the terms of service. This formalization, administered by Alberta Justice on behalf of the client, underscores the contractual nature of the writer's role as a service provider.

For my first two years as a Gladue writer, the PGRC worked closely with writers, cultivating relationships to understand each writer's strengths, preferences, availability, and skillsets. This personalized approach allowed for thoughtful consideration in file assignments. Writers with youth experience, for example, were paired with young clients, ensuring that clients received the most relevant support and expertise. However, in 2019, a decision was made by the director to shift to a roster system due to the program's expansion, citing the increased complexity of file coordination. Files began being distributed sequentially according to a roster list, which increased the variety and volume of report requests for each writer. This shift, aimed at efficiency, raised concerns about workload distribution and the appropriateness of file assignments. Several writers expressed concern that the new system potentially compromised the quality and effectiveness of the Gladue program by negatively impacting client experiences.

For instance, my workload and file types changed significantly following the implementation of the roster system. Previously, I worked primarily with youth and women, with files spaced out every four to six weeks. Following this change, I began receiving a higher volume of cases that required different expertise, such as those involving violent crimes and a high-profile double murder case. Such files had previously been assigned to writers with specific experience in these areas.

The transition proved particularly challenging as some of the files I was assigned fell outside my comfort zone. For instance, in cases involving gender-based violence, the PGRC had previously assigned these files to those less directly victimized by such experiences, allowing for a more leveled approach. These considerations could now be overlooked due to the roster system's random assignment. This change placed some writers in a precarious position, especially considering our own histories and experiences with gender-based violence. While it is necessary to approach all file assignments with openness and compassion, a writer's varying ability to relate to some clients should be considered when assigning files to ensure effective and empathetic representation.

During a December 2019 meeting, it was explained that the roster system aimed to ensure equal opportunities for all writers, who were expected to possess the "necessary skills" to complete reports "regardless of the offender type or charge." It was made clear that writers retained the right to refuse any file they were not comfortable with. While some writers were comfortable with this change, I struggled with the impact of what this change could mean for clients and their sentencing outcomes.

Reflections, Questions and Critiques on Client Assignment

The process of assigning clients to writers highlights practical considerations involved in the institution of Gladue reporting, where logistical factors often take precedence over individual factors. This approach prioritizes efficiency over aligning clients and writers based on comfort, experience, and rapport, potentially undermining the client's ability to feel understood, supported, and trusting of the writer.

This relational connection can significantly impact clients' experiences participating in the Gladue process, the information shared and, subsequently, how a judge understands a client to inform their sentencing decisions. As Hannah-Moffat & Maurutto (2010) and Mann (2009) discussed, the subjective judgement of sentencing based on Gladue reports emphasizes how an individual's sentencing can be impacted by the Gladue writer they are assigned. This significance of the client-writer relationship in Gladue reporting will be discussed further in Chapter 4.

The shift towards a roster system places increased pressure and responsibility on individual writers to navigate complex and potentially triggering cases, underscoring systemic challenges within the Gladue program. By placing the responsibility to accept or decline files on writers without a broader (and more relational) consideration of workload, capacity, or individual expertise, the Gladue program risks exacerbating feelings of isolation and burnout among writers. While the Gladue program team ostensibly promotes writer self-care by encouraging boundaries to mitigate potential burnout, decisions such as the roster system can undermine meaningful support.

I felt overwhelmed by the influx of requests that came with this change, and I feared that declining files could lead to my removal from the roster. This disconnect between the program's

advocacy for self-care and its operational decisions raises concerns about impacts on writer retention, with the number of writers decreasing from 45 in 2019, when the new system was introduced, to 26 currently. Among numerous potential factors, I question whether a factor in this decrease could be linked to the pressures introduced by the roster system.

Writer assignment as an operational process highlights the pervasive influence of colonial assumptions within the justice system of top-down structural organization, presumed hierarchy in workplace relations, and prioritization of efficiency instead of collectivist or relationship-centered approaches to problem solving. Disregarding the unique backgrounds and strengths of Gladue writers perpetuates colonial power dynamics, undervaluing relational perspectives and experiences. This not only compromises the quality of Gladue reporting but also undermines clients' experiences of justice by reinforcing systemic inequalities and hindering the potential for meaningful reconciliation and healing.

3.2.2. Arranging Interviews: Contact and Communication Between Clients and Writers

Gladue writers are responsible for arranging interviews to meet with clients to discuss information necessary for the report. This process differs depending on whether clients are held in custody or residing in the community, involving either coordination through institutional channels or direct communication with the client. This can present challenges, particularly in navigating the bureaucratic procedures of institutions or responding to systemic barriers that complicate communication with clients.

For clients living in the community, writers initiate communication to introduce themselves, discuss the Gladue process, and schedule an in-person interview. Meetings are typically arranged in community settings such as libraries, recreation centres, or local cafes like

Tim Hortons, chosen for the client's convenience and an informal atmosphere that fosters comfort. Choosing a location with private, discreet seating ensures that a client's confidentiality and privacy are respected, even in a public space.

Arranging community interviews may involve additional steps due to outdated contact information or clients' limited access to communication methods. If initial contact attempts are unsuccessful, reaching out to the client's secondary contact person and liaising with their legal representative becomes crucial. Alternative methods, such as social media, may be utilized, with some writers maintaining dedicated accounts on platforms like Facebook to communicate with Gladue contacts. If a writer is still unable to reach a client or if they are unable or unwilling to participate, the writer submits an Attempt to Contact letter to the court, detailing the frequency and methods by which they tried to reach them. This process highlights the systemic barriers that can hinder effective communication and participation in the Gladue process.²³

When scheduling interviews at institutions such as the Edmonton Remand Centre or the Edmonton Young Offender Centre (EYOC), writers follow specific guidelines, indicating the client's offender number and any items they intend to bring, such as a laptop or recording device. This structured approach ensures that the necessary permissions and preparations are in place for the interview. Adhering to these guidelines upholds security protocols and minimizes disruptions to institutional procedures.

²³ Hundreds of Gladue report requests are received in Alberta each year. As discussed at ongoing Gladue program meetings, dozens of reports per year remain unfinished due to the challenges in contacting clients and systemic issues that prevent effective engagement. These barriers reflect broader issues within the justice system, complicating individuals' ability to fully participate in their own legal processes.

Interviews with clients who are incarcerated tend to proceed as scheduled more consistently than community interviews, primarily due to the highly controlled institutional setting, which minimizes missed appointments and communication issues. However, this logistical ease is not without complexities. The controlled environment of incarceration imposes significant limitations on the depth and authenticity of the information that can be gathered. Clients may feel constrained or mistrustful in these settings, impacting their willingness to share in the interview. The tensions involved in conducting Gladue interviews within the carceral system will be explored further in Chapter 4.1.10.

Reflections, Questions and Critiques on Gladue Interview Arrangement Processes

Evaluating the process of scheduling client interviews reveals inherent tensions between following standardized institutional protocols and addressing the diverse cultural contexts and individual needs of clients. Moreover, the power dynamics inherent within institutional settings can further complicate the relationship between the client and writer. These dynamics may limit the client's ability to speak freely and openly, as they might feel constrained, mistrustful, or surveilled. Similarly, the writer's ability to represent the client by capturing their authentic voice may be restricted by institutional mandates and procedures.

Within the institutional framework of Gladue report production, Gladue writers navigate a complex landscape of intercultural communication while adhering to institutional protocols. This delicate balance requires employing communication strategies that not only conform to institutional norms but also align with the unique circumstances and individuality of each client. Gladue writers aim to foster trust and rapport to facilitate more open and honest exchanges during the interview process; consequently, the choices a writer makes during the scheduling of a

Gladue interview carries profound implications for the client's engagement with the process and the subsequent quality and authenticity of the report.

The arrangement of Gladue client interviews serves as more than just a logistical step. It represents a critical opportunity to establish initial contact with clients and lay the groundwork for a meaningful relational connection. This connection is essential for building trust and facilitating the open, honest exchanges necessary for an accurate and comprehensive Gladue report to be written. Therefore, the decisions made during this initial communication process and the approach taken in scheduling client interviews can significantly influence a client's comfort, trust, and willingness to share crucial information for the report.

3.3. Gladue Reporting Institutional Processes

Evaluating the institutional processes involved in Gladue report production reveals inherent tensions between standardized protocols and the relational dynamics that are central to Gladue reporting. The power dynamics inherent within institutional procedures can further complicate the efficacy of the reporting process, potentially undermining the intended restorative goals by imposing rigid frameworks that may work against the honouring of Gladue clients.

For instance, the lack of interviews in the hiring process for Gladue writers reflects a focus on technical writing skills rather than relational abilities. This emphasis overlooks the importance of interpersonal skills and cultural competencies necessary for building trust and rapport with clients. Consequently, this approach can negatively impact the quality of a client's experience and, subsequently, the quality of the Gladue report produced, as the depth of understanding and authenticity required for these reports is compromised.

Such institutional processes manifest as alignments and disalignments²⁴ between the task of hearing, translating, and presenting the life history of an Indigenous client within a colonial context. Understanding the alignments and disalignments of institutional processes allows for a better understanding of the institutional structures designed to facilitate these processes. An analysis of dis/alignments of institutionalization of storytelling within a colonial framework can reveal how Gladue reporting enables and constrains the restorative justice goals intended by Gladue reports.

Alignments in Gladue reporting occur when institutional processes support the accurate and respectful telling of a client's story. In contrast, disalignments occur when these processes hinder or distort the reporting. Such disalignments can result in clients feeling alienated or mistrustful, impacting their willingness to share openly and honestly. This affects the information that can be gathered and, in turn, the overall effectiveness of the Gladue program. Consequently, clients may experience the process as another form of systemic injustice rather than a healing experience leading to restorative justice.

The application process for becoming a Gladue writer reveals several specific disalignments. The complex and inaccessible nature of the job posting, often buried within a maze of websites, makes it nearly impossible to find without insider connections. This creates a barrier to entry, particularly for those without existing networks within the program. Additionally, the emphasis on technical writing skills over relational abilities in the evaluation criteria fails to assess the interpersonal skills and cultural competencies critical for building trust with clients. The lack of interviews in the hiring process further exacerbates this issue, as it

²⁴ Disalignment refers to a lack of alignment or harmony between elements, often implying a fundamental or inherent conflict. Misalignment, on the other hand, typically suggests a deviation from a desired or intended alignment, indicating that alignment was possible but not achieved.

neglects to establish foundational relationships between candidates and the hiring organization, which are essential for effective Gladue reporting.

However, there are also important alignments within these institutional processes. The training provided to writers emphasizes effective interview techniques to foster meaningful conversations with clients. This focus on developing rapport with clients aligns with the relational importance of these reports, enabling writers to better understand clients in order to represent them more accurately. Employing writers who are based in and familiar with the communities they serve helps ensure that the reports are approached in culturally respectful and relational ways. These relationships are central to the Gladue framework. Moreover, the flexibility of contract work supports writers' autonomy by allowing them to operate independently from a governing body. This flexible arrangement accommodates individual schedules and capacities, thereby recognizing individual needs. These processes support the core values of the Gladue framework by promoting individual consideration, cultural respect, personal agency, and relationality.

The institutional processes discussed in this chapter serve as a microcosm of the systemic challenges and tensions embedded within Gladue reporting. Gladue procedures, including application, training, payment, contracts, and file assignment, impact the effectiveness of the program and the potential for justice to be realized. This discussion highlights the need for a nuanced and reflexive approach that acknowledges and addresses the power differentials, cultural nuances, and relational dynamics.

4. CHAPTER FOUR: Gladue as Relation: Gladue Interviews

I hear your story, appreciate your care and courage, and am honoured by your gift of trust.

—A.F. Barlow, *Re-storying Indigenous Trauma: Considerations for Indigenous Ethics of Relational Care in Gladue Reporting*, 2023, p. 12

Scholars and community members alike have called on Gladue program stakeholders to examine how “Gladue reporting can engage in better relationality” to reduce the potential for harm and facilitate more meaningful healing (Barlow, 2023, p. 10). A deeper understanding of institutional “relational responsibilities” and “reciprocal obligations” is essential in examining the “ethical impacts of re-storying [through Gladue]” to ensure the process is respectful and supportive of clients (Barlow, 2023, p. 10). This approach requires a commitment to ethical relationality, where building trust, fostering mutual respect, and validating the lived experiences of clients are central to the Gladue framework (Barlow, 2023; Byrd, 2020; Tynan, 2021; Wilson, 2001).

Gladue as *relation* is a recognition of Gladue reports beyond simply a legal document; Gladue reports are representative of the relational dynamics between Indigenous lived experiences, settler-colonial systems of power, and manifestations of (in)justice. Relationships are fundamental to Gladue reporting, shaping every aspect of the reporting process, from information gathering to sentencing outcomes. These processes are dynamic and intercultural, involving a multifaceted interplay of stakeholder relationships whose interactions influence report creation, interpretation, presentation, and impact of Gladue reports within the legal system.

Unlike standard PSRs, which are typically prepared by probation officers or other legal professionals with minimal engagement with an offender’s community, the preparation of Gladue reports is highly collaborative. This process involves meaningful interactions between the writer, the client, and other community members and stakeholders, requiring trust and rapport

for the gathering of necessary information. These relational interactions enable a deeper understanding of the offender's life circumstances, helping to ensure that the report accurately reflects their lived experiences and the broader systemic factors at play. The deeply personal nature of the reports and the interactions between the client and the writer are critical to the process by which a Gladue report is created. This relational exchange shapes how the report is written, read, interpreted, and acted upon within the legal system.

Consequently, understanding and respecting these relationships is essential in promoting meaningful Gladue programming. It is crucial to not only acknowledge their profound influence on sentencing outcomes but also to recognize the ethical imperative of honouring individuals' experiences as part of Gladue reporting, ensuring the relational processes themselves do not perpetuate harm or violence in the pursuit of justice.

Leaning into autoethnographic experiences and utilizing discourse analysis, this chapter will delve into the relational dimensions of Gladue interviews, examining how these interactions influence the effectiveness and ethicality of Gladue reports. Through personal reflections and critical analysis, I aim to highlight the significance of relational care in achieving the restorative justice goals of Gladue reporting.

4.1. Becoming a Gladue Client

Through the formalized procedures of requesting a Gladue report, assigning clients to writers, and coordinating client interviews, an Indigenous offender comes to be recognized (and processed) as a client. This transition highlights how an individual's status as a client is contingent upon specific institutional actions and procedures within colonial institutions. These procedures reveal the systematic and bureaucratic nature of this recognition process, highlighting the structured steps and criteria that define and establish someone as a client within the Gladue

framework. This also underscores the paradox of legitimizing Indigenous identities and experiences within a colonial system that historically marginalized and oppresses these very identities.

The reframing of an individual from being referred to as an “offender” to a “client” in the Gladue process signifies a shift in perspective. This language demonstrates a commitment to valuing Indigenous perspectives and principles of justice within legal proceedings. By employing the term “client” instead of “offender,” the system symbolically acknowledges the inherent humanity, agency, and individuality of Indigenous individuals. This recognition extends beyond their legal transgressions, emphasizing a commitment to prioritizing healing, restoration, and agency within judicial processes. Furthermore, this semantic shift implies an orientation of the Gladue program to be in service to the individual, challenging traditional power dynamics within institutions that have historically marginalized Indigenous peoples. This shift in terminology represents a deeper effort to adopt a more respectful and humanistic approach in addressing the unique circumstances of Indigenous peoples within the criminal justice system.

While the reframing from “offender” to “client” suggests a legal system in service to the individual, it is crucial to recognize that this service operates within the institution's terms. This reframing, though symbolically important, does not entirely dismantle the inherent power dynamics and structural constraints of the colonial legal system. The individual's status as a “client” remains contingent upon compliance with institutional procedures and regulations, which may not fully align with Indigenous values and ways of knowing. As such, while the terminology shift aims to be more respectful and humanistic, it simultaneously reinforces the individual's position within a structured, institutional framework. This duality highlights the

tension between integrating Indigenous perspectives and the enduring influence of colonial systems, underscoring the need for continued efforts towards genuine systemic change.

What commitments, then, are made beyond a bureaucratic, semantic formality of the terminology utilized? Addressing Canada's overcriminalization of Indigenous peoples requires substantial actions and reforms beyond language to truly impact their experiences within the legal system. The experiences of Gladue clients involve relational and institutional processes that have the potential to transform the way Indigenous offenders are viewed and treated within the legal system. While this process represents a step towards acknowledging their inherent humanity and agency, promoting healing and justice that align with Indigenous values and perspectives, it also exposes the limitations and ongoing challenges of operating within a colonial framework.

Nevertheless, the ways by which an Indigenous offender "comes into being" as a Gladue client is also a relational process that has the potential to be a humanizing and empowering experience. It signifies a shift from being a statistic within the criminal justice system to being recognized as an individual with a unique identity, history, and journey. Through the Gladue process, individuals who have faced systemic injustices and colonial violence are afforded the opportunity to reclaim their narratives, assert their agency, and be supported in accessing pathways to healing, restoration, and justice.

4.1.1. Client Relationality

The formation, development, and negotiation of relationships within the Gladue process can profoundly impact clients' lives, influencing their experience of a Gladue interview and subsequent sentencing outcomes. One individual shared his critical insight as a former subject of a Gladue report, voicing, "I ended [the interview] feeling less than a person actually through that

experience. I walked away from there feeling that it didn't help me, it left me feeling ashamed" (Boudakian, 2015, p. 58). This account highlights how, when the Gladue process fails to provide a supportive, comfortable, and trusting environment for clients to share their deeply personal experiences, it risks reinforcing the very systemic barriers the program seeks to address.²⁵

Boudakian (2015) asserted the importance of healing beginning with the Gladue interview, emphasizing the critical role that the initial stages of the Gladue process play in the overall healing journey of clients. The Gladue interview is not merely a procedural step; it is a pivotal, vulnerable experience where clients are asked to share their personal narratives for the court, often recounting situations of trauma, systemic discrimination, and marginalization. Ensuring clients' participation in the Gladue process is supportive can help mitigate the re-traumatization, supporting clients to feel heard and validated, which can contribute to their overall rehabilitation.

Fostering a relational dynamic conducive to healing from the outset aligns with the Gladue principles' aim to reduce recidivism and support Indigenous individuals' healing journeys. A relational approach to Gladue reporting can lead to more comprehensive and accurate Gladue reports and, more significantly, has the potential to support participants' well-being, contributing to a more supportive, meaningful, and just program.

This importance of ensuring the Gladue process is supportive of healing calls for a systemic shift in how Gladue processes are understood and valued, emphasizing the systemic responsibility to ensure the program's procedures are conducted in support of meaningful and respectful relational engagement. These relationships encompass interactions between the client

²⁵ The potential for retraumatization will be discussed in section 4.1.4.

and the writer as well as contact with the client's support system and legal representation; interactions with Gladue administrative staff, institutional personnel, and the judiciary; and relationships with other Gladue writers. Within these relationships, a range of relational processes exist. Such dynamics include reciprocal communication, obtaining informed consent, creating a supportive environment, hearing and translating oral stories, navigating trauma, and holding space for emotions.

4.1.2. Participation, Informed Consent, Confidentiality, and Standards of Care

Gladue writers serve as a vital liaison between clients and the criminal justice system, bridging understandings to ensure that clients are fully informed about their Gladue rights. Informed consent in the Gladue process involves clients being aware of the purpose of a Gladue report, the nature of the information that will be collected in the interview, how this information will be used in court, and the potential impact of their participation on their sentencing (Gladue Principles, 2024).

Individuals may be hesitant to participate in the Gladue process, questioning why they are being asked to share such personal details and whether the judiciary might use this information against them, particularly as evidence in a sentencing decision. Writers play a critical role in clarifying these concerns, addressing fears about how their personal information might be perceived or misused within the colonial legal framework. They also explain how participating in the Gladue process can benefit clients in being considered for non-custodial sentences, supporting their personalized, restorative healing journeys based on what they feel they need to heal and lead a life free from crime.

Supporting clients in understanding the purpose of sharing vulnerable experiences for the Gladue report is essential for their emotional preparedness and informed participation. This

understanding enables them to engage in the process with a better awareness of their rights to be considered for non-custodial sentences and the potential benefits of the Gladue report (Alberta Justice Procurement Services, 2023; Boudakian, 2015). One Gladue writer described his process of discussing the purpose and application of Gladue rights and principles:

I'm very transparent with people and [I] just tell them the way it is...you know as hard as it is right now for you to be able to tell your story, your sacred story that you have, it's also very important that you get out and heal for yourself, but also for the courts to know what's happened in the court system possibly can have a link to what's happened, what's happened in your past. (Boudakian, 2015, p. 62)

Central to understanding consent is ensuring that clients know their participation remains voluntary throughout the Gladue process (Gladue Principles, 2024). In Alberta, writers are instructed to review a consent form with clients at the beginning of the interviews, clarifying any questions a client may have about the process. Writers are encouraged to explicitly discuss with clients that they have the right to take a break, decline to speak about specific topics, or stop the interview at any point in the process. This transparency serves to foster trust and agency for clients, providing them with a sense of control over their participation in the Gladue process.

Notably, clients are frequently not directly involved in many of the preceding processes, such as request submission and file assignment; steps prior to the interview are generally carried out administratively among members of the judiciary, program staff, and contracted writers on behalf of the client. Consequently, the interview may be the first instance where clients have the opportunity to actively voice their consent about participating. Despite its importance, there are minimal resources on effectively preparing clients, raising concerns about appropriate consent and support (Barlow, 2023).

4.1.3. Collateral Contacts

Collateral contacts play a crucial role in Gladue reports, providing key insights into a client's circumstances which enhances a report's accuracy and credibility (Barkarskas, 2019; Ralston, 2021). Unlike in standard PSRs, where contacts primarily corroborate an offender's statements, the judiciary values collateral contributions by adding depth and breadth in the construction of a client's narrative.

The inclusion of collateral contacts, which can include family members, friends, mentors, medical professionals, and community members, is pivotal in constructing a comprehensive and reliable account. The testimony shared by collateral contacts help to illustrate how systemic factors intersect with the client's life experiences, and serves to contribute recommendations for community resources and healing plan.

From a discourse analysis perspective, using "collateral" to describe these contacts emphasizes the integral supplementary role that these individuals play in supporting the narrative and factual foundation of the report as sources of verification and contextualization. However, the use of "collateral" to describe community members can be problematic. Moreover, the term "collateral" carries colonial undertones, implying a transactional relationship that may not fully honour the relational and cultural significance of these contributions. In practice, I found that using more descriptive language when engaging with clients about potential contacts—such as asking for names of people who can provide insights or details about their life—fosters a more respectful and person-centered approach. Despite these challenges, integrating these perspectives from community contacts remains integral to fulfilling the report's mandate of presenting a balanced view of the client.

At times, collateral contacts may express reservations about a client's release. They might question the individual's readiness to make life changes, or their ability to follow through on restorative sentencing options. For example, in reporting on the same moot client's experience with community supervision, a collateral contact working as the client's current probation officer provided information important for a judge to consider as part of their sentencing decision:

“in terms of his previous periods of supervision by Alberta Community Corrections, his compliance seems to have generally been poor”. He adds, “this includes incurring new criminal offences while on supervision, poor reporting, and failing to attend counselling/treatment as directed.” (JSG, 2021, p. 13)

The probation officer's account highlights the client's difficulties in adhering to supervision conditions. This insight is critical for the court to be aware of when considering the client's potential for recidivism and specific needs for support.

Another challenge writers may experience in interpreting information from collateral contacts that conflict with a client's account. Writers are instructed to address any contradictions between a client and collateral contacts by discussing these discrepancies with the interviewees and, if possible, providing them an opportunity to respond (JSG, 2021). This approach is designed to ensure that the report presents a balanced and comprehensive view of the client's circumstances to ensure transparency and fairness, while also respecting the complexities of social dynamics within the colonial legal framework.

The absence of collateral contacts in some cases underscores broader systemic issues faced by Indigenous clients, such as social isolation and historical disconnection from community networks. This absence highlights the ongoing impact of colonialism, necessitating a thoughtful approach from writers to contextualize these gaps within systemic barriers.

Ultimately, the role of collateral contacts in Gladue reports extends beyond verification—they serve as crucial storytellers whose contributions are vital for a holistic understanding of the client's circumstances and needs as impacted by settler-colonialism.

4.2. Writer-Client Relationality

4.2.1. Eliciting Life Stories

Eliciting life stories through Gladue interviews is a nuanced process involving not just the collection of facts but the creation of a safe, respectful space where clients can share their experiences genuinely and honestly. Interviews are typically advised to last around two and a half hours to ensure a comprehensive understanding of the client's life story, with the reality often requiring flexibility. Longer, more in-depth interviews may provide a more nuanced and expansive understanding of an individual's story, offering clients more time and space to share and for a relationship of trust to be established. Conversely, a shorter interview may be necessary, where extended sessions might be too taxing. In these cases, interviews may be streamlined or conducted in multiple sessions to gather all necessary information.

Flexibility and responsiveness are key elements of the writer-client collaborative relationship, where an unformalized dialogical approach to interviews can “enhanc[e] the collection of stories” (Qwul'sih'yah'maht, 2005, p. 247). This adaptability helps to meet the needs and capacities of each client through an individualized tailoring of the process, ensuring that the client's voice is not only heard but honoured within the confines of the report.

4.2.2. Trust, Rapport, and Trauma

The relationship between a Gladue client and a Gladue writer can significantly impact the outcome of the process of participating; a responsive, trust-based relationship can ensure that the client feels safe and respected, leading to a more accurate and comprehensive representation of

their experiences. A former Gladue writer emphasized the importance of this sensitivity and awareness of a client's emotional state during interviews:

You gotta be able to read the person when you're talking to them and you notice that they feel uncomfortable...you gotta know when to stop, slow down, [say] "here let's take a break for a second. You know, I see you're not doing so well right now, let's take a break." (Boudakian, 2015, p. 66)

Being responsive to clients in establishing trust and rapport is essential not only for gathering information for the report but also for respecting and honouring the client in the sharing of their lived experiences (Younging, 2018).²⁶

The interview process can be intimidating for clients. As such, writers are instructed to approach interviews in ways that help to put clients at ease as an "empathetic peer" (Ralston, 2021). In the trainings I attended when I was first hired as a writer, the PGRC explained that rapport and trust should be developed by meeting clients "where they're at" through a peer-like relationship and approaching the interview as "a conversation," ensuring clients feel heard (personal notes, 2017). Fostering a personal and validating interview dynamic can support clients to feel comfortable sharing their experiences, increasing the potential for participating in the Gladue process to be positive, meaningful, and even healing.

Navigating these complexities as a Gladue writer, I was continually aware of my positionality. In establishing rapport and trust, I questioned how much to share about myself and what level of interest clients might have in knowing about me to feel comfortable opening up to

²⁶ Best practices for Gladue writers to foster a positive relationship with a client, identified by Legal Services Society (2021), include safety, transparency, trustworthiness, dignity, collaboration, support, choice, skill-building, and empowerment.

me. I grappled with how to acknowledge and be accountable for my settler identity with clients. I questioned how to introduce myself to a client; specifically, how to explain why I, a blonde-haired, blue-eyed, *môniyâw*,²⁷ was the person interviewing them as their Gladue writer. To what extent do I establish my connection to Indigeneity to “justify” my presence and access to this work as a settler Gladue writer? Do I declare myself as a settler? A third-generation settler? A settler from Treaty 6? Or would any of this be perceived as trite or even offensive? *How much do they even care?*

In my experience, clients often seemed focused on navigating the immediate demands of the Gladue process, rather than hearing about my personal history or qualifications. In institutional contexts, explicit declarations of settler identity and responsibility are often valued, as they display awareness and accountability. However, in the context of Gladue report writing, I recognized that my discomfort with my settler identity and any feelings of guilt I carried were mine alone, not to be expressed to my clients. While it was important for me to be transparent about my positionality, it was also significant to conduct the interview in a way that was client-focused and purpose-driven.

While deep trust and familiarity can enhance the Gladue writer/client relationship, some of my clients shared that the presence of a stranger may paradoxically facilitate a greater sense of comfort to allow for the client to share more difficult experiences. Reflecting on the relational dynamics of Gladue interviews, I considered how establishing rapport felt less about specific personal details I shared and more about being present; this involved the ways in which I showed up to witness a client in the telling of their story; how I was present and empathetic as they

²⁷ Plains Cree word for white person. ᓂᓂᓂᓂ

discussed their lives; how I demonstrated competence, integrity, and compassion to be trusted in interpreting their experiences. These qualities felt central to ethical responsibility in relation to our clients, essential for the integrity and efficacy of Gladue reporting, making the process as comfortable and compassionate as possible.

Comparing these experiences, I consider how reflections of positionality and acknowledgments are personal exercises for settlers to remind ourselves of our responsibilities and to act in accordance with these relations. While clients may inherently perceive my non-Indigenous identity as indicative of complicity in systemic issues unless proven otherwise, these statements serve as frameworks for settlers to critically reflect on our roles, impacts, and complicities. Rather than verbal confessions; these considerations call on us to consistently evaluate and “check” ourselves to be in alignment with principles of decolonization and justice.

Through this ongoing critical intentionality and self-reflexivity (D’Arcangelis, 2018), we can continue to reflect on the ways we are showing up, and the best ways to be in “right relation;” in other words, to intentionally and purposefully be with community in ways that centre respect, reciprocity, humility, courage, empathy, presence, and accountability; in good relation and in solidarity.

4.2.3. Disclosing Trauma

The Gladue interview creates a space for individuals to share difficult experiences, often for the first time. During interviews, clients frequently expressed a sense of relief and unburdening. There is power in being heard, with empowerment emerging through the vulnerable, relational acts of witnessing and being witnessed (Qwul’sih’yah’maht, 2005). This interaction suggests that discussing difficult experiences and past traumas in Gladue interviews has the potential to contribute to an individual’s healing process and journey moving forward.

Yet, eliciting these life stories for the purpose of a Gladue Report carries a significant risk of re-traumatization, necessitating a careful and sensitive approach to minimize harm. Jackson Mirasty, a Gladue writer in Alberta, recounted a youth client's response to discussing his experiences: "every time I tell this story, I want to die" (Edmonton Journal, 2018, para. 55). Mirasty emphasized the emotional toll of these interviews, stating, "it's just really heavy for them, and it's on us too" (Edmonton Journal, 2018, para. 55). As Gladue writer Brandie St. Martin shared, "some people say after [the interview] that they feel really good, it feels good to say all these things. For other people it's really heavy and intrusive, and it's hard for them to talk about their personal history" (Edmonton Journal, 2018, para. 21).

These accounts highlight the complex emotional landscape navigated during Gladue interviews, where the potential for healing is intertwined with the risk of re-traumatization. Thus, the process of making these life stories hearable for the court must balance the facilitation of unburdening with the recognition of the risk of reprovoking trauma (Barlow, 2023).

4.2.4. Vicarious Trauma

For writers who share similar backgrounds, experiences, or traumas with their clients, empathetic engagement can foster a deeper connection and understanding. Kristen McArthur, another Gladue writer, elaborates on how shared experiences can enhance relationships with clients:

I know all of the effects of [intergenerational trauma], and so when I am going to speak to someone, I have a lot more compassion and that level of understanding going right into it. I think that people can sense that, they can feel that energy that people are putting out there. You're not going to judge them and they know that. You're there to listen. (Edmonton Journal, 2018, para. 19)

However, this empathetic engagement can also trigger memories of the writers' own traumas (Barlow, 2023; Ralston, 2020). Listening to and documenting stories involving trauma can be particularly challenging if the writer has lived through similar experiences. This process can lead to vicarious trauma, where writers are "confronted with the residual affects of re-storying participant pain" and are affected by the trauma recounted by their clients (Barlow, 2023, p. 63; Barkaskas et al., 2019; LSS, 2013). For Gladue writers, ongoing exposure to clients' experiences of grief, trauma, violence, and pain can result in emotional distress, compassion fatigue, burnout, and other profound impacts affecting writers' health and well-being. These effects may impair writers' ability to effectively perform their duties as they navigate the dual demands of distance and empathy.

Translating life stories into Gladue reports requires writers to maintain emotional boundaries to ensure that their compassion and empathy does not compromise the factual presentation of information. However, Amy Quintal, a Gladue Writer in Alberta, underscored how balancing empathy and distance can often be an emotionally taxing challenge, voicing, "it is very personal work. You place yourself in the middle of a person's story, often" (Edmonton Journal, Oct 5, 2018). The personal involvement necessary for empathetic engagement with clients can deeply affect a Gladue writer's ability to remain emotionally detached.

The emotional labour involved in transcribing and documenting clients' stories can be demanding. Developing methods to manage this, such as shorthand note-taking, can help writers stay present during interviews while minimizing the emotional impact during later transcription. Despite these strategies, some writers have left the field, citing insufficient systemic recognition or support for the emotional toll of Gladue reporting (Barlow, 2023). Effective self-care and systemic support measures are crucial to sustain the well-being of Gladue writers.

In my experience, the Alberta Gladue programming staff recognized the emotionally challenging nature of this work, encouraging self-care for writers both in training and on an ongoing basis:

Be aware of yourself during the preparation and writing process. This work can be very challenging [...] Learn what your own triggers are and find help if you feel overwhelmed or (re)traumatized. Do not let yourself be harmed. Take breaks before you really need them. Learn how to cope with what you hear. Lean on friends, family, and professionals for support. It might help to keep in mind that the hard work you do contributes to helping people and the courts repair the harm done. Just bearing witness and giving people a voice is meaningful. (Alberta Writing Guidelines, 2018)

Although there was mention of self-care for writers, it felt insufficient. If the program was truly invested in our well-being, it would implement systemic support that extended beyond the individual. As I noted in my personal journal, “If you actually care about self-care for us, do things systemically to support our well-being. Pay us for our meetings, don’t just pay us lip service.”

While self-care is important, it is insufficient without addressing the broader systemic issues that contribute to vicarious trauma compassion fatigue. The legal system and organizations employing Gladue writers have a responsibility to foster supportive work environments. This could mean offering paid training and workshops that support writers to handle the emotional weight of their work, organizing support networks among writers, ensuring manageable caseloads to prevent burnout, and providing access to mental health services. Any

efforts to improve systemic conditions would ideally involve Gladue writers in the development of these programs to ensure they are responsive in meeting their needs.

By focusing not just on individual self-care but also on improving systemic conditions in support of community care, organizations can meaningfully support the well-being of Gladue writers. Implementing a holistic approach that includes both personal and systemic support measures will not only support writers but also has the potential to improve the overall efficacy of the Gladue program.

4.2.5. Relationality and Community Among Writers

The shared experience of documenting the life stories of Indigenous clients within the criminal justice system can create a powerful bond among writers. The emotionally demanding nature of this work combined with the complexities involved in navigating colonial procedures can foster a sense of solidarity and mutual understanding.

Given that Gladue writers are individually contracted, building and developing a sense of community requires concerted efforts. Informal gatherings, such as coffee meet-ups, as well as communication through social media groups, can facilitate peer support and reduce isolation. In my experience, the Alberta Gladue Writers Facebook page and local gatherings were invaluable for sharing resources and practical advice.

Mentorship and peer learning also have the potential to play a significant role among Gladue writers. Staying in contact with the writer I shadowed when I first started was immensely helpful, as she provided ongoing guidance on various issues and offered emotional support. As I connected with other writers, I gained a deeper understanding of the diversity of approaches and the complexities of our work.

Reflecting on these experiences, I considered the importance of there being opportunities for Gladue writers to connect with one another to discuss and reflect on their methodologies, share insights, and address concerns collaboratively. I wondered about the potential of establishing a professional Community of Practice (COP) to provide a structured support system. A COP, supported by Gladue program agencies, could enhance skill development, improve report quality, and balance the emotional labor of Gladue work, fostering a reflective and intentional community of practitioners.

Support from the Gladue program agency in facilitating writer relationships would ensure that the onus does not fall on writers to develop these networks. Gladue programming bodies could support such initiatives by providing funding, access, and resources, ensuring that all writers, regardless of their geographical location, have access to the collective knowledge of their peers. Additionally, a COP could serve as a valuable resource for receiving feedback from writers to improve Gladue programming, with the potential of fostering relationships among various Gladue stakeholders through opportunities to collaborate. By attending to the well-being of Gladue writers, Gladue agencies can cultivate a more sustainable community of practitioners. Ultimately, these efforts would not only benefit the writers themselves, but also contribute to a more effective, ethical, and compassionate legal process, through ongoing learning and responsive programming.

The ambivalence of the Gladue promise within a colonial system often constrains its potential. However, identifying points of leverage where the promise of Gladue reports can be maximized without challenging their institutional function is crucial. Institutional support can facilitate discursive efforts towards strengthening transformative practices within the legal system. For instance, the establishment of a COP and other supportive initiatives can

significantly enhance the restorative potential of Gladue reports by fostering a collaborative environment that encourages continuous learning as well as community and relationality.

Institutional give and take can bolster the transformative promise of Gladue reports. By leveraging institutional support to implement changes such as mentorship programs, structured peer networks, and continuous professional development, it becomes possible to enhance the restorative justice goals of Gladue reports while maintaining their institutional usability.

4.3. Relationship with Institution

4.3.1. Institution and Client

A Gladue interview involves gathering sensitive information from Indigenous individuals who are in vulnerable positions awaiting their sentencing decision. Despite efforts to ease discomfort and hold space as an empathetic peer, the writer's purpose remains to "collect sensitive data" to produce an institutional document. This dynamic inherently involves a power imbalance and authority, risking the perpetuation of colonial practices of extraction and control.

In my experience working with clients, reluctance to participate has often stemmed from fears that shared information will not be remain confidential or could be misinterpreted by those unfamiliar with the cultural and historical contexts of Indigenous experiences. Turpel-Lafond (1999) highlighted that individuals might avoid participating to protect their privacy or the privacy of others. This concern is heightened when considering the potential public disclosure of sensitive information, such as gang affiliations, which could lead to judgment, discrimination, re-victimization, retaliation, and significant safety risks.

I observed institutional consideration for client confidentiality firsthand during sentencing hearings, where judges took care to protect clients' privacy by not reading Gladue reports aloud and avoiding references to specific sensitive information in open court. These

safeguarding measures communicated a recognition of the potential risks of harm and violence in disclosing trauma. This sensitivity to confidentiality may reflect the judiciary's awareness of the ethical implications of sharing personal histories in this colonial process. By respecting and acknowledging the vulnerability required for clients to share their stories, these actions suggest a responsiveness of the colonial courts in maintaining a standard of care and respect. These efforts serve as an attempt to build trust between clients and the legal system by honouring the dignity and safety of those who participate in Gladue reporting.

However, while these measures are significant, they do not fully address the broader systemic issues that contribute to the challenges faced by clients in participating in the Gladue process. For instance, confiding in someone who is essentially a stranger can offer a unique sense of safety and impartiality, as mentioned in 4.2.1, it can also be challenging to face a sudden severing of this relationship when the interview process ends. This disconnect may be difficult, potentially leaving clients feeling abandoned or vulnerable after such intimate disclosures. Recognizing this issue, several provinces and territories have implemented Gladue aftercare programming.

These initiatives, such as the Alberta post-Gladue navigators program, aims to provide ongoing support to clients throughout the entire Gladue reporting process and after their sentencing (Gladue Awareness Project: Final Report, 2020). These programs are designed to ensure that clients continue to receive the support and guidance they need, mitigating any sense of increased isolation or overwhelm that can follow the completion of the Gladue interview. By making continuous assistance available to clients, these aftercare programs can help to promote a more holistic and sustained approach to client care in the Gladue process.

4.3.2. Institution and Writer

As I walk up, it always	Sterile, cold, empty,	We sit across the
strikes me	hallways stretch endlessly,	transparent break-proof
how much these buildings	echoing footsteps,	window, etched with
look like schools.	heavy steel doors	initials and drawings.
	I wait to be buzzed	
Buzz in, buzzed through,	through,	Consent through “glass”,
Take this, sign there,	waiting to be seen.	form passed through the
a pen that bends but		small
doesn’t break.	Monitors blink.	door.
	I feel small	Voices stifled,
Through the metal	on the screen.	our connection distorted.
detector,	It strikes me how many	
searched,	people exist	I speak, he speaks, I listen.
stopped.	within these walls,	Witnessing.
Follow directions.	are confined here,	
	and yet,	During one interview,
The guards have	how empty	a client sang to me.
nicknames for the different	it is	Before he was at the
Pods.	around	Remand,
They call the mental	me.	he used to go to iHuman
health unit		Youth Society.
the “zoo”.	He arrives in an orange	It was there that he learned
	jumpsuit.	to sing and to rap,

to tell his story.		My movement is privilege.
	Leaving	
We sat together, he shared	is a ritual,	Walking away,
his story, and he sang.	retracing steps,	I carry his story,
	unbuzzing,	I write. I tell their stories.
Witnessing	unlocking,	
is a privilege.	retrieving.	

Reflecting on how to discuss my relationship with institutions as a Gladue writer, I struggled to find the words to capture my feelings and experiences within these oppressive physical spaces. Beyond the institutionalized reporting processes, it was the visceral sensations of navigating these institutional environments that stood out in my reflections and that I wanted to convey. The linear structure and genre conventions of a graduate thesis felt inadequate to appropriately express the nuanced experiences of driving up to the Edmonton Remand Centre, handing over my ID to a guard as I signed in, walking through the empty hallways with small rectangular windows to meet my client in their corresponding pod.... And so, this poem is what emerged. I share it here as a part of my thesis with the hopes that my poem is better able to communicate a more authentic experience of navigating these hegemonic institutions and my relationship to them, as well as their impact on the relationships I developed with my clients within. It is my hope, too, that this poem parallels the subversive existence of Gladue reports within the colonial legal institution, deconstructing, dismantling, and decolonizing academic and legal structures through resistance of the status quo. Just as a poem resists a singular, linear interpretation, Gladue reports subvert the conventional pathways of the colonial legal institution,

offering a form of resistance that deconstructs, dismantles, and decolonizes academic and legal structures through its very existence.

Institutional processes and spaces profoundly shape my experiences with my clients in in-custody interviews, where strict protocols, security procedures, and settler-colonial legacies dominate. These protocols, enforced within these foreboding institutions, dictate the ways in which Gladue writers are able to build relationships with their clients, operating within the constraints of institutional authority and surveillance. The act of navigating the protocols and procedures within these institutions as well as the explicit power relations between the institutions and the clients can feel antiethical to the empathetic and human-centered approach demanded of Gladue writers. We, as writers responsible for witnessing the accounts and testimonies of Indigenous offenders within these institutional settings, encounter a jarring disconnection between the system's clinical and detached mechanisms and the deeply personal narratives.

Gladue writers occupy a unique position within the prison system. They are granted access to these facilities to carry out their work due to their recognized authority and the importance of Gladue reporting in the judicial process.²⁸ While writers are sanctioned to write their report by the institution, they are also subject to its rules.

This duality of being an outsider working in the interest of the client yet being permitted within the institution is a direct confrontation with the colonial system. Writers have described

²⁸ Although granted access, many Gladue writers reported facing barriers in accessing in-custody client interviews, including being questioned, challenged, or denied access (personal communications, 2019). These obstacles highlight a persistent lack of understanding and valuing of Gladue principles—and ongoing racism towards Indigenous peoples—throughout the institutional framework and broader legal system.

the pushback they have received in signing in at security and being questioned and mistreated by guards. I have witnessed guards scoffing when I have mentioned the name of the client I was there to see. Once, while signing in at the Edmonton Young Offenders Centre where I would meet my client at a table rather than behind glass, a guard ordered me to remove my headband, declaring that it could be used to strangle me. This heightened state of vigilance when navigating institutional power relations (and their physical space) can affect a writer's mental and emotional state, as well as the ways in which we relate to our work. Such an atmosphere stands in stark contrast to the empathetic and personal approach that writers are expected to take in producing "culturally-sensitive" reports, aiming to honour the individuality and humanity of each Indigenous offender within the colonial legal system.

Nonetheless, the relational acts of Gladue writers entering these spaces, reporting systemic factors that have contributed to a client's actions, and advocating for the rights and humanity of Indigenous offenders inherently challenges colonial narratives and structures within the criminal justice system, a system that relies on maintaining power dynamics that marginalize and dehumanize Indigenous peoples. This duality—operating as sanctioned individuals within a system they are actively critiquing—represents a direct confrontation with the prevailing colonial legacies, demanding accountability and transformation from within.

The dynamics imposed by these institutional settings inform experiences of relationality, influencing the development of trust and personal connections between Gladue writers, clients, and the system itself.

4.3.3. Relationality at Its Limits

As a Gladue writer, navigating the power dynamics within the colonial system and institutional process frequently felt crushing. In this work, I experienced feelings of empathy

fatigue and emotional numbness, leading to a troubling form of coping and self-preservation where I became less empathetic and more detached. Witnessing the dehumanizing aspects of institutional procedures while being entrusted with these deeply personal stories was profoundly disheartening. The tension between being empathetic and maintaining professional detachment was palpable.

It was emotionally exhausting to balance these dual roles, leading to a sense of dissonance and guilt over my position within the Gladue framework. I struggled with the ethics of functioning as an extension of the colonial system, extracting traumatic memories from a client's past to expose them to the court that would determine their future. The process of engaging with clients, digging into their most vulnerable experiences, and then returning to my privileged life felt inauthentic, unethical, and duplicitous. After delving into clients' traumatic experiences, I could drive away, return to my comfortable home, and "turn off" the emotional weight of their stories.

Moreover, it was often logistically easier to accept files for clients who were in custody over the time-consuming process involved in attempting to reach clients living in the community. The pragmatic choice to sometimes request files for clients in custody often felt like a betrayal of the client-centered approach I strived to maintain in this role.

The fact that this work was a "side" job, complicated my feelings even more. Earning an (additional source of) income by engaging in such emotionally charged and ethically complex work added another layer to my internal grappling. While I was committed to supporting my clients, the transactional nature of the work felt at odds with the deep empathy and respect I aimed to uphold.

The duality of supporting clients while also perpetuating a system that contributed to their oppression was a constant source of internal struggle. *Was I working for good?* How could I remain accountable to the community and to my clients while working within such an oppressive system? How do I maintain my humanity and not become apathetic or complicit? These questions continuously weighed heavily on me as I navigated my role in this work.

4.4. Relational Accountability

There is little chance of disturbing relations of domination unless we consider how they structure our subject positions.

—*Sherene Razack, Looking White People in the Eye:*

Gender, Race and Culture in Courtrooms and Classrooms, 1998, p. 170

For Gladue stakeholders, especially settlers, relational accountability involves a continuous effort to honour and redress relations within this institutional framework.²⁹ This means approaching Gladue reporting and the broader colonial legal processes with a focus on working towards decolonial justice through a consciousness of our impact and actions guided by the “Indigenous cultural imperatives of truthfulness, honesty, mindfulness about community impacts” (Younging, 2018, p. 44). This process involves confronting past and present injustices, committing to actions that foster healing and reconciliation, and responding to calls from community, including implementing the TRC Calls to Action and MMIWG Calls for Justice.

²⁹ “Righting relations” refers to a concept deeply rooted in Indigenous worldviews and teachings, emphasizing the importance of living in harmony and balance with all beings, both human and non-human. It involves principles of respect, reciprocity, responsibility, and relationality. Righting relations call for honouring the interconnectedness of life and ensuring that actions contribute to the well-being and balance of the whole community, including future generations. As Leanne Betasamosake Simpson (2017) reflected, “our stories and our practices are the tools we use to nurture our relationships to each other and to the rest of creation, and they’re the keys to creating the kinds of decolonized realities that we envision” (p. 24).

Yet, to what extent can relational accountability exist without an ongoing relationship between Gladue writers and clients? Without reciprocity or relationality, the concept of relational accountability exists as an abstract principle (or empty intent) rather than a lived practice. Relational accountability involves a broader recognition of the systemic context and how our subject positions and privileges influence our interactions (Wilson, 2008). As Razack (1998) asserted, understanding how relations of domination structure our subject positions is crucial for any meaningful disturbance of these relations. This understanding compels us to be critically aware of the power dynamics that are present within our work and to strive for a praxis that is reflective and responsive to these dynamics.

In navigating the significant challenges writers face and the pervasive systemic issues at play, relational accountability guides us by reminding us of our responsibilities in this work. Gladue, as relation, recognizes the intercultural relationships between Gladue clients, writers, and all involved stakeholders. By acting as a liaison across these divides, a Gladue writer can facilitate meaningful and respectful engagement between the client and the colonial institution as a key relationship-builder, with the potential to advance more equitable and culturally responsive sentencing process.

Through comprehensive and culturally sensitive client-centered practices that prioritize relationships, the legal system can more effectively respond to the barriers to justice faced by Indigenous individuals by address the underlying factors contributing to their involvement in it. Centering relationships and intercultural understandings within Gladue reporting is a pivotal step in the process of decolonizing the justice system (Wilson & Wilson, 1998). As Ahmed (2017) voiced, “accountability involves being answerable to those whom we affect and recognizing that our actions are part of a broader social and political context” (p. 190).

In the context of Gladue reporting, this means being accountable not just to the courts or the legal system, but foremost to the clients and their communities. It requires a commitment to practices that are transparent, respectful, and attuned to the lived realities of Indigenous peoples (Wilson, 2001). While the judicial system's integration of Gladue principles offers significant affordances in recognizing and addressing the systemic disadvantages faced by Indigenous individuals, it often remains limited by a lack of deep relational accountability and intercultural sensitivity, which are crucial for truly centering Gladue as a relation.

5. CHAPTER FIVE: Gladue Report as Text/Genre: How is a Gladue Report Written?

Words are memory
a window in the present
a coming to terms with meaning
history made into now
a surge in reclaiming
the enormity of the past
a piece in the collective experience of time...

—*Jeannette C. Armstrong, Land Speaking, Speaking for the Generations:
Native Writers on Writing, 1998, p. 181*

The Gladue genre functions institutionally to illustrate the impacts of systemic oppression on an individual's criminal actions. By adhering to established standards, Gladue reports challenge traditional legal conventions, compelling the judiciary to hear and act differently. This subversion is integral to the principles of restorative justice, enabling the judiciary to engage with—and respond to—the lived realities of Indigenous people more empathetically and

responsively. However, the way the reports are produced determines if this potential can be realized.

This chapter examines key documents, including templates and sample court reports,³⁰ to identify how Gladue reports convey the unique circumstances of Indigenous offenders and promote—or limit—a more human-centered, trauma-informed, and culturally responsive judicial process.

Through an autoethnographic lens, I investigate how written form of Gladue reports influences their effectiveness and impact in applying restorative sentencing decisions. By exploring their textual and discursive features, I analyze how these reports communicate clients' circumstances within the context settler-colonial violence. This approach reveals how Gladue reports cleave open restorative and relational forms of language and evidence that challenge conventional judicial proceedings, and how institutionalized re-storying within the colonial framework both enables and constrains the restorative justice goals of Gladue reporting.

5.1. Gladue Reports as Written Documents: Textual Features

Written language adds additional complexity in transmitting Indigenous ways of knowing, given that most Indigenous cultures are oral. Even storytelling, an important research method used in Indigenous research, loses a level of meaning in the translation into written script.

—Margaret Kovach, *Emerging from the Margins:*

Indigenous Methodologies, 2005, p. 270

³⁰ I examine these documents rather than actual reports to maintain client confidentiality.

While there is no national framework or standard for Gladue reports, there are accepted reporting formats and consistent structure across most provincial and territorial jurisdictions (Barkaskas et al., 2019; Ralston, 2021). According to the Legal Services Society (LSS, 2022), a “good” Gladue report is well-written, thorough, clear, and reliable in supporting the judiciary to determine an appropriate outcome for an Indigenous offender based on principles of restorative justice. Scholars, courts, and other Gladue stakeholders agree that an effective report (in the courts’ opinion) maintains thoroughness while ensuring concision within an approximate 25-page limit. This requires the Gladue writer to make critical decisions about how to convey the client’s information, what to summarize, and what to deem relevant to highlight in the report.

The production of Gladue reports requires significant time and labor, typically taking between 25 to 60 hours over a period of six weeks to three months for completion (Boudakian, year; Clark, 2016; Cree Justice, 2015; LSS, 2012). This timeframe accounts for the labour-intensive processes involved in preparing a report, which includes coordinating and scheduling interviews, extensive research, and the crafting and review of the final report. As part of this process, writers identify, assess, and summarize relevant Gladue factors and, based on these assessments, propose restorative sentencing options to be considered.

Textual features refer to the observable elements within a text itself, including structural and linguistic components. In this section, I examine the textual features of organization, standardized formats including templates, direct quotations, citations and references, as well as various linguistic devices. These features are essential for ensuring that the report is comprehensive, clear, and coherent, aiding in the effective communication of the client’s circumstances.

While textual features are crucial for clarity and thoroughness, they can also impose constraints that limit the transformative potential of Gladue reports. The need to adhere to standardized formats and concision requirements can sometimes conflict with the goal of fully capturing the complexity of a client's life and systemic factors. Alignment with institutional expectations might disalign with the restorative justice aims by prioritizing form or the needs of the court over the nuanced representation of individual experiences. Understanding these alignments and disalignments through this analysis helps to critically assess how the textual construction of Gladue reports can both enable and limit their effectiveness in enacting restorative justice.

5.1.1. Organization

Gladue reports are structured chronologically and thematically to present key aspects of a client's background logically and comprehensively to the court. This organization enables sentencing judges to navigate the report efficiently, gaining a clear understanding of the client's life context. For writers, this structure provides a framework by which to translate and interpret clients' experiences for the court.

When drafting a report, I first identified where the information from client interviews best fit within the report's structure. This was not just about categorizing information; it involved understanding the underlying emotions and contexts of the experiences shared. For instance, a client's experiences of loss and grief may have profound and lasting emotional impacts, making this information most appropriately included in the "Emotional Health" section, even though these experiences might also be relevant to sections such as "Significant Memories or Events" or "Significant Relationships." Organizing the report content required deliberate consideration to determine the most suitable section for each detail discussed.

Developing a systematic approach to interpreting client testimonies—referred to as “puzzle-piecing”—helped streamline the drafting process. During interviews, I followed the report’s order, aligned notes with report sections, and highlighted key quotations for accuracy. This method not only ensured efficient organization but also preserved the integrity of client narratives.

This system streamlined the drafting phase, allowing me to align client experiences with appropriate sections efficiently. By doing so, I aimed to preserve the integrity and depth of the clients' stories. However, the process of “assessing” a client’s experiences and “organizing” their life into “appropriate sections” felt like an institutional exercise.

Translating lives into a written report required systematizing, consolidating, and classifying deeply personal and vulnerable experiences. I was “puzzle-piecing” information in a methodical manner that necessitated a certain level of detachment, which felt at odds with the emotional depth and significance of the accounts being told. As Kovach (2005) observed, translating Indigenous ways of knowing from oral to written form can result in a significant loss in meaning (p. 27). The institutional format of these reports diminishes some nuances and emotional subtleties inherent in oral narratives, undermining the relationality of the reports and making it difficult to honour clients and their experiences adequately.

The decisions involved in interpreting, organizing, and condensing life experiences into a brief 20-something page report raises critical discursal questions: How does translating an *oral* account into a *written* document affect the integrity and truthfulness of an individual’s experiences? What cultural nuances and emotional subtleties might be lost or altered in this process? How do power relations inherent in the settler-colonial legal system impact the way these stories are told and, consequently, how a client is understood?

5.1.2. Gladue Template

Effective presentation of information is crucial for the acceptance and legitimacy of Gladue reports. As Hyland (1999) articulated, “the way information is presented is crucial in gaining acceptance” (p.348); or, in other words, being perceived as legitimate. Consequently, Gladue writers must navigate the challenge of presenting complex and deeply personal life stories within a standardized, institutional format that meets judicial requirements.

The Gladue report template provides a structured framework for re-storying a client’s experiences. Templates vary across Canada, differing by service provider, region, and jurisdiction, although they all ensure a consistent format. This standardization facilitates the comprehensive presentation of clients’ circumstances, enhancing the reports’ efficacy by enabling judges to readily identify key information.

Central to the effectiveness of Gladue reports is readability, defined by Klare (1963) as “the ease of understanding or comprehension due to the style of writing” (p.1). This encompasses clarity, conciseness, and the use of plain language (Dubay, 2004). Clear and comprehensible reports effectively communicate client experiences, thereby aiding judicial assessments of a client’s history and circumstances. This textual feature serves to ensure that the reports fulfill their intended purpose of providing a comprehensive, contextualized portrayal of a client’s life through a readable and useful document, thereby supporting the goals and intentions of Gladue reports.

In Alberta, the Gladue report template has evolved through several iterations. Notably, recent versions have incorporated quotations from Indigenous elders, knowledge holders, and community leaders to emphasize the underlying values of the Gladue principles. For example,

the current template features a quotation from Edmund Metatawabin on the front page, emphasizing Cree concepts of justice:

There is no concept of justice in Cree culture. The nearest word is *kintohpatatin*, which loosely translates to “you’ve been listened to”. But *kintohpatatin* is richer than justice – really it means you’ve been listened to by someone compassionate and fair and your needs will be taken seriously.

—*Edmund Metatawabin, Up Ghost River*

Such quotations, which would appear on every report following the template, integrate traditional Indigenous knowledge and values into the colonial legal process, directing readers towards perspectives that have historically been marginalized. This inclusion transforms the report from a “factual” document into a more holistic document reflective of the human and cultural dimensions of implementing more equitable justice, validating Indigenous perspectives as part of judicial processes. Moreover, these quotations underscore the role of community in supporting individual rehabilitation, highlighting the significance of community-based networks of support and cultural connections.

However, the inclusion of these quotations has been contentious among Gladue writers. Some have argued that the quotations contribute to pan-Indigenizing clients, misrepresenting the unique cultural contexts of individuals by obscuring the significant diversity within Indigenous communities. For instance, a quotation from a Cree elder may not be relevant nor appropriate for an Inuk client’s Gladue report. The generalization inherent in these quotations may undermine the unique cultural contexts and personal experiences of individuals, risking the tokenization of Indigeneity and perpetuating the colonial issues that the reports seek to challenge. There are also

concerns regarding the impact on readability, with questions about whether these quotations enhance or detract from the impact of the reports.

To moderate these concerns, the PGRC permitted writers to seek client consent for the inclusion of quotations in their reports. This approach seeks to ensure that the content aligns with the clients' preferences and cultural values, exemplifying an attempt to integrate institutional relationality by engaging clients in the creation of their report.

5.1.3. Client Voice

Quotations in Gladue reports directly represent a client's voice, experiences, emotions, and perspectives, enriching the credibility and richness of the narrative. Within the context of discourse analysis, this textual feature allows clients to speak for themselves within the institutional context of a Gladue report, foregrounding clients' experiences and perspectives and contributing document's authenticity.

Qwul'sih'yah'maht (2005) highlighted the challenge of respectfully re-storying a person's accounts: "authenticity was a concern for me from the time I started. [...] I wanted to authentically tell another's story. [...] How could I ensure that it was their story in their words, not mine?" (p. 246). Direct quotations address this concern by allowing clients' own words provide personal and descriptive first-hand perspectives to be heard by the judiciary. This feature enhances the court's nuanced understanding of a client's circumstances, enabling the judiciary to make more informed sentencing decisions.

Expressive language,³¹ including affective verbs, such as "feels," "hopes," "admits," "insists," "claims," and "worries," as well as emotive descriptors, such as "struggled," "deeply

³¹ To distinguish these types of features, **affective verbs** emphasize verbs that evoke emotions or feelings; **descriptive language** focuses on detailing and describing concrete situations, events, or

impacted,” “strained relationship,” “motivated,” and “positive role model” further enriches a client’s narrative in Gladue reports. These linguistic choices contribute to a more vivid and nuanced depiction of clients’ emotional and aspirational experiences. The following excerpt from a moot court (fictionalized) sample report illustrates the important insights and impacts of such features:

Randa recalls feeling very angry and depressed during this time. She indicates she left the home and lived on the streets for a time saying, “I felt when I was living on the street, I did not have to put up with the violence at home... it was always so scary being there. I was afraid I would be shot in my sleep or something”. Randa admits the streets were not all that safe either. She states “you had to act tough, even if you were scared. If you showed any weakness, you would be dead.” (Alberta Justice & Solicitor General, 2021)

This excerpt demonstrates how direct quotations and affective wording can reveal a client’s emotional experience in greater depth, providing a powerful, firsthand account of their reality. Phrases such as “I felt,” “so scary,” and “I was afraid” vividly depict Randa’s fear and sense of danger, both when she was living with her family and while she was unhoused.

Such direct quotations and expressive language add emotional context to Randa’s experiences that might otherwise be lost in paraphrasing. A paraphrased version of Randa’s account would report the “facts” without capturing the intensity of her fear, the specific dangers she faced, or the emotional turmoil she described in her own words. The use of these textual features in representing client voices helps to mitigate the risk of sentencing decisions that

experiences; and **expressive language** broadly covers words and phrases that convey emotions, thoughts, and feelings.

overlook the nuanced backgrounds and extent to which systemic factors influenced clients' circumstances.³²

While the representation of client voice is crucial, writers are advised to utilize these devices judiciously to “ensure that quoting someone adds value to your summary” rather than overutilizing or over-relying on quotations to establish credibility, “demonstrate accuracy,” or ascribe “ownership” to information (Gladue Program Director, personal communication, July 26, 2019). By judiciously selecting quotations that add value to the narrative, writers maintain clarity and focus in their reports, enhancing objectivity and credibility while preserving the integrity of clients' voices.

In my experience, I struggled to be selective in my use of quotations while maintaining institutional integrity. Initially, I believed that including as much of the client's voice as possible was crucial for truthful portrayal. However, I came to understand the importance of conciseness in effectively communicating clients' stories to the court. Each quotation needed to add substantial value to help maintain the integrity and impact of the narrative. This selective approach not only preserved the emotional depth of clients' experiences but also ensured reports remained clear and focused, preventing judicial overwhelm with unnecessary details. Furthermore, this method promoted objectivity and credibility by avoiding potential bias or advocacy from the Gladue writer, thus presenting a more balanced and impartial view of the client's situation. This alignment with the goals of Gladue reporting underscores how the

³² Effectively building rapport with clients during interviews, as discussed in section 3.2, is crucial for writers to accurately convey the emotional impact of clients' experiences in Gladue reports. This rapport allows writers to deeply understand and authentically represent the client's voice.

selective use of quotations ensures a client's perspective is accurately conveyed within the formal structure of a Gladue report.

5.1.4. Evidential References and Credibility

Evidential references enhance the authenticity and credibility of Gladue reports in the eyes of the judiciary by incorporating detailed, evidence-based testimony to support the client's narrative. These references include documents, reports, or testimonies from collateral contacts that verify and corroborate key details (Ralston, 2021).

Writers are expected to research and cite source materials that expand on the social context and impacts of systemic colonialism considered by sentencing judges. In the Gladue Awareness Project, Ralston (2021) outlines that these sources may include details of a former residential schools connected to a client's family history, personal records, and any past reports. Official documents, such as school records or medical reports, and corroborative statements from other individuals or agencies, such as social workers, community leaders, or employers may be referenced.

Such documents can attest to mitigating circumstances and the personal growth of clients. For example, a statement from a client's mentor might highlight the positive contributions by the client, while medical records may detail a client's health challenges that influenced their actions. Including personal letters, like one from a client I worked with, can provide power insights and substantiate the report. In this client's letter, he acknowledged the harm caused by his actions, expressed his deep remorse, discussed the personal struggles he was facing at the time, and outlined the steps he has taken to lead a better path and heal moving forward. This letter provided powerful, personal insight into his journey and conveyed his commitment to making positive changes.

However, writers are reminded that “a Gladue report is not used as an expert report,” but rather its main purpose is to provide case-specific information (Ralston, 2021, p. 18). This distinction underscores that the role of Gladue reports is to offer a detailed and personal account rather than professional or expert analysis. Writers are instructed to avoid advocacy by not implying causation or making claims about the influence of Gladue factors on a client’s life. Instead of providing an analysis, they are meant to simply present the “facts” to enable the judiciary to “accurately draw its own conclusion[s],” thereby maintaining the report’s integrity and purpose within the legal system (JSG, 2021; R. v. Lawson, 2012, BCCA 508, para 28).

By minimizing their presence in the report, writers facilitate the transparent re-telling of a client’s story, thereby enhancing the report’s effectiveness as a resource for sentencing. For example, as outlined in a Gladue training document, a writer who explicitly states, “growing up around Gladue factor X (alcohol, violence, etc.) has led to Joe’s addiction to alcohol and use of violence on a regular basis,” is an instance of causative language, containing an opinion (LSS, 2022, p. 167). Such statements would be interpreted by the judiciary as biased, thereby impacting the reports credibility. This underscores the need for careful selection and presentation of quotations to produce an unbiased report.

By integrating community testimony provided by collateral contacts, writers provide a fuller, more nuanced, and more accurate portrayal of clients’ circumstances. This comprehensive representation ensures that judges can thoroughly consider all aspects of a client’s background in their sentencing decisions. The inclusion of community voices not only highlights the systemic colonial impacts on the client but also underscores the interconnectedness of individual experiences with broader societal issues. This community-informed approach aligns with the institutional purpose of Gladue reports, which is to provide the judiciary with culturally relevant

and contextually rich information. Furthermore, it supports the relational and restorative aims of these reports by acknowledging the importance of community context and support in the client's life, fostering a more holistic and compassionate understanding of their situation.

5.1.5. Linguistic Devices

The Gladue genre is characterized by a number of linguistic devices, utilized to maintain objectivity and neutrality. These devices pertain to how information is presented within the text itself, influencing the tone, neutrality, and the perceived objectivity of a report. Such devices include hedging, passive voice, modality, reported speech, neutral descriptive language, and attribution, serving to present factual accounts without inserting personal analysis to ensure that the reports remain neutral and credible for judicial interpretation.

Hedging devices, such as qualifiers and cautious language, are utilized to avoid implying causality or making definitive claims about systemic influences. For example, instead of asserting, "Systemic racism has influenced the client's life," a writer might state, "The client has encountered instances of discrimination, including unfair treatment by employers and law enforcement." This approach maintains a factual account without imposing interpretive analysis.

Additional key linguistic devices in Gladue reports include:

1. **Passive Voice:** This device shifts focus from the agent of an action to the action itself, maintaining a neutral tone. For instance, rather than saying, "The client suffered abuse by his foster parents," a writer might report, "Abuse was experienced by the client in foster care." This phrasing shifts the focus to the client's experience rather than attributing responsibility, thereby reducing potential bias.

2. **Modality:** Modal verbs, such as could, might, and may, introduces a level of uncertainty, avoiding definitive statements that could be perceived as subjective judgements. For example, stating “The historical impacts of colonialism...*may* have contributed to [the client’s] criminal justice involvement,” allows for judicial interpretation without asserting direct causation.
3. **Reported Speech:** Indirect speech enables writers to relay clients’ or others’ perspectives without endorsing them directly: “The client stated that he feels targeted by law enforcement,” presents the client’s viewpoint while maintaining the writer’s neutrality.
4. **Neutral Descriptive Language:** Using neutral terms instead of emotionally charged language ensures factual reporting without bias. For instance, replacing, “The client is struggling with severe unemployment,” with “The client has been unemployed for six months” or “The client has encountered multiple barriers to employment” presents factual detail without emotional “interference.”
5. **Attribution:** Clearly attributing information to its source enhances transparency and credibility. For example, stating, “According to the client’s mother, he struggled with school,” identifies the source of the information, aiding judicial assessment of its credibility and relevance.

While these linguistic devices are essential for maintaining objectivity, they can inadvertently reduce individuals’ experiences to clinical statements within the colonial structure of Gladue reports. The use of detached, objective language may influence how the judiciary perceives the severity and personal impact of reported events, potentially diminishing the urgency or gravity of clients’ experiences. This tension reflects the constraints of Gladue reports within a colonial structure, where the relationality of Gladue reporting is undermined by its

institutionalization. This tension underscores the delicate balance Gladue writers navigate between judicial objectivity and honouring the emotional and relational truths embedded in clients' narratives, serving to undermine the relationality of Gladue reporting.

Figure 3

Substitution Words for the word “states” (JSG, 2023)

Substitution Words for the word “states”:

Accepts	Acknowledges	Adds	Admits	Advises
Affirms	Agrees	Alleges	Announces	Appears
Articulates	Asserts	Believes	Characterizes	Clarifies
Comments	Communicates	Concedes	Concludes	Confides
Confirms	Contentends	Conveys	Corroborates	Describes
Declares	Denies	Depicts	Discloses	Discuss
Divulges	Emphasizes	Enunciates	Exclaims	Explains
Expresses	Feels	Finds	Hopes	Implies
Indicates	Informs	Insists	Lists	Maintains
Mentions	Notes	Observes	Persists	Points out
Proclaims	Proposes	Provides	Qualifies	Recalls
Recites	Recollects	Recounts	Regrets	Relates
Relays	Remarks	Remembers	Reports	Suggests
Says	Surmises	Tells	Verbalizes	Verifies
Volunteers				

Note. This document was provided by JSG to Gladue writers as a resource during my training in 2017. From Alberta Justice & Solicitor General.. Copyright 2017 by Alberta Justice & Solicitor General.

5.2. How are Indigenous Life Stories Told? Discursive Features

I detest writing. The process itself epitomizes the European concept of “legitimate thinking;” what is written has an importance that is denied the spoken.

— *Russell Means, On the Future of the Earth, 1980, p. 308*

This discourse and genre analysis identifies the writing conventions that translate a life story into a Gladue report. My experiences as a Gladue writer managing the discursual and genre conventions of the report offer insight into how this oral-to-written translation affects the integrity and authenticity of an individual’s experience with colonialism, influencing the transformative potential of Gladue reports.

Discursive features encompass the broader social, cultural, and communicative practices that shape the way language is used within a text (Freedman & Medway, 1994; Paré, 1993). These features are concerned with the context, purpose, and effect of the language choices made by a writer. In the context of Gladue reports, discursive features include translation, interpretation, summation, narrative choices and impact, authorial voice, neutrality, and objectivity.

A successfully conveyed Gladue report that effectively recognizes a client’s unique circumstances promotes rehabilitation over punishment; however, if a report fails to effectively communicate these aspects, this may result in sentencing decisions that overlook critical elements of the client’s life, potentially perpetuating the injustices these reports exist to address.

This section examines how Indigenous life stories are translated into written documents to be comprehensible and “useful” for the court. It delves into the complexities and nuances involved in this interpretation and translation process, including how personal accounts are crafted to present an impactful narrative to inform sentencing decisions. Understanding the

narrative features—and how writers approach them—is crucial for comprehending how clients and their experiences are conveyed in Gladue reports, and how this impacts the reports’ restorative potential. Below, I share further my experiences negotiating these conventions as I prepared Gladue reports.

5.2.1. Interpretation and Translation

Interpreting and translating individuals’ lived experiences into a Gladue report involves more than transcribing an interview. This process requires transforming personal experiences shared orally into a structured, formalized, and edited written narrative that adheres to legal standards. For writers, this means accurately depicting essential information while operating effectively within the formal context of the legal system.

Clients entrust a Gladue writer to truthfully and respectfully represent their experiences and perspectives. Misinterpretations or a failure to appropriately capture their voice could lead clients to feeling misrepresented and disempowered. In a system that continues to disenfranchise Indigenous individuals, this process can further impact clients’ perception of—and relationship to—the justice system, potentially causing additional trauma and harm.

Conveying individuals’ life stories through Gladue reports involves negotiating between fundamentally different cultural epistemologies and the genre of institutional reporting. As Kovach (2005) articulated: “Indigenous epistemology is fluid, non-linear, and relational. Knowledge is transmitted through stories that shape shift in relation to the wisdom of the storyteller at the time of the telling” (p. 27). The fluid nature of Indigenous knowledges contrasts with the structured, linear, and rigid format required by written legal documents. Accordingly, Gladue writers are responsible for “criss-crossing cultural epistemologies” in the translation of a life history, an oral narrative, into a written document (Kovach, 2005, p. 27).

The role of the Gladue writer extends beyond documentation; it involves conveying the emotional, cultural, and systemic significance of clients' experiences in a format acceptable to legal professionals. This demands a deep, relational understanding of a client's background, cultural context, and the systemic factors that have shaped their life to honour the client's voice within institutional processes, ensuring their narrative is truthfully represented and respectfully heard.

Furthermore, this process involves ethical considerations about how to represent difficult experiences accurately and sensitively. Gladue writers must decide how to include, omit, paraphrase, summarize, or directly quote the client's words, each choice impacting how a story is understood and acted upon by the court. This represents the central tension inherent in Gladue reporting: respecting the relationality of clients' narratives while navigating the limitations of institutional frameworks.

5.2.2. Summarizing

How can a person's life story be summarized in twenty-five pages? This process requires writers to accurately and sensitively convey clients' life history while also adhering to institutional standards. As a Gladue writer, I grappled with the responsibility of condensing client's lifetime of experiences into a concise document. Each decision—whether to include, omit, paraphrase, summarize, directly quote, or elaborate—significantly shapes the portrayal of an individual which can influence judicial decisions.

Balancing thoroughness with brevity was complex and often overwhelming. Reports must be succinct enough for swift judicial comprehension while preserving the integrity and depth of clients' experiences. Distilling detailed accounts into these reports without sacrificing the nuance of clients' experiences was a substantial responsibility.

With my meticulous interview notes, I aimed to document every pertinent detail to ensure no important information was missed, driven by a commitment to faithfully represent the client. The challenge lay in determining what information to include and how best to articulate it within the 25-page limit, ensuring that no nuance was lost and no crucial information was overlooked.

Gladue writers must thoughtfully assess what details are essential for the judiciary to know. Crafting these personal narratives demands sensitivity to avoid exploiting clients' vulnerabilities. For example, when reporting on clients' experiences with Gladue factors, I deliberated on what details to share and to what extent. This often involved summarizing challenging circumstances to maintain clients' privacy while still conveying their impact to the court.

Translating a client's personal circumstances into a Gladue report is not merely procedural; it is a process of honouring an individual's life journey and affirming their humanity. Every detail, from family history to cultural connections, provides crucial context and insight that can influence judicial outcomes. Balancing thoroughness with conciseness requires careful consideration to meet institutional requirements while respecting clients' dignity.

5.2.3. Narrative Choices and Re-storying

The crafting of a client's narrative is a fundamental discursive process that reflects the promises and limitations of Gladue reporting. Narrative serves as a critical framework, facilitating the interpretation and translation of a client's experiences for legal scrutiny. Gladue reports are a form of re-storying, wherein the narrative structure interweaves testimony, details, quotes, and other elements into a cohesive document, presenting a comprehensible account for judicial consideration.

In presenting clients' experiences as life stories, Gladue reports "humanize" individuals by broadening a judge's perception of an offender beyond "a name, docket number, and list of charges" (Provincial Court Judge, personal communication, 2018). The narrative approach of Gladue reports weaves together personal anecdotes, familial relationships, and cultural background to create "windows" into a client's life, framing their experiences within "a structure through which personal and communal histories can be articulated and understood" (Khan et al., 2021, p. 98-99). These windows provide insight into the correlative nature of trauma and criminal activity, communicating the profound impacts of loss, isolation, and systemic racism, and the interconnectedness of personal experiences and broader socio-political realities. This contextualized personalization of the Gladue genre challenges simplistic or stigmatizing views of criminality, and responsabilizes the court to act on these factors within their sentencing decisions, prioritizing healing and rehabilitation rather than punitive measures.

This narrative framework is considered culturally responsive, as storytelling holds significant importance in many Indigenous cultures. However, just as Barlow (2023) questioned, I too grappled with the ethics of the Gladue re-storying process within this carceral context. I wondered whether the term "story" implied a sense of trivialization or subjective truth, which could diminish the gravity and reality of the clients' experiences in the genre conventions of the colonial legal system. Moreover, while the narrative approach aims to humanize clients and make the Gladue process feel less "institutional," it also risks inserting Indigenous values within a colonial system that is fundamentally at odds with those values. This paradox felt particularly evident in interviews, where the process often felt like excavating a client's trauma to be exhibited to the court. I struggled with how Gladue reporting inadvertently replicates the very systemic harms it seeks to mitigate by requiring clients to discuss deeply personal experiences

within a legal framework notorious for failing to fully respect or understand Indigenous lives.

Ultimately, Gladue reports are standardized documents designed as a tool for judicial processes.

Yet, Gladue reports (intend to) tell Indigenous life stories in a way that is hearable by the judiciary while also being comprehensible to the clients themselves. This dual audience represents an intercultural responsibility, as writers must navigate the intricacies of legal requirements while ensuring communication that resonates with clients. This involves conveying clients' stories in ways that affirm their presence and perspectives within the judicial process, which has historically been alienating and disempowering. In several sentencing hearings I attended, I witnessed clients becoming alienated, as members of the court—lawyers, the judge—spoke in legal terms that were difficult to understand and follow. Legal discourse can further isolate individuals from the sentencing process, exacerbating feelings of powerlessness.

The design of Gladue reports inherently helps bridge this gap. Rather than employing legalese, these reports utilize more personal language and are structured within a familiar narrative format. Recognizable features of storytelling, such as coherent structure, chronological progression, and detailed personal accounts, are present within a Gladue report, facilitating a more accessible and relatable means by which clients can understand and engage with the narratives constructed about their own lives. Through the familiarity of a narrative format, Gladue reports enhance accessibility to the legal process, enabling individuals to feel accurately represented and respected within a system that often marginalizes them.

During interviews, I emphasized to clients that the reports were *their* stories and that, while this was a vulnerable process, the information they shared would be essential in informing the judge's sentencing decision. In my writing process, I was committed to honouring them in my translation of their experiences. As their translator responsible for ensuring they would be

understood by the courts, where critical decisions impacting their lives would be made, re-storying felt most authentic when I told clients' stories in their own words as much as possible.

5.2.4. Neutrality and Objectivity

Gladue reports have faced scrutiny regarding their reliability in informing sentencing decisions due to their distinctive inclusion of firsthand client accounts and personal narratives. The Department of Justice (2019) found that “some courts were more hesitant in using Gladue reports” because of “the characterization of offenders as ‘clients,’ placing the Gladue writer in a sympathetic role rather than an objective one” (p. 167). Additionally, as mentioned in 5.2.3., presenting these reports as “stories” can imply subjectivity. These perceptions can lead to courts underutilizing Gladue reports and, as such, these concerns underscore the necessity of maintaining a neutral and “unbiased” tone in reporting.

Gladue reports must be perceived by the judiciary as a professional, researched, comprehensive, and accurate document that reliably presents a client’s background and the systemic factors affecting their circumstances. For Gladue writers, this involves withholding personal bias, advocacy, and emotional influence in their report writing (R. v. Lawson, 2012, BCCA 508, para 28). By maintaining an objective tone and minimizing their presence, writers contribute to the perception of their reports as credible tools for informing sentencing decisions.

In line with Paré’s (1993) insights on genre and professional identity, the professional tone and style of Gladue reports aim to project “the professional persona of institutional genres,” creating an “impression of objectivity and impersonal professionalism” that appears impartial and reliable in the eyes of the judiciary (p. 65). This approach aligns with judicial expectations and the report’s role within the legal framework, guiding the court to an understanding that is both informed about a client’s circumstances and responsive to the complexities of their

background. When sharing their experiences during interviews, clients frequently use non-linear, fragmented narratives and colloquial language. However, Gladue reports are written in a formal, impartial tone to maintain credibility among the judiciary, with writers employing various linguistic devices to ensure the accurate and objective representation of a client's experiences. These devices are integral to preserving the reliability of the reports for the courts, allowing the judiciary to make informed decisions without the influence of unwarranted interpretations or biases.

5.2.5. Erasure of Authorial Voice

Erasure of authorial voice in Gladue reports refers to the deliberate minimization or omission of a writer's personal influence, aimed at presenting an unbiased and impartial account. This approach strives for neutrality but can conflict with authentically portraying clients' experiences. This erasure can obscure the relational dynamics that are integral to the Gladue process, potentially undermining the goal of providing a comprehensive account of clients' experiences.

The relationality in Gladue reporting is essential for understanding clients within their social and cultural contexts. Reducing the writer's role to mere translation overlooks the depth of engagement required to represent these experiences. This projection of writers as only translators implies an illusion of objectivity that is difficult to achieve within such a relation-centered framework. While avoiding advocacy is important, it is also essential to recognize that complete objectivity may not be feasible, especially given that institutional practices of objectivity often fail to fully account for the relational aspects of Gladue reporting. This highlights a disalignment within the Gladue process.

Despite the use third-person narration, writers' choices and decisions subtly shape how the judiciary perceives a client. This discursive feature highlights how a writer's influence, choices, and decisions shape the Gladue narrative to convey neutrality, relating to how client information is presented and interpreted by the court. Writers negotiate how to convey clients' emotions and experiential truths while maintaining judicial objectivity. As Hyland (1999) noted, the choice of reporting verbs reflects a writer's position on reported information, signaling the writer's assurance, neutrality, or distance from the information presented. Phrases such as "Randa reports" or "Cole informs" distance the writer from making absolute statements. This aligns with the need for judicial objectivity, but often felt at odds with the need to integrate expressive language that properly represented the client's position.

The selection of reporting verbs also reflects a writer's assessment of the evidential status of information (Hyland, 1999). For instance, using "notes" in "The client's career counselor notes they have been attending meetings regularly" presents the information as an observation, conveying a sense of neutrality and factual reporting. This choice of verb avoids asserting the information as definitive or opinion-based, thereby maintaining the credibility and objectivity of the report. This evaluative, positional function of reporting verbs adds an additional layer of complexity to the writing process.

Gladue writers must build trust and empathy with clients to accurately capture their stories while maintaining objectivity to ensure the report's credibility. Balancing empathy and neutrality was a continual struggle in my experience. The need to represent clients authentically often conflicts with maintaining a neutral tone. Distancing language, such as "the client claims," can undermine a client's experiential truths. This tension exposes how the judicial framework prioritizes objectivity over the subjective and relational aspects of Indigenous re-storying. Thus,

while these discursive features serve important institutional functions, they also present critical challenges and limitations in honouring the intent of Gladue reporting is upheld and the integral relational elements are honoured.

In navigating these challenges, I often felt a tension between the objective tone required by the judiciary and the relational dynamics inherent in Gladue reporting. The need to present a neutral and detached account can sometimes obscure the relational and subjective aspects of the client's narrative, which are critical for understanding their experiences within their social and cultural contexts. This reflects a further disalignment within the Gladue process, where the colonial framework demands objectivity and detachment, often at the expense of the emotional and relational truth of the client's story.

5.3. Analysis of Sample Gladue Reports

The construction of a Gladue report is a highly individualized process, shaped by the unique perspectives, experiences, and interpretations of the writers. Each writer brings their own approach to crafting a Gladue report, influencing the narrative and focus to effectively and respectfully portray a client and their experiences.

The previous sections in this chapter highlighted the distinct textual and discursive features of the Gladue genre, applied to enhance the credibility and usability of the reports in the telling of a person's story. This section explores how different writers employ these tools in varied ways and how their personal approaches may affect the court's understanding of a client through a comparative analysis. To illustrate these differences, I compared excerpts from two moot court (fictionalized) sample reports shared with writers as training resources. This analysis focuses on how each writer approached the reporting of their clients' experiences with substance use and treatment, highlighting their individualized approaches.

5.3.1. Excerpts from Report #1: Randa

Randa informed the writer her first experience with alcohol was at the age of 8 years old. She states at that time, her mother always had friends over to play cards, drink, smoke marijuana and listen to loud music. Randa cites, “One morning after my mom had a bunch of friends over, I woke up and walked out of my room. When I entered the kitchen, there were alcohol bottles everywhere, some empty, some half full. I remember seeing a clear glass bottle with some pink liquid in it... I remember thinking yum... that looks like pink lemonade. I took the bottle off the kitchen table and guzzled it back.”

[...] Randa indicates by the time she was 13, she was consuming alcohol on a regular basis and began using some street drugs. She reports by the age of 15, she had experimented with marijuana, methamphetamine, and cocaine. Randa admits she continues to struggle with her alcohol addiction adding she would like to attend a residential treatment facility.

In Randa’s report, the writer begins with a vivid anecdote from Randa’s early childhood, including a direct quotation detailing her first experience with alcohol. This provides insight into Randa’s early exposure to substance use. The writer also employs several linguistic devices to maintain neutrality and objectivity. Hedging is evident in phrases like “Randa indicates” and “Randa reports,” which distance the writer from making absolute statements, presenting the information as relayed by the client.

The use of reported speech, as seen in “Randa cites,” enables the writer to maintain distance from the claims made by Randa. Affective verbs, such as “Randa admits,” implies a client’s recognition or responsibility while allowing the writer to maintain an objective tone as

the reporter of the information. Additionally, neutral descriptive language and author self-erasure, like “Randa informed the writer her first experience with alcohol was at the age of 8 years old,” presents facts without emotional bias.

5.3.2. Excerpts from Report #2: Cole Pine

Cole reports many members of his family and community abuse alcohol and drugs. Jennifer confirms substance abuse is an issue on the reserve and adds she is “happy [Cole] is in jail because everybody here is overdosing”.

Cole reports he started drinking when he was twelve or thirteen years old. He recalls his Uncle Buddy “left boxes of beers out.” Cole says he would “chill out at this place where there were old cars and drink”. He recalls his uncle would become angry when his beer was gone.

Cole reports his last use of any drug was prior to his arrest in 2018 and he has been “clean” since then. He states he has a prescription for suboxone and receives this drug in the Remand Centre to help with his cravings.

This writer introduces Cole’s experiences with substance use by contextualizing these experiences within the broader systemic issues affecting his community, specifically identifying substance abuse on Cole’s reserve. Hedging is evident in such phrases as “Cole reports” and “He states,” which attribute information directly to the client. These reported speech markers maintain objectivity by distancing the writer from direct assertion.

The use of “confirms” in “Jennifer confirms substance abuse is an issue on [the client’s] reserve” attributes the information to an evidential source, emphasizing this information as corroborative evidence, which serves to enhance a report’s reliability and credibility.

5.3.3. Discussion

In this discourse analysis of two moot court excerpts, I explored the nuanced interplay between conventional legal frameworks and the transformative potential inherent in Gladue reports. The excerpts from Randa and Cole's moot Gladue reports highlight the issues and challenges that writers navigate in balancing the oral storytelling and relationality of re-storying within the legal system's expectations of a written report. This analysis underscores both "alignments" and "disalignments," depicting the compromises, opportunities, potential and constraints in negotiating the systemic narrative complexities of Gladue reporting.

In both excerpts, the writers navigate the tension between neutrality and advocacy, objectivity and empathy, institutionality and relationality. Aligning with legal conventions ensures that the reports are accepted and useable within the court system. The inclusion of personal anecdotes, direct quotations, and expressive language in the crafting of these reports serve to honour a client's voice while presenting critical details and contextualized information necessary in order for judges to consider opportunities for restorative justice.

These excerpts exemplify the promises and problems inherent in Gladue reporting. The promise lies in the potential for a more humanizing and comprehensive understanding of the client's life, which could lead to more appropriate and just outcomes. Re-storying can be an empowering process for the clients, allowing them to have their voices heard and their experiences validated. This process can uncover and highlight the systemic issues and personal circumstances that have influenced their lives, providing access to supports and programming to address these challenges.

However, the challenge lies in the systematization of the reporting process. Gladue reports must adhere to legal standards and institutional constraints, which dictate how these

stories can be told. This often requires the use of detached and neutral language to maintain objectivity and credibility within the court system. Consequently, there is a risk of neutralizing the client's voice through overly distant language, potentially undermining the emotive power and personal agency of the narratives. The systematization of the reporting process functions to erase or minimize the relational aspects of the Gladue process, which is central to its transformative power. The need to align with legal conventions can sometimes overshadow the transformative potential of these reports, limiting their ability to fully capture the complexity and humanity of the client's experiences.

These comparative examples underscore the dual role of Gladue reports: while they must adhere to legal conventions of neutrality, factual accuracy, non-advocacy, concise, impartial, they also challenge conventional carceral justice practices by foregrounding systemic issues and promoting restorative and transformative justice possibilities. Thus, while Gladue reports have the potential to bridge conventional legal practices with more inclusive and contextually sensitive approaches, the institutional constraints present significant challenges.

5.4. Feedback and Directions for Revision

After drafting a Gladue report, writers submit the draft to the PGRC for review. Previously, the PGRC provided feedback and requested revisions from writers as part of ongoing training and quality assurance. However, the roster system brought staffing changes that altered the feedback process, if feedback was provided at all. This shift raised concerns about the impact on the quality and consistency of the reports. This change meant that writers may find themselves navigating the revision process without the benefit of constructive feedback, potentially leading to oversights in the final reports.

Additionally, concerns have been raised regarding edits made to reports after submission without the writers' knowledge or consent. For instance, at a 2019 program meeting, an issue discussed involved phrasing changes to a report about a client's circumstances, which had prompted questions from a judge during a sentencing hearing. Such alterations of a report without a writer's knowledge or consent, undermines the integrity of the Gladue framework and raises questions about the trustworthiness of the institutional process.

This issue highlights broader concerns about power dynamics within the justice system, particularly the control and representation of Indigenous narratives. The legacy of settler colonialism in marginalizing Indigenous voices is perpetuated when such changes are made without accountability or transparency, reinforcing a pattern of erasure and subjugation.

Furthermore, clients typically do not have an opportunity to review a draft of the report before it is submitted to the court. This lack of opportunity to may intensify relational complexities around trust, representation, and autonomy. I learned from other writers to always encourage clients to request a copy of their report, advocating for themselves in this process as it ultimately represents their life story.

Issues in the feedback and revision processes reflect broader alignments and disalignments concerning the constraints and potential of Gladue reports. The potential for Gladue reports to implement more equitable sentencing processes can be compromised by systemic constraints, including lack of transparency and institutional power dynamics that continue to marginalize Indigenous voices.

5.5. Gladue as Genre: Alignments and Disalignments

Imagine how you as writers from the dominant society might turn over some of the rocks in your own garden for examination. Imagine...courageously

questioning and examining the values that allow the de-humanizing of peoples through domination...Imagine writing in honesty, free from the romantic bias about the courageous ‘pioneering spirit’ of colonialist practice and imperialist process. Imagine interpreting for us your own people’s thinking towards us, instead of interpreting for us, our thinking, our lives, our stories.

—Jeanette C. Armstrong, *The Disempowerment of First North American Native Peoples and Empowerment Through Their Writing*, 1998, p. 239-242

Jeanette Armstrong challenges us to imagine writing and discursive practices that confront, rather than perpetuate, colonialist and imperialist narratives. This call resonates deeply within the context of Gladue reporting, where the power to truth-tell through the re-storying of Indigenous narratives intersects with the limitations of institutional frameworks. The process of crafting a Gladue report involves navigating these complexities, balancing the imperative to truthfully reflect clients’ voices with the constraints imposed by legal and bureaucratic systems.

In this chapter, we examined the textual features of Gladue reports, including organization, structure, corroborative references, reporting verbs, and emotive language. We also explored discursive features, such as summarization, narrative choices, neutrality, and erasure of authorial voice. The restorative promise of these reports is sought to be fulfilled through writers’ balanced presentation of thoroughness with brevity, objectivity with empathy, narrative with evidence, and institutional functionality with relational accountability in the honouring of Indigenous individuals, knowledges, and experiences.

Analyzing Gladue reports as a distinct genre of pre-sentencing report reveals the profound impact of writers’ choices and their intricate decision-making processes in crafting client narratives. Through this assessment, we investigated how writers negotiate and manage these

features to re-story lives in the production of a useful court document. These decisions significantly shape judicial understandings, influencing clients' sentencing outcomes. Through these features, the Gladue genre presents a professional yet personalized legal report that disrupts conventional judicial procedures through the assertion of relational dynamics.

Yet, the necessity of features like authorial erasure and the polished curation of client voice can undermine the restorative and relational intentions of the reports, diminishing the authenticity and depth of Indigenous voices within Gladue reports. As Kovach (2009) highlighted, the translation and interpretation of oral personal narratives into written documents loses significant meaning. Within the Gladue framework, this discrepancy between intention and impact may compromise the authenticity and depth of Indigenous voices within the reports. Consequently, such compromises have the potential to reinforce rather than challenge dominant legal frameworks, thus perpetuating historical injustices. These disalignments underscore the tension between institutional requirements and the aspiration for more equitable justice through sentencing decisions.

6. CHAPTER SIX: Re-envisioning Justice

Emerging patterns in Gladue courts indicate that contextualized Aboriginal knowledges are giving rise to new legal arguments and practices that are shifting conventional legal evidence, arguments, and sentencing outcomes.

*—Paula Maurutto & Kelly Hannah-Moffat, Aboriginal Knowledges
in Specialized Courts: Emerging Practices in Gladue Courts, 2016, p. 468*

In this final chapter, I offer a reflective account of client sentencing hearings, as well as a brief discussion of the central learnings gained through this project. Drawing parallels between the writing of this thesis and the writing of a Gladue report, I share reflections about the

deliberate choices writers navigate in preparing narrative-based institutional documents. Finally, I discuss the concept of re-envisioning justice as a guiding principle for future pathways and continued advocacy. This chapter aims to synthesize key themes and findings, advocating for continued improvements in the preparation and utilization of Gladue reports to better serve Indigenous clients and promote systemic change.

6.1. Sentencing

Sentencing hearings are public proceedings. As such, Gladue writers may choose to attend their clients' hearings to observe how their reports are utilized and applied in the legal process, as well as to provide additional support for their clients.

Attending a client's sentencing provides writers with the opportunity to witness firsthand how the judiciary is informed by a Gladue report and, subsequently, how the report may influence sentencing decisions. This experience can offer valuable insights into the impact of a Gladue writer's work. Being present at clients' sentencing hearings also allows writers to be as a familiar presence for clients in what can be an intimidating, institutional setting.

Writers in Alberta are not expected by Alberta Justice to attend sentencing proceedings, nor are they compensated for this time if they do decide to attend. However, in my experience, I found it valuable to witness how Gladue reports were integrated into court proceedings, if at all. Moreover, attending these hearings offered a sense of closure in working with each client. It felt important to me to understand the outcome of a client's sentencing and to see the culmination of the relational efforts that went into creating the report. This presence reinforces the relational aspect of Gladue reporting, emphasizing a writer's care and investment in seeing their client's journey through to their next steps.

6.2. Central Learnings

The step of presenting counternarratives to the colonial story is a step towards re-storying the history of Canada and truth-telling; however, how do we move beyond a confronting to an interrupting of the structures that perpetuate and sustain settler consciousness.

— Lynne Davis *et al*, *Complicated Pathways: Settler Canadians Learning to Reframe Themselves and Their Relationships with Indigenous Peoples*, 2016, p. 4

Gladue reports serve as socially-situated documents that guide the judiciary's understandings and decision-making processes, orienting them within a wider social and historical context. They are bound by and responsive to the conventions of the legal *and* Indigenous knowledge-making communities, making them a social act that reflects intercultural dynamics. Through this interculturality, Gladue reports compel courts to understand Indigenous offenders beyond their convictions by linking colonialism to criminality promoting a more human-centered and trauma-informed judicial process.

The restorative potential of Gladue reports is evident in their capacity to challenge carceral norms and expose colonial injustices to implement sentencing decisions that address systemic barriers. However, there exist disalignments between Gladue's aspirational goals and practical constraints.

Throughout this project, I have explored how Gladue reports are prepared through *institutional*, *relational*, and *genre* processes. In analyzing these processes, I aimed to respond to the gap in knowledge about the efficacy of Gladue reporting. A discourse analysis through an autoethnographic lens has enabled me to share firsthand reflections and nuanced perspectives on

the role of Gladue writers as translators between Indigenous clients and the colonial court system. These insights shed light on the experiences, challenges, and decision-making processes of Gladue writers, as well as the methods through which these essential documents are produced.

As discussed, the validation of institutional recognition through the process of re-storying, as experienced by Gladue clients, can be humanizing and empowering. However, the potential for the Gladue reporting process to be a positive experience can be undermined by the institutional constraints; particularly processes that restrict experiences of relationality and connection. We saw this in the assignment of Gladue clients to writers, with efficiency being prioritized over a person-centered approach, and training of writers, with the preference to be a centralized model rather than a community-oriented approach. This undermining of relationality was evident again in the discursive feature of erasure of authorial voice. Here, we saw how the use of distancing and detached language to uphold objectivity and credibility conflicts with a writer's role as an "empathetic peer" and the importance of building trust and rapport in eliciting a client's life story.

And yet, we observed alignments where the Gladue reporting process supported restorative approaches to conventional legal proceedings by making Indigenous life stories hearable to the court. These alignments, including Gladue reports' distinct narrative approach to PSRs, not only challenge the dehumanizing aspects of the criminal justice system but also underscore the accountability and responsibility of the legal system to address systemic injustices. The emphasis on individualized narratives and the holistic, contextualized portrayal of clients' backgrounds in line with community-based sentencing options further align with restorative justice principles. Furthermore, the value placed on collateral contacts within the Gladue framework highlights the institutional acknowledgement of the importance of community

in a person's rehabilitation and healing journey. Additionally, the focus on cultural context and historical trauma in the reports aligns with efforts to promote cultural sensitivity, understanding, and responsiveness within legal proceedings.

In examining the processes involved in Gladue reporting, it has become evident that these processes, features, and functions can be leveraged to access and enhance the frameworks' restorative potential. By strategically leveraging these processes through highlighting institutional accountability and promoting systemic responsibility, the Gladue program cleaves open conventional legal frameworks so more equitable, relational, and human-centered approaches may be integrated, understood, and attended to.

Overall, this analysis revealed significant alignments and disalignments between the restorative potential of Gladue reports and their institutional constraints. These intercultural dynamics illuminate the intricate balance Gladue writers must maintain to ensure they are both honouring clients and complying with Western-centric legal standards, ultimately revealing the challenging yet crucial role they play in advocating for justice within a colonial legal framework.

6.3. Reflections and Parallels

This happened to me. This is how I—in this place, at this time—make sense of what took place. This is how power, privilege, marginalization, inequality, and oppression operate on/in/alongside me in these particular contexts. As a result of this [autoethnographic] exploration, this is how I might live differently.

—Tony E. Adams, Robin M. Boylorn, & Lisa M. Tillmann,
Righting and Writing (For) Our Lives, 2021, p. 3

Reflecting on the dual experiences of being a Gladue writer and a graduate student through this project has revealed parallels in the acts of preparing narrative-based “reports”

within institutional frameworks. Both roles have involved “writing lives”³³ in the act of re-storying. And these narratives, while deeply personal and culturally embedded, must also adhere to strict guidelines and evidential standards, highlighting the delicate balance between narrative integrity and legal utility.

As a Gladue writer, the practice of truth-telling through personalized narratives challenges the impersonal—and inhumane—nature of the legal system, presenting an individual's life story with depth and humanity. This approach to sentencing involves a more honest portrayal of the systemic inequities and intergenerational traumas that shape an individual's experience within the legal system, demanding a responsive sentencing process that acts on the realities of lives impacted by settler colonial violence. This distinct genre of pre-sentencing reports subverts traditional legal documentation by highlighting the importance of context and the systemic factors influencing an individual's circumstances.

In my own way, as a graduate student utilizing autoethnography in this project, I consciously and purposefully approached my analysis in a way that challenges the institutional genre of a Master's thesis by integrating personal experiences, poetry, and reflexivity. Autoethnography, as a form of storytelling, disrupts conventional academic research, fostering a more human-centered and relatable form of knowledge sharing.

In both roles, there is an adherence to institutional processes and writing conventions, yet there remains a subversion of the “typical” way of doing things. Both Gladue reporting and

³³ The concept of “writing lives” is typically attributed to scholars in the fields of autoethnography and narrative inquiry. Carolyn Ellis is a notable scholar associated with this concept who has extensively explored the use of personal narrative and storytelling in qualitative research. Her work emphasizes the importance of telling and writing lives as a way to make sense of personal and social experiences within broader cultural contexts (Adams et. al, 2021).

autoethnographic writing conform to specific formal requirements necessary for engagement with institutional systems, while simultaneously expanding these frameworks by integrating personal and contextual narratives that are frequently marginalized or disregarded. This dual approach highlights the importance of navigating, negotiating, and challenging institutional boundaries to create space for more inclusive and humane storytelling practices.

Both processes involve significant response-abilities, requiring a conscientious engagement with the narratives being told. In Gladue reporting, this means not only accurately representing the client's experiences but also acknowledging the settler accountabilities inherent in the process. It involves a recognition of the colonial legacy that continues to impact Indigenous lives and the role of Gladue writers in addressing these injustices through compassionate and truthful storytelling.

Writing this thesis has illuminated the similarities between constructing a Gladue report and crafting an academic document. Both involve the meticulous "puzzle-piecing" of information, organizing essential content in a way that is concise yet comprehensive and impactful. This reflection underscores that both genres operate within colonial institutions, imposing rigid structures on how information should be presented. However, by incorporating personal narratives and subjective experiences, both approaches challenge these structures, emphasizing the significance of context and individuality.

The act of re-storying in both Gladue reporting and autoethnographic writing serves as a powerful tool for truth-telling, enabling the inclusion of voices and experiences that are often marginalized. This method not only disrupts the status quo but also fosters deeper connections and mutual understanding. Through compassionate acts of listening, hearing, and witnessing,

storytelling becomes a transformative practice, building bridges of understanding and promoting a more inclusive and humane approach to both legal and academic practices.

In the writing of this project, the intersection of these roles has underscored the potential of narrative to convey information, evoke empathy, and drive meaningful change within institutional settings. Embracing personalized storytelling as a legitimate and impactful method of communication challenges accepted norms and highlights the importance of “writing lives” with integrity and accountability. This reaffirms the necessity of engaging in truth-telling and to promote justice and understanding through narrative while calling for more ethical relationality.

6.4. Re-Envisioning Justice

When you take away the punctuation

He says of

Lines lifted from the documents about

Military-occupied land

Its acreage and location

You take away its finality

Opening the possibility of other futures

—Craig Santos Perez, *from unincorporated territory [åmot]*, 2023, p.x

Settler colonialism’s historical disruption of Indigenous relationships, land, and sovereignty underpins the overrepresentation of Indigenous peoples in prisons. Redressing this crisis requires efforts beyond implementing Gladue principles and any amendments to colonial policy; it demands a dismantling of the systems that maintain barriers and biases, that continue to perpetuate the ongoing disenfranchisement of Indigenous peoples. Ways forward must involve re-envisioning justice.

An anti-colonial framework centers Indigenous ideology to inform and critique issues of colonialism, colonial relations, and colonized consciousness (Lyiscott et al., 2018). Dei and Asgharzadeh (2001) described anti-colonialism as an interrogation of the power dynamics that are entrenched in societal beliefs, cultural relations, historical knowledge, as well as “our understanding of Indigeneity, pursuit of agency, resistance, and subjective politics” (p. 300). Anthony (2013) challenged the notion that Indigenous justice is possible within the current legal system, arguing that to recognize historical circumstances, as is the case in Gladue reports, the power of the colonizer is upheld: “where leniency is provided to Indigenous offenders because of their low socio-economic status, cultural practices or laws, it works within the neo-colonial legal framework rather than challenges it” (p. 9). Therefore, an anti-colonial approach is necessary to honour the Indigenous principles of Gladue reports while continuing to challenge the colonial practices in which the justice system is entrenched.

While decolonial efforts to re-imagine liberation outside of the “assimilative reformism of the liberal recognition approach” are necessary (Coulthard, 2014, p. 154), it is critical to simultaneously improve current Gladue practices as they currently exist to minimize harm and support meaningful healing for Indigenous clients (Boudakian, 2015). Responsible approaches to – and operationalization of – Gladue reports are critical for transformative justice to occur. Centering settler colonialism at the forefront of analysis involves decolonial approaches to justice (Glenn, 2023), empowering Indigenous communities and holding non-Indigenous actors accountable for our roles in perpetuating colonial injustices. As Barlow (2023) asserted, “Gladue programs and materials cannot be remedied (only) through the ‘inclusion’ of Indigenous perspectives in current colonial structures; instead, a wholesale systemic change is required” (p. 97).

6.4.1. Ethical Relationality

For settlers to practice ethical relationality, non-Indigenous individuals and institutions must recognize their role in perpetuating colonial injustices and actively working towards decolonization and justice reform. As Friedland (2019) voiced, “we need serious and sustained engagement with Indigenous legal traditions. We non-Indigenous people need to listen better” (p. 272) and act in good relation. This involves reckoning with the ways “Indigenized” programs and initiatives may integrate Indigenous knowledges, but remain limited by their colonial contexts. As Barlow (2023) asserted, “failing to uphold these [relational] responsibilities continues to be a considerable barrier to successfully implementing Gladue programs—and by successful, I mean seeing any reduction in Indigenous incarceration” (p. 92).

6.5. Future Work, Possibilities, and Critical Hope

Focusing solely on legal rights and obligations is insufficient to address grievances that are rooted in history but continue in the present.

—Paulette Regan, *Unsettling the Settler Within: Indian Residential Schools, Truth-Telling and Reconciliation in Canada*, 2015, p. 44

It is my hope that with the development of greater knowledge on Gladue reports, the potential for Gladue principles to be more appropriately and consistently applied in sentencing decisions can achieve greater justice for Indigenous individuals. As a writer, I am hopeful that improvement to Gladue reports can contribute to greater justice for Indigenous peoples in honouring their life experiences and ensuring their stories are shared in a safe, compassionate way in support of healing and community connection.

Further analysis into the ethics of Gladue reporting has the potential to enhance the experience for participants within the Gladue program, better support the effectiveness,

longevity, and integrity of Gladue report writers, and lead to greater justice for Indigenous individuals. Confronting the institutional role in supporting this work by addressing disalignments and broadening these constraints is essential for realizing the restorative justice aims of Gladue reports to ultimately ensure that they serve their intended purpose in bringing about greater, more equitable justice.

I am inspired by current research, and hopeful that future work, will continue to examine the ethics and settler responsibilities in Gladue reporting to ensure respectful and relational approaches to re-storying and truth-telling, and that this work might involve collaborative engagement with program stakeholders across their various roles to strengthen the Gladue reporting community.

As our collective understanding of Gladue reporting processes expands and deepens, I hope that there will be a more informed and respectful application of Gladue principles in sentencing decisions to support community-building, relational solidarities, transformative justice, healing, and liberation.

It is with critical hope that I look to a decolonial future involving ethical, respectful, just, liberatory relations. This critical hope inspires possibilities for a future where Gladue reports not only fulfill their intended purpose but also drive meaningful change within—and outside of—these systems.

I extend my heartfelt gratitude to you, the reader, for your time and engagement. I return to Sium and Ritskes's (2013) words shared at the beginning of this project as I invite you to carry the learnings and reflections beyond these pages: may these learnings “go beyond the moment of reading, beyond the intellectualization and mental response, to challenge your heart and feet to

action” (p. VIII). Thank you for joining me on this journey, and may it inspire ongoing reflection and meaningful action. hiy hiy.

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