Inside:

- **What Restorative Justice is**
- **All Restorative Justice questions answered**
- **History of Restorative Justice**
- **How Restorative Justice works.**
- **What the Restorative Process through T.I. looks like.**
- **Contact information for the Pisiksik Justice Department.**

Tungasuvvingat Inuit

Restorative Justice Primer

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Table of Contents

What is Restorative Justice & what are its goals?.....3-4

History of Restorative Justice.....5-6

Staggering rates of Indigenous offenders in prison.....7

Restorative Justice eligibility.....8

How is Restorative Justice different than the traditional system?.....9

When/how can a person access the Restorative Justice Program?.....10

What do the police and courts need in order to apply Diversion through Restorative Justice?.....11

What does the Restorative Process look like through T.I.?.....12-13

Who can help me through the court and restorative process?.....13

Gladue contact, duty counsel, legal aid.....14-15

References/Statistics.....15

Tungasuvvingat Inuit

***For the purposes of this report and organization, the term *Aboriginal, Indigenous* or *First Nations* will refer specifically to the rights of Inuit clients unless stated otherwise.**

Section 718.2(e) of the Criminal Code of Canada states:

718.2 *A court that imposes a sentence shall also take into consideration the following principle(s):*

(e) *all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.*

Gladue established that section 718.2(e) applies to all aboriginal people wherever they reside: on- or off-reserve, in a large city or a rural area.

Section 717(1) of the Criminal Code of Canada states:

Alternative measures may be used to deal with a person alleged to have committed an offence only if it is not inconsistent with the protection of society …

What Is Restorative Justice?

Restorative Justice ensures that Indigenous person(s) who caused harm (offenders) have the opportunity to exercise their rights under **Section 718.2(e) of the Criminal Code of Canada.**

The premise behind the provision is for the Criminal Justice system to find alternatives to punitive sentencing of Indigenous person(s) who caused harm. This is to mitigate the astronomically high incarceration rates of Indigenous peoples incarcerated and to reduce recidivism rates.

Restorative Justice (RJ) focuses on the person that has committed an offence taking accountability for their actions. This is done through working towards healing with the person(s) harmed (victim(s)) of the offence and the community as a whole.

The benefits of a RJ program are that it offers people that have offended the opportunity to gain understanding, accept responsibility for their actions, understand the harm caused, hear how their behaviour affected others and participate in determining how to repair the harm.

The person(s) harmed and communities are also given equal opportunity to tell their story, be certain the person who caused harm understands the impact, find answers to questions, hold them accountable and if possible, identify what can be done to repair the harm and restore harmony to the community.

Being able to go through the Restorative Justice process is possible due to Bill C-41 sentencing amendments. The ability to consider and allow RJ practices at sentencing was established through the sentencing reforms outlined in Bill C-41, which expanded sentencing options to include such practices—by addressing the special circumstances of Indigenous person(s) who caused harm—through section 718.2(e) of the Criminal Code.

Offender/Victim Language:

RJ is focused on repairing the relationships and restoring community harmony. At TI, we choose to use people first language. We use the following terms when discussing participants in the program:

Offender: person who caused harm; person taking responsibility; service user, participant.

Victim: Person harmed, person impacted by harm/behavior, service user, participant.

8 Inuit Qaujimajatuqangit (IQ) guiding principles: Inuit "Traditional Knowledge" Values that guide behavior and living and have been known for ages. This knowledge is handed down through intergenerational relationships and teachings traditionally.

Goals of Restorative Justice

The main goals of Restorative Justice are:

- Identify/work with Inuit that are at risk or are in conflict with the law.
- Assist with navigating through every step of the court and diversion process.
- Ensure that resources and supports are culturally specific/focused.
- Present alternatives to incarceration involving healing.
- Reduce the chances of re-offending.

It is believed that these goals can be met through conversations between the person harmed and the person who has caused harm and holding the person who caused harm accountable for their actions.

This is achieved through working collaboratively with all parties involved and the community to promote healing and restore harmony in a meaningful way.

To meet these goals, all work undertaken through Tungasuvvingat Inuit's Restorative Justice program follows the **8 Inuit Qaujimajatuqangit (IQ) guiding principles.** Also called Inuit "Traditional Knowledge, these principles are embedded throughout the program's work and guide the behaviours,relationships and community living.

The principles are:

- **Inuuqatigiitsiarniq**- Respecting others, relationships and caring for people.
- **Tunnganarniq**- Fostering good spirit by being open, welcoming and inclusive.
- **Pijitsirniq**- Serving and providing for family and/or community.
- **Aajiiqatigiinniq**- Decision making through discussion and consensus.
- **Pilimmaksarniq**- Development of skills through practice, effort and action.
- **Piliriqatigiinniq/Ikajuqtigiingniq**- Working together for a common cause.
- **Qanuqtuurniq**- Being innovative and resourceful
- **Avatittinnik Kamatsiarniq**- Respect and care for the land, animals and the environment.

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History Of Restorative Justice

The following historical perspective was retrieved from the Government of Canada Department of Justice websites section on The Effects of Restorative Justice Programming:

A more community- and victim-based system of justice is not a new phenomenon, but rather a resurgence of a historically prevalent approach to crime and conflict. Zehr (1985).

During the 1970s, there was a movement among prisoners' advocates and academics to protect the rights of offenders, to restrict the use of incarceration and to improve the conditions within institutions. This was driven by an increasing understanding within the social sciences that criminal behaviour was, in a large part, a result of adverse social conditions.

Section 35 of the *Constitution Act of Canada*, (1982) defines an Indigenous person. It constitutionally recognizes and affirms the existing Aboriginal and treaty rights of the First Nations, Inuit, and Métis peoples of Canada, including rights arising from land claims agreements, and guarantees these rights equally to men and women

Processes such as mediation, arbitration and negotiation became more common in civil and family law. Moreover, there was an increasing demand on the justice system to offer a more substantive voice and to provide a more formalised role for victims in the criminal justice process.

In 1974, the first victim-offender mediation program occurred in Canada. Since that time, a number of similar programs have been developed throughout Canada and internationally.

Certain principles of restorative justice, such as forgiveness and reparation, are fundamental concepts within Judaic and Christian faiths and, as such, these communities also began to actively promote and implement restorative practices.

The roots of restorative justice models also stem from traditional Indigenous methods of conflict resolution that rely on community involvement and the implementation of holistic solutions that support healing of the whole person.

The continued overrepresentation of **Indigenous** peoples in correctional institutions in Canada has led to demands for more traditional approaches, such as sentencing circles, for **Indigenous people who caused harm**.

Statutory recognition of the importance of alternatives to incarceration came with the proclamation of Bill C-41.

Second, the importance of addressing the special needs of aboriginal offenders and reducing reliance on incarceration was noted by the Supreme Court of Canada in R. v. Gladue.

Third, the 1999 federal Speech from the Throne contained an explicit acknowledgement of the importance of restorative justice in Canadian society.

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Staggering Rates of Indigenous Offenders in Prison

Supreme Court of Canada:
the highest level of court in Canada and the final court of appeals in the Canadian Justice System.

The **Supreme Court of Canada** recognized the overrepresentation of Indigenous people in the Canadian judicial system and set out to rectify this.

The courts also recognized that the number of Indigenous people being sent to jail has been increasing over the last several decades.

According to Statistics Canada's *Daily* release, in 2023/2024, although Indigenous adults represented 4.3% of the overall adult population in the six reporting provinces of Prince Edward Island, Nova Scotia, Ontario, Saskatchewan, Alberta and British Columbia, they formed 33.2% of the average daily count of the custodial population in federal and provincial facilities across these provinces.

The custodial population in these provinces accounts for approximately two-thirds of the total Canadian custodial population within the provincial, territorial and federal systems.

These rates are dramatically different than the rest of the non-Indigenous Canadian population.

Tungasuvvingat Inuit (TI): an Ottawa based, not-for-profit organization that seeks to provide social support, cultural activities, counselling, and crisis intervention to meet the rapidly growing needs of Inuit in Ontario.

Tungasuvvingat Inuit represents Inuit service users only

Inuit / Inuk: The people of the Canadian Arctic are known as the Inuit. Inuit means 'the people', singularly, Inuk means 'the person'.

Restorative Justice Eligibility

All Inuit are eligible to access Restorative Justice. If you self-identify as Inuk (meaning if you think of yourself as being of **Inuit** descent), you have specific rights under the Criminal Code section 718.2(e) and section 717(1) known as Restorative Justice rights. Additionally, the offender must accept responsibility for their wrongdoing and the offender must be willing to actively participate in the Restorative Justice process.

Eligibility to access to the Restorative Justice program at Tungasuvvingat Inuit applies to all Inuit regardless of:

- Where they reside, whether in the North or South.
- Age-as the program supports both youth and adults.
- Whether or not they were raised by Inuit parents.
- Whether they were adopted within the Inuit community or by Southern families.
- Whether they were raised in a foster home or group home, in the North or South.

Accessing the Restorative Justice Program for Diversion (Pre-Charge/Post-Charge/Pre-conviction) does have some additional eligibility criteria that exclude certain offences from being accepted. The offences that are ineligible for diversionary restorative justice are:

- Sexual assaults;
- Spousal abuse;
- Child abuse matters; and
- Other offences which Prosecution policies restrict for Diversion.

*Any charge considered within these offences above is only at the agreement of the Crown.

Tungasuvvingat Inuit **DOES NOT** require you to show proof of Inuit beneficiary status under the four Inuit Land Claims Agreements.

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How is Restorative Justice different than the traditional system?

The traditional justice system seeks punishment for the wrongdoing committed by an individual, often with limited opportunity for the voice of the person who caused harm (offender) or the person harmed (victim) to be heard when sentencing decisions are being made.

Restorative Justice, on the other hand, seeks to provide a voice and ability for both the person harmed and person who caused harm to participate in finding resolution in a meaningful way. This, in turn, supports the service user in connecting with the community while taking responsibility for the harm caused to the victim(s) instead of further pushing them away. Through this process of accountability and healing, this allows for both the person harmed and the person who caused harm to express their thoughts and feelings regarding the harm that was done.

There are multiple services throughout the Ottawa area that offer similar services tailored to Indigenous Peoples. These services can be reached through referrals from T.I. or through an internet search of social service providers, such as Odawa Native Friendship Centre, Métis Nation, Minwaashin Lodge and Ontario Native Women's Association.

Pre-charge: Before charges have been laid by the police.

Post-charge/Pre-conviction: After charges have been laid by the police, but before an individual has actually been found guilty of a crime.

Post-conviction/Pre-sentence: After an individual has been found guilty of an offence but before sentencing has occurred.

Post-sentence/Pre-integration: After an individual has been sentenced but before they have been fully released back into the community**.**

When/how can a person access the Restorative Justice Program?

There are **4 main** ways that an individual can be referred to the Restorative Justice Program, through contact with **Criminal Justice System**. The more serious the offence, the more likely an individual will be referred later in the process.

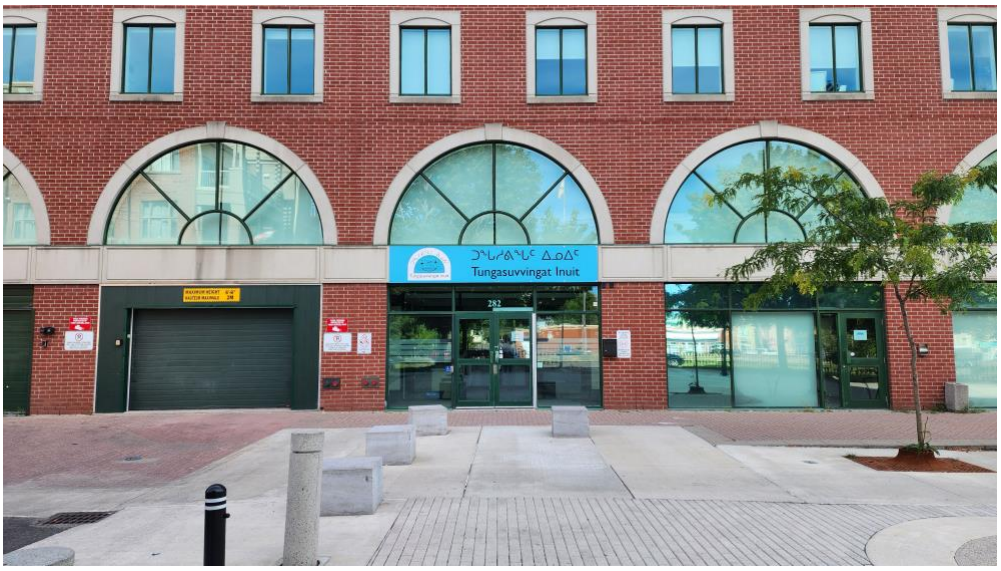
These are:

1. Police (pre-charge)
2. Crown (post-charge/pre-conviction)
3. Courts (Post-conviction/Pre-sentence)
4. Corrections (post-sentence/pre-integration)

If an individual is not yet in contact with the law they can be referred via **Community/Self-Referral**.

There are **2 ways** this can occur:

1. Be identified by the community/the Restorative Justice Committee as being at risk. (Community Referral).
2. Requesting yourself to enter into the restorative process (Self-Referral).



What do the police and courts need in order to apply Diversion through Restorative Justice?

For the police or judge to consider diverting cases to the Restorative Justice Program at Tungasuvvingat Inuit, the person who caused harm will first need to meet the eligibility criteria found on **p.8** of this document.

From this point, they will need to accept responsibility for the offence committed. Once this has occurred, the Police or Crown will make a decision to divert their case through the Restorative Justice Program.

The Police and Judge need to be kept updated about the start and progress through the Restorative Process, as it can take multiple meetings to create a proper healing and wellness plan. Additional time will also be needed to show the referral source that an individual is able to follow-through and successfully complete the program.

As each case is different, there is an understanding that for certain clients this can take some time. The updates and information surrounding progress will help them to clearly see efforts being made and ideallyresult in the withdraal of the charges or suspended sentencing.

Restorative Justice Committee: group made up of community members, Elders, and individuals that support the Inuit community in Ottawa. **Committee Members** along with a group of trained **facilitators** will support the participants to create their healing plan.

What does the Restorative Process look like through T.I.?

The Restorative Justice Victim/Offender Conferencing model looks to repair harms through mediation between the person who harmed and person(s) harmed of an offence.

After a referral is made from either the Criminal Justice system or Community/Self-Referral, an individual must:

- Setup a meeting with the Restorative Justice Liaison and complete a comprehensive intake.
- A conferencing facilitator from the RJ committee will be assigned to begin preparing for the conferencing.
- The victim (if one is identified) is contacted,provided with the opportunity to participate in the process if they choose, and offered appropriate supports through the program and T.I.
- The RJ Committee sets up meetings separately with the offender and anyone harmed by the offence to discuss what occurred and moreover eventually what resolution looks like for victim, offender and anyone else involved.

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Pisiksik Justice Department (PJD): Department of TI that houses Gladue and Restorative Justice programs, as well as any other programs that assist Inuit in conflict with the law.

Gladue Writer: Responsible for writing the Gladue Reports and letters and supporting clients after the writing has been completed.

- Following multiple individual meetings with all parties involved, and their support people, everyone is brought together with their supports, which may include Elders, workers, or others, as along with members of the committee and the Restorative Practices Liaison. Each person is given an opportunity to share how the offence has affected them, and the group is guided toward a resolution.

- Recommendations are then made, a healing and wellness plan is formulated and put in writing. Once agreed upon and signed by everyone, the plan is presented to the court.

Throughout the whole Restorative Process both the **person who harmed and person(s) harmed** are provided with ongoing supports. These may include, but not limited to, access to Elders, counselling, and other Inuit specific programming offered internally through T.I. as well as supports and resources available within the community.

Furthermore, if the person(s) harmed chooses not to participate, the restorative can still continue. pAt that point the program works toward resolution from the perspective of the person taking accountability, to identify how they can repair the harm caused in a meaningful way. This work is reflected ina comprehensive Healing and Wellness Plan that is presented to the court.

Information shared during the Restorative Justice process is confidential. Under section 717(3) of the Criminal Code, what is said during this process cannot be used against them in court.

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Who can help me through the Court and Restorative Process?

Tungasuvvingat Inuit (TI) has an entire team dedicated to providing assistance through the court process.

The **Pisiksik Justice Department (PJD)** consists of:

- **Manager**
- **Restorative Justice Liaison**
- **Restorative Justice Caseworker**
- **Gladue Writer**
- **Gladue After Care Worker**

If a lawyer is needed, PJD can assist with identifying legal resources.

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Tungasuvvingat Inuit does not and cannot provide legal advice

The main contacts for the Pisiksik Justice Department are:

Pisiksik Justice Department Manager

Charline Maurice
Manager of Pisiksik Justice
Cell :343-550-5837
Email : cmaurice@tiontario.ca

Restorative Justice Diversion Program

Jessica Morden
Restorative Justice Liaison & Gladue Writer
Cell: 343-571-1246
Email: **jmorden@tiontario.ca**

Isabel Faria
Restorative Justice Caseworker and Probation Worker
Email: **ifaria@tiontario.ca**

Gladue Program

Jessica Morden
Gladue Writer
Cell: 343-571-1246
Email: **jmorden@tiontario.ca**

Probation Navigation Program

Isabel Faria
Restorative Justice Caseworker and Probation Worker
Cell: 613-407-6181
Email: **ifaria@tiontario.ca**

Zippie Nochasak
Elders Cultural Coordinator
Cell : 613-323-0259
Email : znochasak@tiontario.ca

Justice Navigation Program

COMING SOON

Tungasuvvingat Inuit does not and cannot provide legal advice

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What can a Client do now:

Legal Aid: Provides legal services for financially eligible, low-income Ontarians in the following areas: domestic violence, family law, immigration/refugee law and criminal law.

It is ideal for the person who caused harm to obtain a lawyer to represent them at a bail hearing, especially if they have been charged with a serious offence.

Contact **Legal Aid** immediately to find out if they qualify for a **free lawyer**. If they do not qualify for a free lawyer, most courts in Ontario have duty counsel.

Legal Aid Ottawa:
275 Slater Street, Suite 1101
Ottawa, ON K1P 5H9
Phone: 613-569-7448
Telephone: (613) 238-7931
Toll-free: (877) 314-0933
TTY: 711
Fax: (613) 238-3410

Duty Counsel: private bar or Legal Aid Ontario lawyers who can give immediate, legal assistance to low-income people who appear in court without a lawyer.

The **Duty Counsel** at the Ottawa Courthouse on Elgin Street can answer questions and provide legal advice on, or before the day of court.

For more information, contact Duty Counsel at:

161 Elgin Street first floor
Outside Courtroom 5
Ottawa
K2P 2K1
Telephone: 613-238-7931
Toll-free: 1-877-314-0933

Reference/Statistics

All statistics referenced in this document are from Statistics Canada and the Government of Canada website. All relevant material and supporting documents can be found at:
www.statcan.gc.ca
www.justice.gc.ca
www.manitobainuit.ca/iq-principles

Tungasuvvingat Inuit does not and cannot provide legal advice