



KNOW YOUR RIGHTS

A GUIDE FOR INDIGENOUS INMATES IN NEWFOUNDLAND & LABRADOR

July 2026

Acknowledgements

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About This Guide

This Guide is a summary of First Light's understanding of the legal rights Indigenous offenders have while in provincial custody. It may be cited as follows:

First Light. Know Your Rights: A Guide for Indigenous Inmates in Newfoundland & Labrador. First Light: St. John's, NL, July 2026. ISBN 978-1-7387971-9-6.

Full details about the legal reasoning that has informed First Light's understanding can be found in the more comprehensive report called *Claiming Our Rights: A Legal Guide for Indigenous Peoples Navigating Corrections in Newfoundland & Labrador*.

For printed copies of either document, please contact the **First Light Advocacy Team** by phone at 709-726-5902, by email at advocacy@firstlightnl.ca, or by mail at:

Advocacy Team
First Light: St. John's Friendship Centre
40 Quidi Vidi Road,
St. John's, NL A1A 1C1

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Introduction

This document is a companion Guide to First Light's March 2026 report, *Overrepresented and Undercounted: A Snapshot of Indigenous Adult Incarceration in Newfoundland & Labrador, 2025*, which presents a comprehensive demographic snapshot of Indigenous incarceration at all five adult correctional facilities in the province. First Light's study found that there was limited access to Indigenous cultural programming, low awareness and use of Gladue Reports, and a high rate of housing insecurity among inmates approaching release.

This Guide is a condensed version of a more comprehensive legal analysis, published as *Claiming Our Rights: A Legal Guide for Indigenous Peoples Navigating Corrections in Newfoundland & Labrador*. This version is primarily intended for Indigenous people in Newfoundland and Labrador who are or have been incarcerated in any of the adult correctional facilities in the Province. We hope it will help empower you to better understand your rights as they relate to Gladue and access to cultural programming while incarcerated. It also describes options for recourse if you believe your rights have been violated.

You should note, however, that the discussion of legal rights in this document reflects First Light's understanding of the law as it currently stands and how it may apply to the question of access to cultural programming. No court has yet addressed this question head on. This Guide helps explain how a court might consider the question, and where such a right may be rooted.

First Light encourages anyone interested in pursuing a legal claim to seek legal advice on the best way to pursue these potential arguments and legal avenues, and for advice on potential remedies based on your own individual circumstances.

What You Need to Know

- ✓ You have a right to have Gladue factors considered by a judge.
- ✓ You may be able to obtain a Gladue Report to help explain your circumstances to the court.
- ✓ You likely have a legal right to access Indigenous cultural programming while in provincial custody.
- ✓ The *Charter* and the *Human Rights Act* may protect you if access to cultural programming is denied.
- ✓ Your Nation, Indigenous Government, or another organization may be able to advocate on your behalf.
- ✓ Contact information for legal and advocacy supports is included at the end of this Guide.

Gladue Factors & Reports

Gladue Factors: As an Indigenous person, you have a constitutionally-protected right, through the *Canadian Charter of Rights and Freedoms*, to have a judge take into consideration the way experiences of colonialism have shaped your life and circumstances, and to have this incorporated into the judge's decision at various stages such as sentencing and bail. These circumstances are often referred to as "*Gladue factors*", named after a Supreme Court of Canada decision setting out the requirement for judges to consider them, with reference to s. 718.2(e) of the *Criminal Code* which requires judges to consider alternative sanctions to imprisonment "*that are reasonable in the circumstances.*"

Gladue Reports: Gladue Reports are one way that Gladue factors can be presented to a judge. These reports are typically written by people trained to interview you, your family members, and/or members of your community to distill important information into a written report for the judge's consideration.

Having a right to have Gladue factors considered is not necessarily the same as having a right to a

Gladue Report. That said, Gladue Reports may be the preferable way to have a judge consider Gladue factors. In some jurisdictions, judges will sometimes order a Gladue Report, but there are also other ways a judge can get information on Gladue factors.

If you would like a Gladue Report:

- You should tell your lawyer or the court as soon as possible that you are Indigenous and would like such a report.
- You may be able to access such a report through a Gladue Report program, such as the project run by the Newfoundland Aboriginal Women's Network (NAWN) – which is available to everyone regardless of gender – or through your Nation, Indigenous Government, or nearest Friendship Centre. Most Nations and Indigenous Governments do not have or receive funding for Gladue Report writer programs, though some have made Gladue Reports available.
- After having pled guilty or been found guilty at trial, your lawyer can request a Gladue Report. If you are representing yourself, you can also request a report from a program, such as NAWN's, or through your Nation or Indigenous Government. You could also considering asking the court to order a publicly funded Gladue Report for you.

Access to Cultural Programming & Services

As an Indigenous person, you likely have a legal right to access Indigenous cultural programming while in provincial custody. First Light believes there are several potential sources of this legal right:

- 1. the provincial *Correctional Services Act*;**
- 2. common law regarding systemic negligence;**
- 3. the *Constitution of Canada*, specifically the *Canadian Charter of Rights and Freedoms*; and**
- 4. the provincial *Human Rights Act*.**

The Province's *Correctional Services Act*

The *Correctional Services Act* requires the Act to be administered in a manner consistent with the principle that policies, programs, and practices be responsive to the unique needs of Indigenous inmates. Additionally, evidence-based programming and services specific to the needs and culture of Indigenous offenders must be coordinated and facilitated “wherever possible.”

Systemic Negligence: The Province owes you a duty of care while you are in provincial custody. This means the Province is required to take reasonable care not to harm you or other inmates. The Province would likely be in breach of this standard of care should it fail to ensure access to cultural programming. This is particularly so now that the *Correctional Services Act* recognizes that Indigenous offenders have unique needs and that policies, programs, and practices must be responsive to these needs and be evidence-based.

The Canadian Charter of Rights and Freedoms

The *Charter* guarantees certain fundamental rights and freedoms that must be respected, subject only to limitations that can be justified in a free and democratic society.

- **Section 15:** You have a right to equality and to freedom from discrimination. This right likely means that Indigenous people have a right to access cultural programming while incarcerated. Any absence of such programming creates a distinction on the basis of race, religion, and national or ethnic

origin. The distinction is that non-Indigenous inmates have access to culturally appropriate and religious supports while in custody, while Indigenous inmates do not. Non-Indigenous inmates have access to programs and services that reduce recidivism rates and promote rehabilitation, while Indigenous inmates effectively do not unless cultural programming is made available.

- **Section 12:** You have a right not to be subjected to cruel and unusual treatment or punishment. Being deprived of access to culture, and being forced to rely on Christian religious services, may amount to cruel and unusual treatment, depending in part on your own personal history. It is possible that a court could find it is cruel and unusual for the government to continuously deny Indigenous Peoples access to culture and spirituality, given individual and intergenerational trauma caused by such state-imposed denial. It repeats and exacerbates these traumatic patterns. It forces Indigenous inmates seeking religious/spiritual services to turn to Christian services, when many have personal, family, or community experiences of abuse at the hands of Christian authority figures.

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- **Section 2(a):** You have a right to freedom of religion. It is possible this right could include a right to state-facilitated access to Indigenous spiritual services/practices during incarceration. Without access to cultural services while incarcerated, your freedom to practice religion and spirituality may be interfered with in a very significant way: you are denied the ability to exercise your sincerely held Indigenous beliefs and practices.

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

- The *Charter* must be interpreted in a manner that is consistent with UNDRIP, which includes guarantees of access to culture and protections against discrimination and forced assimilation.

The Province's Human Rights Act, 2010

- Section 11(1)(b) of the *Human Rights Act, 2010* protects you from discrimination in receiving services, amongst other things. Freedom from discrimination may mean you have a right to access to cultural programming while you are

incarcerated. The reasoning here is similar to the section 15 *Charter* reasoning. The Province has recognized the importance of ensuring access to services that respond to the unique needs of Indigenous inmates, yet the funding and structure of its services for inmates is known to have prevented such access for most Indigenous inmates.

Legal Recourse

If you were considering bringing a legal challenge, your lawyer would have to consider where and how to bring the challenge:

- If you are directly affected by a lack of access to Indigenous cultural programming you could:
 - Bring an **individual claim** at the Supreme Court of Newfoundland and Labrador;
 - Bring a proposed **class action claim** at the Supreme Court of Newfoundland and Labrador;
 - Avail of the procedure for **human rights complaints** with the Human Rights Commission of Newfoundland and Labrador.
- Your Nation, Indigenous Government, or a non-profit organization not directly affected could try to bring a claim on your behalf by asserting public interest standing in a claim before the Supreme Court of Newfoundland and Labrador.

You should also consider contacting your Nation or Indigenous Government, which may have access to other legal and advocacy options.

Conclusion

As an Indigenous person, you have a right to have a judge consider how colonization has affected your life and circumstances when making decisions such as sentencing. Gladue Reports are an effective way for this information to be presented to a judge. You, your friends and family, and organizations can advocate for increased government funding for ongoing support of Gladue Report programs run either by Nations, Indigenous Governments, or by non-profit organizations like Friendship Centres.

Additionally, any absence of cultural programming for Indigenous inmates in Newfoundland and Labrador is likely a violation of your legal rights as an Indigenous person. The *Correctional Services Act*, the *Charter*, and the *Human Rights Act* all support the conclusion that Indigenous people in custody have a legal right to cultural programming. The common law of negligence might also support a claim that the Province must ensure such programming is available to meet the standard of care it owes to Indigenous inmates in provincial custody.

Further Resources & Supports

Indigenous Organizations and Supports

First Light Friendship Centre

Provides advocacy, cultural supports, referrals, and connections to Indigenous services in the St. John's Metro Region. First Light can also help connect you to Friendship Centres in Stephenville and Happy Valley-Goose Bay.

(709) 726-5902

40 Quidi Vidi Road, St. John's, NL A1A 1C4

info@firstlightnl.ca

<https://firstlightnl.ca>

Newfoundland Aboriginal Women's Network (NAWN) – Gladue Writer Project

Provides Gladue Report services for Indigenous people involved in the criminal justice system, regardless of gender.

(709) 643-4563

90 Main Street, Stephenville, NL A2N 1J3

nawn@nf.aibn.com

<https://www.nawn-nf.com/gladue>

Legal Information and Legal Assistance

Newfoundland and Labrador Legal Aid Commission

May provide legal representation or legal advice for eligible individuals.

1 (800) 563-9911
nlac@legalaid.nl.ca
<https://www.legalaid.nl.ca>

Public Legal Information Association of Newfoundland and Labrador (PLIAN)

Provides plain-language legal information and public legal education resources.

1 (888) 660-7788
info@publiclegalinfo.com
<https://publiclegalinfo.com>

Law Society of Newfoundland and Labrador

Can help connect you with a lawyer through its Lawyer Referral Service.

(709) 722-4740
general@lsnl.ca
<https://lsnl.ca>

Human Rights and Complaints

Human Rights Commission of NL

The Human Rights Commission of Newfoundland and Labrador receives and investigates human rights complaints, including complaints relating to discrimination in services.

1 (800) 563-5808

humanrights@gov.nl.ca

<https://thinkhumanrights.ca>

Provincial Government Contacts

Department of Justice and Public Safety – Adult Corrections Division

4th Floor, East Block

Confederation Building

P.O. Box 8700 St. John's, NL A1B 4J6

(709) 729-0304

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FIRST LIGHT

First Light's mission is to deliver transformative programs and services that empower, uplift, and support Indigenous communities and nations in ways that promote good relations between all.

Through advocacy, research, and social entrepreneurship, we foster inclusive environments that unite Indigenous and non-Indigenous peoples, promote social well-being, and drive sustainable change.

Guided by principles of trust, respect, and friendship, we aim to build a brighter future where Indigenous Peoples thrive and flourish, leaving a profound and lasting legacy for generations to come.

Get our full legal resource



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