

Why do we ask if you self-identify as First Nation, Métis or Inuit?

As part of Legal Aid Ontario's (LAO) continued commitment to low-income Aboriginal individuals and disadvantaged communities, we have made services to Aboriginal clients a priority. We ask you as First Nation people, Métis people and Inuit people to self-identify your Aboriginal ancestry.

We ask that you do this regardless if you live on or off-reserve, if you are status or non-status or if you live in a rural or an urban areas.

It is important to identify yourself as Aboriginal so that your lawyer can follow the areas of law that deal with Aboriginal circumstances or rights. For example, the *Criminal Code*, the *Youth Criminal Justice Act* and the *Child and Family Service Act* all have parts that deal with the unique legal status of Aboriginal people in Canada.

Contact Information

Legal Aid Ontario
www.legalaid.on.ca

Client Service Centre:
Toll-free: 1-800-668-8258
Toronto: 416-979-1446

Nishnawbe-Aski Legal Services
Corporation (NALSC)
Toll free: 1-800-465-5581
Thunder Bay: 807-622-1413
www.nanlegal.on.ca

Aboriginal Legal Services of
Toronto (ALST)
Toronto: 416-408-3967
www.aboriginallegal.ca

Why is it important to tell your lawyer you are Aboriginal?



How Canadian law treats Aboriginal People



Our goal in collecting this information is to compile accurate statistics and information so that we can better serve the legal needs of clients, and make sure suitable services are available.

The *Constitution Act* of 1982 clearly says that “aboriginal peoples of Canada” includes “the Indian, Inuit and Métis peoples of Canada.” Legal Aid Ontario wants to ensure that it is providing appropriate legal representation to people who come within this constitutional definition.

Criminal Code and Youth Criminal Justice Act

The *Criminal Code* of Canada addresses over-representation of Aboriginal people in the Canadian criminal justice system in Section 718.2 (e), which recognizes the need to consider additional factors when sentencing an Aboriginal offender. Section 38 (2)(d) of the *Youth Criminal Justice Act* is about sentencing principles that apply to young Aboriginal offenders.

These sections provide direction to judges when sentencing an offender and require the court to remember that:

All available sanctions other than imprisonment that are reasonable in the circumstances should be considered for

all offenders... with particular attention to the circumstances of aboriginal offenders

The court has decided in cases like *Gladue* and others that the factors a judge should consider when sentencing an Aboriginal offender include “the unique background and systemic factors, which may have played a part in bringing the particular offender before the courts.”

If you are convicted of a crime, intend to plead guilty to an offence or if you are seeking bail, your lawyer will have to ask you questions regarding your background to be able to explain to the court what principles should be considered in your case.

Child and Family Service Act

If you find yourself in a child welfare situation, parts of the *Child and Family Service Act* take into account the family’s Aboriginal culture and heritage in deciding the “best interests” of a child. For example, subsection 37(4) states:

The child is an Indian or Native person, the person shall take into consideration the importance, in recognition of the uniqueness of Indian and Native culture, heritage and traditions, of preserving the child’s cultural identity.

Another section of the Act recognizes that Aboriginal people should be entitled whenever possible, to provide their own

child and family services, and that all services to Aboriginal children and families “should be provided in a manner that recognizes their culture, heritage and traditions and the concept of the extended family.”

Other considerations your lawyer may need to take into account

It is important to tell LAO and your lawyer that you are Aboriginal so that if you are interested, and it is an available option, your lawyer can refer you to Aboriginal Community Justice Programs or other Aboriginal service providers.

Information on your background also allows your lawyer to assess whether the *Indian Act* affects your legal matter. For example, if you live on-reserve, your rights to property you owned in marriage may be different than non-Aboriginal people in Ontario.