

# The Ontario Parole Board:

An Active Partner in Canada's Journey to Reconciliation



**Tribunals Ontario**

**Tribunaux décisionnels Ontario**

ISBN 978-1-4606-9616-3 PDF

(Disponible en français)

**Tribunals Ontario**  
Ontario Parole Board

**Tribunaux décisionnels Ontario**  
Commission ontarienne des  
libérations conditionnelles



# Introduction

*Truth* is a powerful word that should be defined by the individual, not by the masses.

To an Indigenous person seeking parole, *truth* means having the freedom to share their story and to have their voice heard. The history of colonialism and the legacy of residential schools and other assimilative laws and policies, are too often overlooked when parole release decisions are issued, creating a systemic barrier for Indigenous applicants and silencing their voices.

To alleviate this barrier and move towards a place of reconciliation, the Ontario Parole Board (OPB) has been proactive in contributing to Canada's Journey to Reconciliation by creating space for Indigenous voices through the practice of Circle hearings.

## DID YOU KNOW

The Ontario Parole Board was established in **1916**.

# The Ontario Parole Board

The Ontario Parole Board (OPB) is an independent, inquisitorial agency that is responsible for deciding on the return of offenders to the community, through supervised conditional release.

The OPB has provincial jurisdiction within Ontario to grant, deny or revoke parole or to cancel an applicant's parole before release. Public safety is the OPB's main priority when determining if a parole applicant is a risk to the community.

On April 1, 2013, the OPB joined the Safety, Licensing Appeals and Standards Tribunals Ontario (SLASTO), a cluster of adjudicative tribunals including the Animal Care Review Board, the Fire Safety Commission, the Licence Appeal Tribunal and the Ontario Civilian Police Commission.

On January 1, 2019, the OPB joined Tribunals Ontario (TO).

## DID YOU KNOW

You can learn more about the Truth and Reconciliation Commission's Calls to Action report and other findings by visiting: [www.trc.ca](http://www.trc.ca)

# Calls to Action

In December 2015, Canada's Truth and Reconciliation Commission issued a report with 94 Calls to Action, urging all levels of government to work together towards reconciliation.

In response to the Truth and Reconciliation Commission's Calls to Action, SLASTO's Executive Chair, Linda P. Lamoureux, recognized the urgency for action to uphold SLASTO's role within Canada's reconciliation process, and designated Karen R. Restoule as the cluster's Lead of Indigenous Services to help the cluster navigate the reconciliation process.

Karen R. Restoule is of the Anishinabek Nation and is a member of Dokis First Nation. Ms. Restoule worked as Director of the Justice Sector with the Chiefs of Ontario and has worked with the Ministry of Community Safety and Correctional Services as both a consultant addressing systemic discrimination with the provincial correctional system and as a probation and parole officer.

## DID YOU KNOW

Since clustering with SLASTO in 2013, the OPB has held over **88** Circle hearings.

# Indigenous Services

The mission of TO's Indigenous Services is to ensure that every Indigenous individual, who comes before any TO tribunal, has access to culturally appropriate services.

TO's Indigenous Services' objectives include:

- Increasing TO's capacity to understand the unique circumstances of Indigenous peoples, and how these translate to meeting their unique legal needs.
- Improving relationships between TO leadership and Indigenous communities.
- Identifying areas where TO can create space for processes led by Indigenous peoples.
- Contributing to the elimination of over representation of Indigenous people in custody and consider alternative options to incarceration.

## DID YOU KNOW

In 1999, the Supreme Court of Canada issued a decision *R v Gladue*, which directed sentencing judges to consider the broad systemic factors and personal background that affect Indigenous peoples within the criminal justice system.

# An Active Partner

In July 2016, at the request of Ms. Lamoureux, Ms. Restoule and Mr. Vince Pawis, an Elder with the White Buffalo Road Healing Lodge, worked together to review the OPB's Circle hearing process. Ms. Restoule and Mr. Pawis identified significant opportunity for improving the process and presented recommendations to the OPB.

To show commitment in being an active partner in reconciliation, SLASTO took immediate action and implemented the following recommendations:

- Ensuring all Circle hearings are facilitated by an Elder, not an OPB member.
- Ensuring all protocols of the Circle are respected.
- Increasing the availability of translators for Indigenous languages. Ensuring that applicants are provided with the opportunity to share their unique circumstances and present alternative options to incarceration within an applicant's parole plan, as set out by the *Gladue* decision.

By implementing these recommendations, the OPB now delivers an administrative process that is respectful, inclusive, accessible, and most importantly, a process that is responsive to the unique needs of Indigenous peoples.

# What is a Circle Hearing?

A Circle hearing is an alternative method to a mainstream parole hearing and is conducted with the same desired outcome, which is to determine if an applicant is suitable for reintegration within the community.

Circle hearings are led and facilitated by Elders who are considered the gatekeepers of Indigenous knowledge and history, and hold critical roles in Indigenous communities.

The role of an Elder in a Circle hearing is dynamic and can include:

- Facilitating the Circle hearing process.
- Providing culturally appropriate support to the applicant.
- Providing advice and guidance to the OPB members.

## DID YOU KNOW

**Circles** represent important principles in Indigenous culture including equality, balance, inclusivity and continuity.

**Circles** also represent the seasonal pattern of life and renewal, as they are unbroken and have no beginning or end.



# Protocols of a Circle

After a Circle hearing is opened by an Elder with a blessing or a ceremony, the Elder sets out the process for the hearing and may reference the Eagle Feather to the participants of that Circle.

In a Circle hearing, only the person holding the virtual Eagle Feather has the right to speak as directed by the Elder.

The applicant can take as much or as little time as they want to tell their story: who they are, where they come from, the circumstances that led them to their involvement related to the current offences, what they have done during their time in jail, and details of the plan they have prepared for release.

## DID YOU KNOW

The **Eagle Feather** is considered a messenger to the Creator and is a symbol of Indigenous teachings such as respect, humility, truth, love, courage, wisdom and honour. In a Circle hearing, only the person holding the Eagle Feather has the right to speak.

# Participants of a Circle

In the case of an in-person hearing, what makes a Circle hearing unique is that participants sit together in a circle, eliminating hierarchy and restoring balance, to discuss the impact of the offence on the victim, the applicant, their families, and the community.

In addition to the sitting Elder, the applicant, and the members of the OPB, participants of the Circle can also include the applicant's support person, a Native Institutional Liaison Officer (NILO), a correctional officer, and if present, the victim and their support person.

In virtual hearings, while we cannot sit in a circle the protocol of that circle hearing can still be respected. All participants are given the opportunity to speak, building a relationship of trust and increasing the strength of the Circle.

## DID YOU KNOW

There has been an **increase** in the number of requests for a Circle hearing by Indigenous applicants since Ms. Restoule's and Mr. Pawis' review of the Circle hearing process.

# Building Relationships

In November 2016, SLASTO travelled to Shawanaga First Nation, an Indigenous community located north of Parry Sound, to meet with Vince Pawis and learn about the work that Pawis and the White Buffalo Road Healing Lodge have done within their community and surrounding areas.

The White Buffalo Road Healing Lodge is a non-profit organization dedicated to encouraging pride within the Indigenous community and promoting cross-cultural understanding. The White Buffalo Road Healing Lodge has played a critical role in the development of programming and facilities offered to Indigenous offenders at the Sudbury Jail.

Understanding the importance of establishing relationships with Indigenous communities is a key component in working towards reconciliation and SLASTO is committed to building trust and open communication with Indigenous partners.

## DID YOU KNOW

At the **Sudbury Jail**, Indigenous inmates are able to participate in programming that provides access to Indigenous traditions and practices, including traditional drumming, smudging, pipe and sweat lodge ceremonies.



Pictured above, the SLASTO team and Vince Pawis stand in front of the Sudbury Jail sweat lodge on November 21, 2016.

**From left to right:** Benson Cowan, *Head of Legal, SLASTO*; Linda P. Lamoureux, *Executive Chair, SLASTO*; Vince Pawis, *Elder, White Buffalo Road Healing Lodge*; Karen R. Restoule, *Vice-Chair and Indigenous Services Lead, SLASTO*; and Chris Popovich, *Executive Advisor, SLASTO*



Pictured above, the Sudbury Jail sweat lodge (left) and totem pole depicting the buffalo, the bear, the wolf and the eagle (right).

**Images courtesy of: Sudbury Jail**

## Conclusion

While the OPB has made significant improvements to the Circle hearing process, the journey to reconciliation does not stop there. The OPB and Tribunals Ontario continue to look for opportunities where improvements to the parole hearing process can be made for all applicants.

By building key relationships with Indigenous partners, reshaping perspective and ensuring that respect is at the forefront of all parole hearing processes, Tribunals Ontario and the OPB are committed to providing access to restorative justice and integrating Indigenous legal principles and traditions into the justice system.