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Terran Morris

*University of Windsor*, morris23@uwindsor.ca

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**Decolonizing Municipal Policing:  
Indigenous Discrimination and Institutional Approaches**

By

**Terran Morris**

An Internship Paper  
Submitted to the Faculty of Graduate Studies  
through the Department of Political Science  
in Partial Fulfillment of the Requirements for  
the Degree of Master of Arts  
at the University of Windsor

Windsor, Ontario, Canada

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**Decolonizing Municipal Policing:  
Indigenous Discrimination and Institutional Approaches**

By

**Terran Morris**

APPROVED BY:

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A. Smit  
College of Law

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R. Major, Advisor  
Department of Political Science

January 4, 2023

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## ABSTRACT

For decades, there have been growing calls to address systemic Indigenous racism in Canadian police institutions. However, progress in this area has remained troublingly slow as recent movements have had little impact on institutional reform. Indigenous Peoples are left disproportionately victimized and overrepresented in the criminal justice system due to discriminatory policing practices. In recent years calls for institutional reforms have been amplified with the completion of the National Inquiry into Missing and Murdered Indigenous Women and Girls as well as countless other scathing reports from oversight bodies into racism within municipal police services. Given this newfound urgency, municipal police services have begun to explore new ways to reconcile their relationship with Indigenous Peoples. Although, there is no standard approach to guide this new challenge of institutional decolonization within policing.

This paper explores how institutional approaches contribute to the maintenance and reduction of systemic racism within police agencies. Using comparative case studies on the institutional approaches of the Nishnawbe Aski Police Service and the Thunder Bay Police Service, this paper attempts to outline a standard through which municipal police services can more effectively address systemic racism and reconcile their relationships with Indigenous Peoples. The approach used by the Nishnawbe Aski Police Service demonstrates that municipal police services would benefit from incorporating community-based and Indigenous perspectives and approaches to reduce systemic racism and move toward institutional decolonization.

## **ACKNOWLEDGEMENTS**

I would like to thank Dr. Rebecca Major for her support, assistance, and guidance throughout the process of this paper and for the valuable opportunities to explore and improve my academic work during my time at the University of Windsor. I would also like to thank Dr. Anneke Smit for her support and assistance with this paper, as well as the entire faculty in the Department of Political Science for their guidance and contribution toward my own learning throughout my time as a graduate student. I am truly appreciative of the unique academic, professional opportunities at the University of Windsor that have helped me to learn and grow both academically and personally. I am also grateful for the continuous support and inspiration from my family and friends which has helped me to succeed academically and which has helped make this paper a success.

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## CHAPTER I: INDIGENOUS DISCRIMINATION IN POLICING

### Introduction

Like clockwork, year after year Indigenous families and communities mourn the loss of yet another loved one to police brutality. In response, protesters fill the streets in demonstration with signs displaying messages like “Indigenous lives matter” as they call for justice and reforms that never come. They inevitably wait as the same story of J. J. Harper and Dudley George plays out again as another Indigenous life is lost at the hands of the police. The guiding principles of policing in Ontario are defined under the first section of the *Comprehensive Ontario Police Services Act* (COPSA) which explicitly mandates that police must carry out equitable policing, ensure safety and security for all, exercise cultural sensitivity, and most importantly, be responsive to the unique cultures and histories of Indigenous Peoples.<sup>1</sup> However, it is clear that these principles have been systemically ignored and neglected by the police.

Colonialism has left a destructive legacy of socioeconomic turmoil upon Indigenous Peoples across Canada. The destruction of families, psychological trauma, loss of culture, inadequate education, and poverty are just some of the widespread effects which remain rampant throughout Indigenous communities today.<sup>2</sup> These destructive legacies also firmly intersect with crime, or rather the criminalization of Indigenous Peoples by the police. Conventional policing approaches and practices used by municipal police services in Ontario exploit colonial traumas and demonstrate a lack of consideration with respect to the unique socioeconomic circumstances of Indigenous Peoples as a result of colonialism. While modern Indigenous racism, as Coulthard explains, has evolved from explicitly racist policies into a more covert framework of oppression

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<sup>1</sup> *Comprehensive Ontario Police Services Act*, S.O. 2019, c. 1, s. 1.

<sup>2</sup> Sinclair, Littlechild and Wilson (Commissioners), “Honouring the Truth,” 377.



and colonial domination, it does still represent a widespread institutional issue.<sup>3</sup> In this new era of colonialism, it is the police who have become the largest aggressor and source of institutional oppression. Municipal police services across the province and country continue to employ intersectional forms of discrimination across economic, social, and racial categories which exploit Indigenous socioeconomic disparities and disproportionately criminalize Indigenous Peoples.

As Dhamoon rightly explains, intersectionality is a powerful tool which can be used to help “navigate the specificities of subjectivity and subjugation” and organize “collective action against hegemonies of nation and power.”<sup>4</sup> In addition, Crenshaw also advises that any analysis which fails to follow an intersectional approach cannot adequately frame or address systems of marginalization and subordination.<sup>5</sup> Thus, following their guidance, this paper will utilize an organizational institutionalism approach through a lens of intersectionality, to examine the current approaches and structures of municipal police services in the context of Indigenous populations. It will argue that the current institutional police framework that touts piecemeal reforms, political recognition, and commitments to equity and diversity, is guilty of deceitful lip service in the face of a pattern of malpractice and injustice toward Indigenous Peoples, and that mainstream police approaches lack the legitimacy and sincerity to foster real institutional change.

Instead, municipal police services must look toward Indigenous ontologies, epistemes, and more specifically, Indigenous police institutions for guidance if they truly wish to rid the colonial philosophy ingrained at the heart of their institution. To demonstrate this, a comparative

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<sup>3</sup> Coulthard, *Red Skin White Masks*, 41.

<sup>4</sup> Dhamoon, “A Feminist Approach,” 29.

<sup>5</sup> Crenshaw, “Demarginalizing the Intersection,” 140.

case study between the Thunder Bay Police Service (TBPS) and Nishnawbe Aski Police Service (NAPS) will be used to examine the approaches used by Indigenous and colonial police agencies in the context of Indigenous populations. Specifically, it will demonstrate which policies and strategies are effective in fostering a more equitable Indigenous-police relationship and how municipal police services can implement such approaches to reduce systemic racism and ultimately decolonize their agencies.

Systemic racism has been historically embedded in the institutional structure of the police. While it has become significantly less explicit as the institution has evolved, the current framework is still demonstrative of institutional discrimination and a system of racism that targets Indigenous Peoples. The magnitude of this crisis has at least been recognized by some within government, including Prime Minister Trudeau who acknowledges the fact that systemic racism remains a prevalent issue for police agencies throughout the country.<sup>6</sup> Although, in the decades following the highly publicized police killings of both J. J. Harper and Dudley George, and the major inquiries which were supposed to reform the institution, Indigenous outcries and deaths at the hands of the police have only continued.<sup>7</sup>

Joey Knapaysweet, Agnes Sutherland, and Chantel Moore are just a few of the most recent victims in this tragic cycle of police racism and brutality.<sup>8</sup> Many others have also shared their stories as victims where they describe not only being victims of crime, but also being further victimized by police indifference and victim blaming.<sup>9</sup> Public inquiries, commissions, and reports have all helped to uncover these truths of police racism and Indigenous genocide.

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<sup>6</sup> Fiddler, "Submission of Nishnawbe Aski," 5.

<sup>7</sup> Hamilton and Sinclair (Commissioners), "The Shooting," para "The Approach"; Linden (Commissioner), "Volume 4: Executive Summary," 1.

<sup>8</sup> Perkel (The Canadian Press), "Mom of Indigenous Man,,"; Bissett (The Canadian Press), "N.B. Police Officer,,".

<sup>9</sup> Buller et al. (Commissioners), "Reclaiming Power and Place," 37.

However, the responsibility of reforms has fallen upon individual police services which have generally demonstrated contempt or at best, only marginal action in response to this deeply entrenched institutional issue.

Nishnawbe Aski Nation Grand Chief Alvin Fiddler goes as far to say that systemic racism is killing Indigenous Peoples.<sup>10</sup> This is quite accurate given the pattern of police violence toward Indigenous Peoples. There is also a much broader problem of inappropriate conduct and improper investigations by the police into Indigenous victims of crime which has exposed a more widespread culture of institutional racism.<sup>11</sup> Even this behaviour leaves police culpable for many Indigenous deaths as it sends a “message that the police are indifferent to such violence.”<sup>12</sup> Indigenous survivors and victims of crime report a reluctance to reach out for police assistance due to systemic racial biases and stereotyping which has contributed to a lack of confidence and trust in police services among Indigenous Peoples.<sup>13</sup> Others also recount experiences of police apathy, victim blaming, and concerns of being arrested or charged as a victim of crime because of discriminatory police preconceptions of guilt.<sup>14</sup> Thus, even less explicit manifestations of systemic police racism directly contribute to systems of disproportionate Indigenous victimization and inequitable injustice.

From the outset, Canada, as a settler-colonial state, has amassed a problematic and downright repugnant reputation when it comes to its treatment of Indigenous Peoples. While policing may currently be the predominant source of institutional racism and oppression, this discriminatory culture extends far beyond just the realm of policing. It follows a broader colonial

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<sup>10</sup> Fiddler, “Submission of Nishnawbe Aski,” 5.

<sup>11</sup> McNeilly (Independent Police Review Director), “Broken Trust,” 5; Buller et al. (Commissioners), “Reclaiming Power and Place,” 37.

<sup>12</sup> Buller et al. (Commissioners), “Reclaiming Power and Place,” 37.

<sup>13</sup> Buller et al. (Commissioners), “Reclaiming Power and Place,” 37.

<sup>14</sup> Buller et al. (Commissioners), “Reclaiming Power and Place,” 37-38.

doctrine and framework of white superiority which has motivated historic institutionalized acts of physical, biological, and cultural genocide as the Truth and Reconciliation Commission describes in its *Final Report*.<sup>15</sup> Through its institutions, the state attempted to carry out its goal of Indigenous assimilation and erasure by seizing Indigenous lands, restricting movement, prohibiting Indigenous languages and cultures, and quite methodically, eradicating Indigenous self-determination.<sup>16</sup> While the Canadian government organized this mission, it was carried out through its institutions. As such, to understand the current sub-standard status of Indigenous Peoples and the structures responsible, it is necessary to examine this issue through an institutional lens.<sup>17</sup>

As Campbell describes, “institutions are the foundation of social life.”<sup>18</sup> They set and enforce the rules of society.<sup>19</sup> They also reflect the power and resources of their creators which, in effect, works to maintain colonial hegemony through Indigenous subordination.<sup>20</sup> Most famously, Canada used the institution of ‘education’ as the centrepiece of its Indigenous policy mandate to implement its mission of Indigenous marginalization through the Indian Residential School System.<sup>21</sup> A similar pattern of Indigenous marginalization has played out throughout all other Canadian institutions. For example, the government used healthcare to implement policies resulting in the forced sterilization of Indigenous women as a particularly barbaric way to exercise control and marginalize Indigenous women.<sup>22</sup> While such explicitly racist policies have,

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<sup>15</sup> Sinclair, Littlechild and Wilson (Commissioners), “Honouring the Truth,” 1.

<sup>16</sup> Sinclair, Littlechild and Wilson (Commissioners), “Honouring the Truth,” 2.

<sup>17</sup> Absolon, “Indigenous Wholistic Theory,” 84; Matheson et al., “Canada’s Colonial Genocide,” 10.

<sup>18</sup> Campbell, “Problems of Institutional Analysis,” 1.

<sup>19</sup> Campbell, “Problems of Institutional Analysis,” 1.

<sup>20</sup> Campbell, “Problems of Institutional Analysis,” 1.

<sup>21</sup> Sinclair, Littlechild and Wilson (Commissioners), “Honouring the Truth,” 3, 43.

<sup>22</sup> Buller et al. (Commissioners), “Reclaiming Power and Place,” 18-19.

for the most part, ceased; institutional racism remains pervasive in Canadian society and within its institutions often in more covert and intersectional forms.

This new era of systemic racism has, as Coulthard explains, evolved into a more covert framework of oppression that operates through piecemeal political recognition.<sup>23</sup> Through this framework, state institutions present a thinly veiled image of progress and use this to appease critics just enough to maintain current colonial structures of domination. The police have since become the largest aggressors and source of institutional oppression in this new era of colonialism. Of the countless Indigenous Peoples that continue to face discrimination in their daily lives, a large proportion attribute these experiences to the police.<sup>24</sup> Indigenous Peoples also problematically report much higher levels of contact with the police compared to Black and non-Indigenous populations.<sup>25</sup>

Policing has historically functioned through a modus-operandi of oppressive domination depicting Indigenous Peoples as deviants and criminals and it continues to operate in such a way that bleeds into all facets of Indigenous life as it is particularly exploitative of the historic traumas and legacies of colonialism.<sup>26</sup> This view does not, in any way, reduce the grievances experienced across all other institutions by Indigenous Peoples, but rather it is meant to highlight the broad intersectionality and supremacy of exploitation within the current fabric of colonial policing. It is a system of exploitation that preys on and criminalizes the effects of centuries of Indigenous oppression and trauma. As a result, Indigenous Peoples and communities are kept marginalized at the hands of the police who maintain the wider framework of colonial hegemony throughout Canadian society.

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<sup>23</sup> Coulthard, *Red Skin White Masks*, 41.

<sup>24</sup> Cotter, "Experiences of Discrimination," 7, 8.

<sup>25</sup> Cotter, "Perceptions of and Experiences," 3.

<sup>26</sup> Buller et al. (Commissioners), "Reclaiming Power and Place," 17.

The motivation behind this paper is based on my own perspectives and experiences as an outsider looking in on the grievances and struggles of Indigenous Peoples from my own community. As a settler I cannot pretend to understand the extent of pain and trauma that has been inflicted upon Indigenous individuals and families, nor will I ever know what it is like to grapple with experiences of outward racism and prejudicial treatment that Indigenous Peoples experience in their daily lives. Although, what I can offer, is to help right these wrongs and influence a more inclusive and equitable Canadian culture that supports Indigenous voices and that calls out acts of racism and discrimination. Growing up in Thunder Bay, a community plagued with deeply interwoven racial tensions and hate, I personally witnessed innumerable instances of Indigenous racism and discrimination. Even the more covert socioeconomic effects within the community of a populous and police force deeply embroiled with racist and discriminatory attitudes are unignorable.<sup>27</sup> It is a constant topic of conversation and one that consistently makes headlines in the city. However, as outrageous as many of the headlines and online posts are that detail these experiences and issues in the community, like that of Barbara Kentner or the frequent deaths of Indigenous youth pursuing schooling, they have all unfortunately become almost expected and routine.

In my position as a settler and ally of Indigenous communities, the goal of this paper is to help reconcile this flagrant culture of racism that has plagued my own community as well as many others across the province and country. It is intended to assist in decolonizing these same malign structures that continue to dominate the institutional framework and conduct of the police. To do this, the paper will showcase how Indigenous approaches to policing, as demonstrated by NAPS, can serve as a means to reform the broken, settler-driven policing

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<sup>27</sup> McNeilly (Independent Police Review Director), “Broken Trust,” 22, 47.

practices of TBPS and other municipal police services that have been demonstrably insincere and unwilling to meaningfully address systemic Indigenous racism. As a matter of respect and in acknowledgement of Indigenous propriety of knowledge, permission was sought and obtained from NAPS leadership to include the agency in this paper.

## **Literature Review**

### *Organizational Theories and Reforms*

Whether it be through new societal ideas, political pressures, or individual self-interest, institutions are always operating in a constant state of change. However, there is a significant lack of consensus in the literature concerning the mechanisms responsible for inciting institutional change. While obvious factors like political demonstration and human rationality for example, certainly appear to be casual influencers within institutional paradigms, it generally remains quite difficult to measure and attribute changes within institutions to a particular cause or event. As Campbell explains, it is difficult to even pinpoint the meaning behind certain institutional changes and label them as something either evolutionary, revolutionary, or something else altogether.<sup>28</sup> This is important because policing is constantly operating under a state of institutional change as it is regularly subjected to legislative reforms and structural reorganizations that alter the influence, power, and control that it exercises over society.

The recent introduction of systemic racism training requirements under COPSA for police services board members represents a prime example of the difficulty within the scholarship to accurately assess and define institutional change.<sup>29</sup> The changes are demonstrative of a shift (at least to some degree) in the balance of Indigenous-colonial power. Although, it is ultimately quite difficult to accurately distinguish the motivation and purpose behind these changes under

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<sup>28</sup> Campbell, "Problems of Institutional Analysis," 5.

<sup>29</sup> *Comprehensive Ontario Police Services Act*, S.O. 2019, c. 1, s. 35.

the current scholarship. While they may appear as a positive institutional development to some, others may argue that they are piecemeal, ineffective reforms meant to simply purport an impression of institutional progress. This problem is widely evident throughout the scholarship on institutional analysis as the banter between the deluge of theories and sub theories presents little straightforward guidance and procedures to effectively assess the effects and meaning of institutional change.

When discussing contemporary institutional change paradigms, an organizational institutionalism approach appears to offer a more comprehensive illustration of the obstacles relating to institutional change as well as the behaviour of institutions. It is a particularly useful approach as it incorporates environmental values and pressures which are important elements in the context of racism. While historic-based perspectives do help provide greater historical context and of course, acknowledge the influence of colonialism, it does not accurately reflect the pressures that currently maintain systemic racism. The current crisis is predominantly maintained by persisting colonial ontologies and pressures from the privileged settler majority which function to legitimize and influence institutional policy, authority, and behaviour entrenched in racism.

Currently, the scholarship on institutional analysis is centred in three different theories: rational choice, organizational institutionalism, and historical institutionalism.<sup>30</sup> Rational choice theorists utilize game theory to explain institutional behaviour and describe the rules within institutions as a way of ensuring it follows an operational or behaviour equilibrium.<sup>31</sup> On the other hand, historical institutionalists explain institutional change and behaviour through an

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<sup>30</sup> Campbell, "Problems of Institutional Analysis," 2-4.

<sup>31</sup> Shepsle, "Rational Choice Institutionalism," 24-26.



analysis of past events and use these historical processes to illustrate their current practices.<sup>32</sup>

This interpretation is perhaps most in line with the current understanding of colonialism in Canada whereby many scholars attribute residual racial discrimination to historic colonial hegemonies. Organizational theory takes a somewhat similar perspective, but it is instead more focused on the influence of contemporary societal ideas and environmental pressures.

To use Campbell's explanation, organizational institutionalists find that institutions do not always act rationally in pursuit of their goals, but rather bend and change becoming infused with the values imposed upon them due to the pressures and powerful, influential actors in their environments.<sup>33</sup> In order to maintain legitimacy, authority, and survival, it is explained that institutions subsequently react and conform to powerful interests in favour of their own mandates and goals.<sup>34</sup> This theory also evidently corresponds with settler colonialism. However, it is more importantly concerned with the modern Indigenous-settler relationship and the cognitive tensions and battle between Indigenous equity and settler ignorance and attitudes intolerance.<sup>35</sup> While Indigenous racism may be an important part of history, it is necessary to recognize that these attitudes remain prevalent in modern society, and that they are not discounted and shrugged off as merely a product of history.

Despite its utility, scholars have noted significant limitations within the scholarship on institutional analysis. Campbell notes one crucial deficiency in particular, which is that it is not always clear how best to determine the kind of change and how much change has occurred within institutions.<sup>36</sup> In addition, the numerous branches and variations within each of the major

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<sup>32</sup> Suddaby, Foster and Mills, "Historical Institutionalism," 103.

<sup>33</sup> Campbell, "Problems of Institutional Analysis," 17.

<sup>34</sup> Campbell, "Problems of Institutional Analysis," 17-18.

<sup>35</sup> Ladner, "Negotiated Inferiority," 262.

<sup>36</sup> Campbell, "Problems of Institutional Analysis," 5, 27.

theories of institutional analysis not only discount the utility of each approach, but also feed into the broader lack of procedural clarity that Campbell describes when attempting to evaluate institutional change.<sup>37</sup> For example, his description of rational choice institutionalists describes these theorists as favouring a “choice-within-constraints approach” in that institutional norms and rules limit the ability of self-interest pursuits.<sup>38</sup> However, in the same breath it is explained that other theorists in this school of thought do not always follow this approach and view institutions through a variety of other similar, but redefined interpretations of rational choice.<sup>39</sup>

Suddaby, Foster, and Mills present a similar critique as they raise important questions about the theoretical integrity of institutional analysis citing a lack of scope and conditions surrounding its applications.<sup>40</sup> For example, Coulthard finds political recognition and land claim settlements to be an exercise of colonial self-interest as it, in his view, still reflects the goal of Indigenous dispossession and self-determination.<sup>41</sup> However, the Canadian government may just as well make the case that Indigenous land claims and self-government agreements demonstrate an evolutionary pattern of positive change with respect to Indigenous rights.<sup>42</sup> Given the lack of clarity surrounding how best to measure and interpret change within the field of institutional analysis, there will subsequently be many conflicting interpretations and viewpoints on contentious issues like systemic discrimination with no way to reach a verifiable conclusion. If the scholarship is to overcome these limitations, it will, as Suddaby, Foster, and Mills suggest, need to refine its methods and theories, and work to better articulate the central processes of its major theories.<sup>43</sup>

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<sup>37</sup> Campbell, “Problems of Institutional Analysis,” 20.

<sup>38</sup> Campbell, “Problems of Institutional Analysis,” 15.

<sup>39</sup> Campbell, “Problems of Institutional Analysis,” 15.

<sup>40</sup> Suddaby, Foster and Mills, “Historical Institutionalism,” 100.

<sup>41</sup> Coulthard, *Red Skin White Masks*, 151; Bratina (Chair), “Collaborative Approaches to Enforcement,” 7.

<sup>42</sup> Department of Justice Canada, “Annual Progress Report,” 32.

<sup>43</sup> Suddaby, Foster and Mills, “Historical Institutionalism,” 101.

One of the newer ways that scholars have analyzed institutional change has been to apply an intersectional approach. This perspective offers particularly useful insights into institutional issues like racism and gender discrimination as it helps to highlight the unique roles that different identities play within settler institutional paradigms. Dhamoon characterizes intersectionality as an important theoretical tool which helps bring about action against subjugation and hegemonies of power and also argues that it is applicable to a much wider range of groups, relations, and contexts, than it has conventionally been applied to.<sup>44</sup> Crenshaw, a critical race theorist, originally introduced the conceptual framework of intersectionality in an effort to resolve the inadequacies of single-axis analyses of oppression.<sup>45</sup> Instead of relying upon single categories of marginalization, she proposed an approach through which multiple dimensions of oppression can be studied simultaneously and grouped together in its own distinct system of analysis.<sup>46</sup>

In fact, what makes oppressive policing so destructive is that it operates along multiple dimensions of discrimination to marginalize and exploit populations not just through race, but also gender, as well as economic, political, and cultural differences. The *Final Report* of the National Inquiry into Missing and Murdered Indigenous Women and Girls (NIMMIWG) specifically outlines the ways in which police have used categories of race, gender, and income as a means of discrimination and as a tool to disproportionately criminalize Indigenous Peoples.<sup>47</sup> Furthermore, colonial police services continue to engage in practices that exploit the legacies of colonialism. The destructive effects from residential schools have already left Indigenous Peoples significantly disadvantaged economically, socially, and politically and as

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<sup>44</sup> Dhamoon, "Considerations on Mainstreaming Intersectionality," 230-231; Dhamoon, "A Feminist Approach," 25.

<sup>45</sup> Dhamoon, "Considerations on Mainstreaming Intersectionality," 231; Crenshaw, "Demarginalizing the Intersection," 139.

<sup>46</sup> Dhamoon, "Considerations on Mainstreaming Intersectionality," 231; Crenshaw, "Demarginalizing the Intersection," 139.

<sup>47</sup> Buller et al. (Commissioners), "Reclaiming Power and Place," 38.

NIMMIWG points out, Indigenous Peoples are further burdened by the fact that they are “criminalized due to poverty.”<sup>48</sup> This is what Kirkness describes as “discrimination-within-discrimination” and it is a widespread consequence of conventional colonial policing.<sup>49</sup>

In addition, the Truth and Reconciliation Commission identifies a number of other related intersections of oppression as a result of historically destructive colonial policies. These include, among many others, domestic violence, broken families, alcoholism, and unemployment.<sup>50</sup> These intergenerational traumas directly link and intersect with an already systemically racist policing institution to create a multidimensional and comprehensive framework of discrimination. Systemic racism thus transcends race. It targets all facets of Indigenous life from their traumas to their skin colour to foster a deeply rooted system of colonial oppression, Indigenous subjugation, and institutional discrimination.

### ***Colonialism and Policing***

Canadian Colonialism has left an immeasurable wake of intergenerational harm and trauma on Indigenous Peoples. Clark highlights that individuals and even entire Indigenous communities continue to be marginalized in terms of income, employment, health, and living conditions.<sup>51</sup> This socio-economic marginalization has been directly linked to the culmination of Indigenous overrepresentation in the criminal justice system as well as the significant disparities in their contact with the police. Cultural marginalization has also remained pervasive in the criminal justice system as traditional Indigenous approaches to justice and healing are left ignored and inaccessible, replaced by an imposed colonial legal framework.<sup>52</sup> In order to

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<sup>48</sup> Buller et al. (Commissioners), “Reclaiming Power and Place,” 38.

<sup>49</sup> Kirkness, “Emerging Native women,” 413.

<sup>50</sup> Sinclair, Littlechild and Wilson (Commissioners), “Honouring the Truth,” 385.

<sup>51</sup> Clark, “Overrepresentation of Indigenous People,” 15-16.

<sup>52</sup> Dussault and Erasmus (Co-Chairs), “Bridging the Cultural Divide,” 12, 14; Roach, “Blaming the Victim,” 585.

meaningfully examine the contemporary relationship between Indigenous Peoples and police institutions it is necessary to first acknowledge the historic systems of oppression that have led up to this point. Colonialism and the historic maltreatment of Indigenous Peoples by the state must be properly contextualized to illustrate the ongoing network of institutional marginalization and oppression that continues to govern policing.

Settler-Indigenous relations have historically been strained due to organized and deceitful state policies of oppression implemented with the intent to assimilate and destroy Indigenous culture and identity. This was most notoriously exercised through the residential school system, but also notably occurred through the imposition of restrictive legislation under the *Indian Act*, renege promises under early Indigenous-colonial treaties, and through the institutionalized abduction of Indigenous children famously dubbed as the Sixties Scoop.<sup>53</sup> In fact, the Sixties Scoop introduced a new means of institutional oppression succeeding the residential school system as the prominent institution of Indigenous oppression. Beginning in the 1960s Indigenous children were apprehended at an alarming rate from their homes, families, and communities and placed in schools and child-welfare facilities as a result of racially motivated concerns over their welfare.<sup>54</sup> These manufactured concerns acted as a guise through which the systemic institutionalization, oppression, and separation of Indigenous children from their families could be implemented. Upon the closure of many residential schools throughout the 1970s, Indigenous children were subsequently transferred into child-welfare facilities and as a result, became broadly overrepresented within child-welfare institutions which inflicted damaging intergenerational legacies and trauma upon Indigenous children and families.<sup>55</sup> While these

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<sup>53</sup> Sinclair, Littlechild and Wilson (Commissioners), “Honouring the Truth,” 45; Buller et al. (Commissioners), “Reclaiming Power and Place,” 2; Clark, “Overrepresentation of Indigenous People,” 2.

<sup>54</sup> Sinclair, Littlechild and Wilson (Commissioners), “Honouring the Truth,” 68-69.

<sup>55</sup> Sinclair, Littlechild and Wilson (Commissioners), “Honouring the Truth,” 69.

institutions of oppression still remain, systemic racism in policing has overshadowed these institutions as the new, contemporary institution of Indigenous oppression and cultural erasure.

While there are countless examples of similar historic misconduct and institutionalized racism carried out by the police, one example outlined by the Truth and Reconciliation Commission is particularly emblematic of the historic failures by the police to adequately protect and serve Indigenous Peoples. In its *Final Report* the Commission recounts a story from Kuper Island residential school in 1939 where police were alerted to allegations of sexual abuse by a residential school instructor when a number of boys had escaped the school.<sup>56</sup> Instead of taking the abuser into custody, the Royal Canadian Mounted Police (RCMP) decided to advise the individual of the allegations and simply allowed him to leave the province.<sup>57</sup> These victims, like many others, were left without justice and were victimized not only by crime, but also by a system of institutional racism. Furthermore, the Commission explains that this pattern of improper treatment of Indigenous victims, mishandled investigations, and police coverups continued well into the late twentieth century.<sup>58</sup> To this day, there are still similar incidents of police misconduct as highlighted in the OIPRD's *Broken Trust* report which include reports of racial profiling, mishandled investigations, and racist social media posts by officers.<sup>59</sup>

The relationship between Indigenous Peoples and settler policing first began with the introduction of the numbered treaties signed between early European colonizers and Indigenous nations. In Jones et al.'s review of early treaty language they found there to be a clear expectation of autonomy from Indigenous signatories in that they would play a direct role in the

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<sup>56</sup> Sinclair, Littlechild and Wilson (Commissioners), "Honouring the Truth," 105.

<sup>57</sup> Sinclair, Littlechild and Wilson (Commissioners), "Honouring the Truth," 105.

<sup>58</sup> Sinclair, Littlechild and Wilson (Commissioners), "Honouring the Truth," 105-106.

<sup>59</sup> McNeilly (Independent Police Review Director), "Broken Trust," 40, 45, 53.

administration of justice of their own people.<sup>60</sup> Jones et al. also describe testimony from elders who believed the treaties represented a new cooperative relationship between Indigenous leadership and Canadian police agencies.<sup>61</sup> However, in practice this was not the case. These agreements would subsequently act a means to legitimize police control over Indigenous populations and the enforcement of colonial policies within Indigenous territories under the pass system (which prevented Indigenous Peoples from leaving reserves) as well as through the prohibition of Indigenous spirituality.<sup>62</sup>

While it is noted that the arrival of the North West Mounted Police (NWMP), a predecessor of the RCMP, was originally “met favourably by First Nations” in 1873, this relationship soon deteriorated as the government mandated harsher policies as part of its mission of Indigenous genocide.<sup>63</sup> During the 1880s, as the government’s reneged treaty promises and mission of Indigenous subjugation became clear, the NWMP were effectively weaponized against Indigenous populations and used to thwart uprisings and enforce policies of assimilation.<sup>64</sup> Canadian law was imposed upon supposedly free and self-governing Indigenous nations and the police became the enforcers of oppressive, political policies rather than protectorates of public safety. This was the case into the 1920s as the NWMP was dissolved and replaced by the RCMP and continued up until the 1960s when the RCMP began to reformulate its approach to Indigenous policing.<sup>65</sup>

The 1960s marked a significant institutional transition for Indigenous policing with the withdrawal of the RCMP from Indigenous communities in both Ontario and Quebec. “This

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<sup>60</sup> Jones et al., “First Nations Policing,” 28.

<sup>61</sup> Jones et al., “First Nations Policing,” 28.

<sup>62</sup> Jones et al., “First Nations Policing,” 29.

<sup>63</sup> Jones et al., “First Nations Policing,” 30.

<sup>64</sup> Jones et al., “First Nations Policing,” 30-31.

<sup>65</sup> Jones et al., “First Nations Policing,” 31; Clairmont, “Aboriginal Policing in Canada,” 13.

withdrawal was the result of a jurisdictional dispute between federal and provincial governments and who was responsible to fund First Nations policing.”<sup>66</sup> It resulted in a variety of alternative policing arrangements such as the band constable system and Indian Special Constable Program which employed local residents who were trained and directed by federal and provincial police agencies.<sup>67</sup> However, in Ontario and Quebec the responsibility of Indigenous policing was transferred exclusively to the two provinces who oversaw similar band constable programs within Indigenous communities.<sup>68</sup>

These new arrangements did represent a more positive development for Indigenous communities; however, residents were still generally unsatisfied with the levels of service offered under these new arrangements.<sup>69</sup> The introduction of the FNPP (First Nation Policing Program) by the federal government in 1991 brought about a more simplified and standardized structure and remains the current governing framework over Indigenous policing.<sup>70</sup> Under the FNPP Indigenous communities are granted the option to establish their own police services or contract these services out the RCMP, or in the case of Ontario and Quebec, to their provincial police services.<sup>71</sup> While the current model does demonstrate a step toward greater Indigenous self-determination, it is still fraught with major systemic issues relating to capacity, funding, widespread crime and victimization, and of course, colonial control.<sup>72</sup>

Political interference also remains a major challenge within modern-day police institutions. It is through political interference that colonial control over policing and Indigenous Peoples are maintained. Christie explains that discriminatory policing practices are a key

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<sup>66</sup> Jones et al., “First Nations Policing,” 37.

<sup>67</sup> Clairmont, “Aboriginal Policing in Canada,” 14.

<sup>68</sup> Clairmont, “Aboriginal Policing in Canada,” 13-14.

<sup>69</sup> Jones et al., “First Nations Policing,” 40.

<sup>70</sup> Jones et al., “First Nations Policing,” 48.

<sup>71</sup> Clairmont, “Aboriginal Policing in Canada,” 6.

<sup>72</sup> Jones et al., “First Nations Policing,” 48.



indicator of the continuing political influence over this institution and furthermore, that its inability to act independently is a significant concern within a liberal democracy.<sup>73</sup> However, from the point that Canada first began its mission to assimilate and destroy Indigenous society, undue political interference became unabashedly intertwined with the mandate of justice and the rule of law. It is important to note that historic police mandates did not just suppress Indigenous society, but also helped to prop up structures and institutions used to dispense violence and genocide by protecting the reputation of the residential school system where organized abuse occurred and by assisting departments like Indian Affairs in their coverups of systemic abuse.<sup>74</sup> This pattern, in both its historic and contemporary forms, demonstrates why Indigenous Peoples still struggle to trust and have confidence in the police. Reports have consistently shown that Indigenous Peoples hold significantly less confidence in the police compared to non-Indigenous peoples and unsurprisingly, one of the most substantial disparities is in the area of perceived fair treatment by the police.<sup>75</sup> These feelings are undoubtedly a product of an “historical reality” of improper and politically motivated treatment of Indigenous Peoples by the police which continues to influence the institutional framework into the present-day.<sup>76</sup>

Again, it is important to note that this discriminatory relationship does not operate along a single praxis, but rather through a much broader relationship of distrust between Indigenous Peoples and the state. One of the earliest and perhaps most influential factors of this distrust was the neglect of treaty obligations by the state through what Dhamoon characterizes as a linear treaty interpretation by Europeans which served as the basis for which the state rooted its claims

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<sup>73</sup> Christie, “Police-Government Relations,” 147-148, 151.

<sup>74</sup> Sinclair, Littlechild and Wilson (Commissioners), “Honouring the Truth,” 105-106.

<sup>75</sup> Cao, “Aboriginal People and Confidence,” 510-512; Cotter, “Perceptions of and Experiences,” 10-11.

<sup>76</sup> Tulloch, “Report of the Independent,” 26.

to renege its treaty obligations.<sup>77</sup> The Aboriginal Justice Implementation Commission also clearly points out that the Canadian government “acted unconscionably in continuing to breach the treaty commitments.”<sup>78</sup> Thus, the Canadian government’s failure to deliver its original promises of Indigenous self-governance and territorial entitlement remains an important factor within the broader relationship of distrust between Indigenous Peoples and state institutions.

Even today, the state continues to fail Indigenous Peoples through its policies of piecemeal recognition. While its policies may seem to be well-intentioned, recent initiatives attempting to reconcile systemic racism in policing, such as those introduced under COPSA, have proven to be wholly and almost intentionally inadequate. Furthermore, such inadequate policies are demonstrative of the government’s disinterest in meaningfully addressing the longstanding and deep-rooted issues of systemic racism within municipal police agencies. New training requirements, as mandated under COPSA, are certainly not enough to change a longstanding institutional culture of racism.<sup>79</sup> This view is echoed by Ladner as she explains that in order to begin the process of decolonization, Canada must rid itself of piecemeal attempts at Indigenous recognition that ultimately seek to maintain colonial hegemony and should instead chart an entirely new path forward.<sup>80</sup> While this is insightful guidance, Ladner like many others, offers little direction for how a new decolonized institutional framework can be implemented.

### ***Legislative Framework and Governance***

Municipal police services are regulated primarily under COPSA which replaced the *Police Services Act* in 2019. This legislation delegates the powers and duties of provincial and municipal police agencies and officers, and outlines the key principles of policing in Ontario. It

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<sup>77</sup> Dhamoon, “A Feminist Approach,” 25.

<sup>78</sup> Hamilton and Sinclair (Commissioners), “Aboriginal & Treaty Rights,” para “The Present State”.

<sup>79</sup> *Comprehensive Ontario Police Services Act*, S.O. 2019, c. 1, s. 35.

<sup>80</sup> Ladner, “Negotiated Inferiority,” 262.

also governs the appointment of officers within self-administered Indigenous police agencies, service agreements between the Ontario Provincial Police (OPP) and Indigenous communities, and First Nation police services boards. Federal governance also plays a role through the FNPP, but this relates mostly to funding rather than front-line police operations and oversight, as these are carried out by provincial or Indigenous police agencies. The RCMP does have a larger role in Indigenous policing outside Ontario and Quebec, but given the purpose of this paper, the focus will be on provincial and municipal governance as these agencies oversee the majority of Indigenous policing operations in Ontario.

The FNPP was introduced in 1991 by the federal government in an effort to provide a standardized and culturally appropriate policing framework for Indigenous communities while also providing them with the necessary funding for police services.<sup>81</sup> As Jones et al. highlight, the FNPP effectively provides two general policing arrangements available to Indigenous communities in Ontario: self-administered police services and contractual service agreements.<sup>82</sup> The former is similar to that of a municipal police service, and is managed exclusively by an Indigenous community or group of communities, while the latter is an agreement that involves contracting out police services within an Indigenous community to the OPP.<sup>83</sup> Ontario is unique in that its provincial police agency exclusively manages Indigenous service agreements while in other provinces (except Quebec) this is handled by the RCMP.<sup>84</sup> Under the FNPP, there are some key differences between self-administered Indigenous police services and municipal police services. Specifically, Indigenous police services are defined more as enhancements of existing provincial police services and not replacements which effectively limits the mandate of

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<sup>81</sup> Jones et al., “First Nations Policing,” 42-43.

<sup>82</sup> Jones et al., “First Nations Policing,” 43.

<sup>83</sup> Jones et al., “First Nations Policing,” 43; *Comprehensive Ontario Police Services Act*, S.O. 2019, c. 1, s. 76.

<sup>84</sup> Clairmont, “Aboriginal Policing in Canada,” 6.

Indigenous agencies to basic, front-line policing.<sup>85</sup> As a result, Indigenous communities are distinctly limited in their ability to establish a truly self-governed and autonomous police service. Although, many Indigenous communities in Ontario have still opted to establish their own police services which has resulted in Ontario having one of the largest compliments of self-administered police services and also the largest Indigenous police service (the Nishnawbe Aski Police Service) in the country.<sup>86</sup>

As discussed, it is apparent that historic police structures and conduct have been corrupted with a gross amount of political interference by the state. In order to maintain the rule of law and a functioning, healthy liberal democracy, Christie asserts that it is essential that an independent police force be free from unwarranted political interference and be accountable to the public.<sup>87</sup> While this has historically not been the case, over the past 50 years the legislative framework governing police services has become considerably more complex and expansive in an effort to make it more accountable and transparent. As such, institutional oversight reforms have become a particularly common development. This first began with the introduction of the Ontario Civilian Police Commission in the early 1960s to help manage and adjudicate matters pertaining to police disciplinary proceedings.<sup>88</sup> Even within the last two decades the framework of police oversight has grown to include the Special Investigations Unit, a body established in 1990 to investigate incidents of police shootings and other police-civilian interactions, and the Office of the Independent Police Review Director (OIPRD), established in 2009 as a civilian oversight agency tasked with managing complaints from the public against police officers and agencies.<sup>89</sup>

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<sup>85</sup> Clairmont, "Aboriginal Policing in Canada," 87.

<sup>86</sup> Jones et al., "First Nations Policing," 45; Clairmont, "Aboriginal Policing in Canada," 26.

<sup>87</sup> Christie, "Police-Government Relations," 148.

<sup>88</sup> Tulloch, "Report of the Independent," 25.

<sup>89</sup> Tulloch, "Report of the Independent," 3, 97, 50; *Police Services Act*, R.S.O. 1990, c. P.15, s. 22, s. 26.2.

Governed under COPSA, police service boards which are mandated for every police agency also play a role in civilian oversight as they manage internal and public complaints within their respective police service.<sup>90</sup> Notably, in 2019 COPSA also established new requirements for municipalities to prepare and publish diversity plans in an effort to ensure that board appointees represent the diversity of the population and moreover, that policing operations are cognizant of the needs of a diverse range of populations within the community.<sup>91</sup> Altogether these many organizations comprise the current framework of police oversight in Ontario. A framework initially created in response to a litany of complaints and reports of systemic discrimination within police agencies throughout the 1960s.<sup>92</sup> It has since grown to become a comprehensive system that provides an independent check on police misconduct and political interference.

While the current oversight framework and recent reforms introduced under COPSA do provide the ingredients for an effective structure of police oversight, many continue to call for more accountability and transparency under the current system. For example, in its findings from three regional engagement sessions on Indigenous policing, DPRA Canada noted that participants favoured greater oversight and accountability mechanisms and identified greater Indigenous involvement and control as a means to accomplish this goal.<sup>93</sup> Similarly, there have been widespread critiques surrounding the current tripartite agreements and legislative framework that governs Indigenous police services. Clairmont notes that many officers would prefer to see self-administered services redefined as replacements to police services rather than enhancements.<sup>94</sup> An extensive list of institutional recommendations was also released in 2017 by

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<sup>90</sup> Tulloch, "Report of the Independent," 46.

<sup>91</sup> *Comprehensive Ontario Police Services Act*, S.O. 2019, c. 1, s. 28.

<sup>92</sup> Tulloch, "Report of the Independent," 56-59.

<sup>93</sup> DPRA Canada, "A Renewed Approach," 13, 16.

<sup>94</sup> Clairmont, "Aboriginal Policing in Canada," 87.

the Independent Police Oversight Review calling for greater oversight and accountability of police services in Ontario.<sup>95</sup> Over the past few decades there has been undeniable progress, but the racial injustices and calls for action continue to overshadow these positive developments. The extensive list of over fifty pages of calls for justice in the recently released report of NIMMIWG vindicates that the current framework of policing requires radical reorganization and intuitional reform.<sup>96</sup>

## **Methodology**

To begin, it is first important to acknowledge the value of maintaining a trustful relationship and exercising respect in the use of Indigenous knowledge, specifically as a settler writing on a sensitive topic concerning Indigenous Peoples. Historically, there has been a troubling pattern of knowledge theft and discriminatory colonial research practices involving Indigenous communities and Peoples which as Smith describes, has been laden with colonial attitudes of “innate superiority and an overabundance of desire to bring progress into the lives of Indigenous [P]eoples.”<sup>97</sup> In recognition of this and with respect to the First Nations principles of ownership, control, access, and possession (otherwise known as OCAP), permission has been sought and obtained from NAPS leadership (Chief of Police and Board of Directors) to include their organization within this paper. Furthermore, a deliberate effort has been made to include secondary sources that provide Indigenous perspectives for each case study. The same approach was also used in the literature review to ensure that this paper, in its entirety, presents a wholistic and culturally sensitive perspective that is inclusive of Indigenous voices, knowledge, and lived experiences.<sup>98</sup>

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<sup>95</sup> Tulloch, “Report of the Independent,” 265-288.

<sup>96</sup> Buller et al. (Commissioners), “Reclaiming Power and Place,” 62-104.

<sup>97</sup> Smith, *Decolonizing Methodologies*, 56.

<sup>98</sup> Smith, *Decolonizing Methodologies*, 144; Thambinathan and Kinsella, “Decolonizing Methodologies,” 4.

The primary purpose of this paper is to examine institutional Indigenous racism within Ontario police services in both its covert and explicit forms and to ultimately uncover institutional practices and strategies that will assist in reconciling systemic racism within police institutions. To do so, this paper will focus on two police agencies that oversee significant Indigenous populations: the Thunder Bay Police Service, and the Nishnawbe Aski Nation Police Service. Both of which are similar in size, geographic proximity, and population demographics, but have notably disparate reputations and fundamentally different organizational cultures and approaches to policing. As such, comparing these two agencies will help to illuminate effective institutional strategies that can help address systemic racism within police services across the province and country. The case studies will also assist in underlining institutional deficiencies that continue to maintain hegemonic colonial frameworks and Indigenous discrimination within municipal police services.

It is important to also clarify that while NAPS may not specifically be a municipal police service, its purpose in this study is not to act as a structural facsimile of TBPS. Rather, the purpose of including NAPS in this study is to showcase it as the largest, most successful self-administered Indigenous police service that has proven capable of approaching Indigenous policing in a way that is equitable, culturally sensitive, and just. Thus, for the purpose of this paper, the distinction between a self-administered and municipal police service presents no practicable issues to conducting a successful comparative analysis.

The intent is that this paper, with its comparative case study and analysis, will help to advance the calls to action, specifically 30 through 42 of the Truth and Reconciliation Commission's *Final Report*.<sup>99</sup> To begin the process of reconciliation, it is first necessary to

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<sup>99</sup> Sinclair, Littlechild and Wilson (Commissioners), "Honouring the Truth," 324-325.

understand how and why racism has, for so long, dominated the institutional framework and culture of the police, and what strategies can be used to best rectify these systemic failures. To answer these questions, this paper will utilize a comparative case study between NAPS and TBPS, beginning with a short background on each agency, followed by an examination of each agency's institutional structure, officer conduct, and its approaches to organizational diversity and equity. A qualitative approach will be used relying upon data from secondary sources; specifically, organizational plans and reports, investigative reviews, and other related documents commissioned by multiple levels of government in various public inquiries.



## CHAPTER II: THE PROBLEM

As outlined in the previous chapter, there are significant institutional practices and challenges that have contributed to a system of Indigenous racism in policing. This chapter will expand on the nature of this problem and detail the primary factors that have upheld systemic racism and prevented meaningful institutional change. It will provide a more straightforward definition of the problem to provide context for the subsequent case studies that examine how NAPS and TBPS have navigated systemic racism.

### **Piecemeal Reforms**

Systemic racism has remained deeply ingrained within the culture and organizational framework of the police. It has been strongly evinced through a pattern of problematic violence and discriminatory conduct by police officers throughout the country.<sup>100</sup> The contemporary era of political recognition, as Coulthard describes it, has purported a newfound respect for principles of Indigenous equity, mutual respect, and special recognition under the law.<sup>101</sup> However, while these piecemeal attempts of Indigenous reconciliation present the impression of state progress and sincerity, Indigenous Peoples remain subjugated and disproportionately marginalized by state institutions.<sup>102</sup> At best, the political recognition movement in policing and within the broader criminal justice system, represents only a marginal and symbolic attempt at justice for Indigenous Peoples. Of course, some initiatives like the FNPP, which established the framework for self-administered Indigenous policing, have recognized Indigenous rights to self-determination.<sup>103</sup> However, these advances have been somewhat misleading as they still do not

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<sup>100</sup> McNeilly (Independent Police Review Director), "Broken Trust," 57-59; Clairmont, "Aboriginal Policing in Canada," 73-74.

<sup>101</sup> Coulthard, *Red Skin White Masks*, 3.

<sup>102</sup> Coulthard, *Red Skin White Masks*, 26.

<sup>103</sup> Clairmont, "Aboriginal Policing in Canada," 5-6.

empower Indigenous communities and police services with the same autonomy, authority, or legitimacy as their municipal and provincial counterparts.

As it stands, the current policing framework is representative of a relationship of colonial control and Indigenous inferiority which appears to be intentionally designed to maintain federal and provincial power over Indigenous communities. This has been a common policy approach used by the state as Ladner points out in her criticism of the Royal Commission on Aboriginal Peoples, where she states that “Not only are Aboriginal [P]eoples required to negotiate their ability to act in jurisdictions that are ‘inherent,’ but they are also required to negotiate their inferiority.”<sup>104</sup> The characterization of Indigenous police services as enhancement rather than replacements to provincial policing under the FNPP demonstrates this legislated inferiority.<sup>105</sup> Thus, while there has been some positive progress, the current framework continues to embody a system of Indigenous subjugation and colonial domination.

Similar seemingly positive, but failed piecemeal recognition attempts have been introduced in light of the Supreme Court’s decisions in *R. v. Gladue* and *R. v. Ipeelee* which have provided Indigenous offenders with special judicial considerations in bail and sentencing hearings in relation to their unique intergenerational traumas.<sup>106</sup> Although, as judges maintain considerable discretion when applying these considerations and interpreting such effects, the reforms remain largely symbolic and inefficacious.<sup>107</sup> In addition, under COPSA a number of reforms were introduced in 2019 including new cultural training requirements and mandated municipal diversity action plans which appear positive, but again fail to address the larger regime of

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<sup>104</sup> Ladner, “Negotiated Inferiority,” 260-261.

<sup>105</sup> Clairmont, “Aboriginal Policing in Canada,” 119.

<sup>106</sup> *R. v. Gladue*, para 82; *R. v. Ipeelee*, para 59.

<sup>107</sup> Roach, “Blaming the Victim,” 589.

colonial hegemony in policing.<sup>108</sup> Scholars have highlighted that the utility of cultural competency training is ultimately dependent upon how it is implemented. If meaningfully implemented it can influence dramatic change; however, if not, it may only carry small, short-term effects while instead garnering greater positive publicity.<sup>109</sup> The recent reforms under COPSA unfortunately appear to fall under the latter category. While some action is surely better than none, the reforms implemented thus far have failed to adequately equate with the capacity of this institutional crisis and have been overshadowed by their preservation of colonial control.

### **Diversity**

Another major problem for municipal police services has been a lack of diversity among its officers and civilian staff. Municipal police services have historically been disproportionately staffed by white officers which has led to a widespread issue of minority underrepresentation. For example, an internal survey conducted by TBPS found that its compliment of officers and, particularly its civilian staff, fails to accurately reflect the racial demographics of the community it serves.<sup>110</sup> Furthermore, a 2016 survey conducted by CBC News demonstrates the pervasiveness of this issue across Ontario as it highlights a long list of municipal police services, namely in London, Ottawa, Toronto, York, and Peel, that significantly under-represent the racial diversity of their communities among its staff.<sup>111</sup>

The issue of diversity also extends to leadership positions within municipal police services. According to Saini's analysis, Ontario police chiefs are representative of a "racially vertical mosaic" in policing with only 2 out of 51 police chiefs identifying as a visible minority

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<sup>108</sup> *Comprehensive Ontario Police Services Act*, S.O. 2019, c. 1, s. 28, s. 35.

<sup>109</sup> Dobbin and Kalev, "Why Diversity Training," 49; Dussault and Erasmus (Co-Chairs), "Bridging the Cultural Divide," 99-100; Tulloch, "Report of the Independent," 231.

<sup>110</sup> Desmoulins, "Diversity Within," 6.

<sup>111</sup> Marcoux, Nicholson and Kubinec, "Police Diversity Fails,".

in addition to only one Indigenous police chief.<sup>112</sup> It is also noted that generally diversity appears to be concentrated at the constabulary level with much lower proportions of Indigenous persons, women, and visible minorities occupying high-ranking and specialized positions.<sup>113</sup> Municipal police services must thus, not only re-evaluate and reform their current recruitment approaches, but also reassess their internal practices relating to staff promotions and leadership appointments.

### **Criminal Justice Disparities and Overrepresentation**

Persistent colonial structures are a major problem for many municipal police services and act as a major impediment to reconciliation at the community level. However, it is important to pinpoint the role of racist police practices within the broader system of Indigenous overrepresentation in the criminal justice system. The police act as the first point of contact for those entering the criminal justice system and too often officers lack the necessary cultural understanding and sensitivity required to carry out appropriate enforcement.<sup>114</sup> Furthermore, practices of both over-policing and under-policing of Indigenous Peoples have created a cyclical structure of Indigenous overrepresentation within the justice system as both criminals and victims which as Rudin notes, cannot be addressed simply through better training.<sup>115</sup> Dussault and Erasmus explain this structure in more detail as they find that Indigenous Peoples are consistently subjected to higher levels of policing for minor crimes like drinking violations, and yet, are ignored by the police as victims when it comes to more serious crimes, particularly domestic violence.<sup>116</sup> These policing failures ultimately cascade into other spheres of the

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<sup>112</sup> Saini, "Systemic Discrimination in Policing," 12.

<sup>113</sup> Saini, "Systemic Discrimination in Policing," 12.

<sup>114</sup> Fiddler, "Submission of Nishnawbe Aski," 8.

<sup>115</sup> Fiddler, "Submission of Nishnawbe Aski," 8; Clark, "Overrepresentation of Indigenous People," 2; Rudin, "Aboriginal Peoples," 64.

<sup>116</sup> Dussault and Erasmus (Co-Chairs), "Bridging the Cultural Divide," 39.

criminal justice system such as correctional institutions and the courts which perpetuate the cycle of Indigenous criminalization and overrepresentation.

One of the major ways in which Indigenous discrimination is compounded in the criminal justice system is through pre-trial detention rates. Statistics indicate that Indigenous offenders are subjected to much higher and longer rates of pre-trial detention (i.e., the denial of bail) compared to non-Indigenous offenders.<sup>117</sup> In combination with discriminatory policing practices that “result in more Indigenous people being arrested”, they have also become significantly overrepresented among the incarcerated population across the country.<sup>118</sup> Political recognition reforms introduced by Parliament and the Supreme Court in the late 1990s and early 2000s have had little impact in reversing these disparities. It is noted that Indigenous admissions to custody actually increased following these reforms while at the same time, non-Indigenous admissions to custody significantly decreased.<sup>119</sup> Stenning and Roberts attribute this to a lack of due diligence on the part of the Parliament and the Supreme Court in lazily examining “the causal relationship between sentencing practices and the over-representation of Aboriginal offenders in Canada’s prison population.”<sup>120</sup> Even decades later, rates of Indigenous admissions to custody continue to remain troublingly high. In 2020 and 2021, Indigenous admissions to custody accounted for nearly one-third of all adult admissions while representing only 5% of the Canadian adult population.<sup>121</sup> It is even worse for Indigenous women and youth as half of all youth admissions to custody are Indigenous and over 40% of all female admissions are made up by Indigenous women.<sup>122</sup> Marginal policy reforms are evidently not enough to solve this institutional crisis.

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<sup>117</sup> Clark, “Overrepresentation of Indigenous People,” 35.

<sup>118</sup> Clark, “Overrepresentation of Indigenous People,” 19; Rudin, “Aboriginal Peoples,” 15-16.

<sup>119</sup> Rudin, “Aboriginal Peoples,” 9; Council of Canadian Academies, “Toward Peace,” 47.

<sup>120</sup> Stenning and Roberts, “Empty Promises,” 155.

<sup>121</sup> Statistics Canada, “Adult and Youth Correctional,” 4.

<sup>122</sup> Statistics Canada, “Adult and Youth Correctional,” 4.

There must be comprehensive change targeted at the source of this systemic failure in order to meaningfully address Indigenous overrepresentation in the criminal justice system.

Even after their charges have been dealt with, Indigenous offenders find themselves subjected to disproportionate police surveillance and over-policing in what has been described as a “revolving door of charges, detention, release and further charges.”<sup>123</sup> As Deshman and Myers explain, money, employment, housing, and family support all play a significant role in trapping offenders in a revolving system of criminalization, and Indigenous Peoples are disproportionately impacted by each of these factors.<sup>124</sup> Recidivism statistics provide further evidence of this process as they have historically remained much higher for Indigenous offenders in Canada. A study conducted by Correctional Service Canada reported the overall two-year recidivism rate to be 24% for men and 12% for women, while for Indigenous offenders it was significantly higher at 38% for men and 20% for women.<sup>125</sup> In addition, Dingwall points out that numerous studies have shown that when necessary supports like housing are accessible, recidivism is less likely.<sup>126</sup> However, when inadequate supports like housing are not available, Indigenous Peoples are subjected to greater surveillance, overcharging, and criminalization by the police.<sup>127</sup> There is ultimately an indisputable connection between Indigenous socioeconomic marginalization and police discrimination. Policing practices must be reoriented in a way that recognizes these dimensions of discrimination so as to prevent the most marginalized and vulnerable from being targeted and overrepresented.

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<sup>123</sup> Deshman and Myers, “Set up to Fail,” 4.

<sup>124</sup> Deshman and Myers, “Set up to Fail,” 73-75.

<sup>125</sup> Stewart et al., “A Comprehensive Study,” iii.

<sup>126</sup> Dingwall, “Welcome Home,” 12, 34.

<sup>127</sup> Dingwall, “Welcome Home,” 12, 34.

As this section demonstrates, Indigenous overrepresentation is not just an issue of race, but rather an intersectional issue and a product of broader social, economic, and political marginalization that is inextricably linked to policing and the entire criminal justice system. As Crenshaw and Dhamoon have underlined, discrimination does not operate along a singular trajectory, it is multi-layered and functions along a multitude of categories such as race, class, and gender to marginalize individuals along multiple identities and groups as current statistics demonstrate.<sup>128</sup> Colonialism has inflicted tremendous harm upon Indigenous communities resulting in legacies of poverty, homelessness, and a lack of familial and cultural supports which continue into the present day.<sup>129</sup> The criminal justice system exploits and compounds these legacies which is why Indigenous Peoples have remained overrepresented. Given that the police are the first point of contact for those that enter this system, it is fundamentally important that they engage in alternative and culturally appropriate approaches rather than relying on charges and incarceration to police issues of a social and economic nature. Otherwise, this cycle of Indigenous socioeconomic marginalization and overrepresentation will only continue.

### **Framework of Inferiority and Colonialism**

It is clear that the police have and continue to fail Indigenous Peoples. Although, some progress has been made, the state has ignored its obligation to support Indigenous self-determination specifically, with respect to Indigenous self-administered police services. The current framework under the FNPP has ensured that independent Indigenous police services remain institutionally inferior and colonially controlled through an intently designed legislative and funding framework. This is most evident in the fact that Indigenous police services continue

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<sup>128</sup> Dhamoon, “Considerations on Mainstreaming Intersectionality,” 231; Crenshaw, “Demarginalizing the Intersection,” 152.

<sup>129</sup> Buller et al. (Commissioners), “Reclaiming Power and Place,” 24.

to be inequitably funded in comparison to non-Indigenous police services.<sup>130</sup> As a result, at least 18 Indigenous communities, between 1992 and 2013, were forced to disband their own police services and instead contract services from the OPP, RCMP, and the Sûreté du Québec.<sup>131</sup> Other Indigenous police services across the country have been forced to regularly rely upon the assistance of federal, provincial, and municipal police services for basic operational duties from general backup to investigations to specialized support.<sup>132</sup> Rather than being independent self-sufficient agencies, Indigenous police agencies are thus forced to rely upon colonial institutions to properly and effectively function.

The context of Indigenous policing in Ontario is particularly unique from the rest of the country (except for Quebec which uses a similar model). Given the withdrawal of the RCMP in the 1960s from regular policing operations in Ontario Indigenous communities, policing in these communities has been mandated to the province and handled by either Indigenous police services or the OPP.<sup>133</sup> As of 2021, Indigenous agencies in Ontario oversee policing operations in the majority of their communities while the OPP provides policing for about 22 Indigenous communities and operational support for another 18.<sup>134</sup> This complex and inconsistent arrangement has led to significant challenges between Indigenous and provincial police services as well as major tensions between the OPP and some Indigenous communities. For example, a 2021 incident in Pikangikum of an alleged sexual assault by an OPP officer resulted in the ordered removal of all OPP officers in the community by Pikangikum's Chief and Council.<sup>135</sup>

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<sup>130</sup> Buller et al. (Commissioners), "Reclaiming Power and Place," 69.

<sup>131</sup> Jones et al., "First Nations Policing," 58.

<sup>132</sup> Clairmont, "Aboriginal Policing in Canada," 92; Kiedrowski, Jones and Ruddell, "'Set up to Fail?'," 4.

<sup>133</sup> Clairmont, "Aboriginal Policing in Canada," 2.

<sup>134</sup> Anderson, "'Trust has Been Broken',".

<sup>135</sup> Anderson, "'Trust has Been Broken',".



Some officers with the Anishinabek Police Service (APS) have also expressed concerns over the lack of support services provided by the OPP when requested.<sup>136</sup>

A positive relationship between the OPP and Indigenous police services is important as Indigenous services tend to rely heavily on the support of the OPP for emergencies, major investigations, and specialized services in their communities.<sup>137</sup> While this relationship has generally remained positive, many Indigenous police services view the current system as inefficient citing a lack of OPP presence and significant delays in accessing support from the agency.<sup>138</sup> The OPP can certainly do more to address these concerns; however, this issue primarily stems from the funding limitations and operational restrictions under the FNPP which hampers the ability of Indigenous police services to provide effective and comprehensive services. As Clairmont points out, under the current framework Indigenous police services are defined as police enhancements rather than replacements and are thus restricted to providing basic, front-line policing.<sup>139</sup> Some within NAPS leadership have noted that while their police service is defined as an enhancement, it realistically operates more as a replacement given the lack of OPP presence in Nishnawbe Aski Nation territory.<sup>140</sup> Although there have been some exceptions, the framework ordinarily provides little room for Indigenous communities to decide how to best approach crime in their communities beyond the provision of basic services. As a result, officers within Indigenous agencies have been unable to provide the sufficient range of services required to address the unique socioeconomic circumstances connected to crime in their communities. This is not just a major obstacle of Indigenous self-determination, but it also

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<sup>136</sup> Clairmont, "Aboriginal Policing in Canada," 101.

<sup>137</sup> Clairmont, "Aboriginal Policing in Canada," 71, 92, 102.

<sup>138</sup> Clairmont, "Aboriginal Policing in Canada," 95.

<sup>139</sup> Clairmont, "Aboriginal Policing in Canada," 87.

<sup>140</sup> Clairmont, "Aboriginal Policing in Canada," 95-96, 99.

presents a significant barrier for Indigenous police services in their efforts to approach crime proactively and holistically as they have indicated is their preference.<sup>141</sup>

It is also important to outline the patterns of systemic racism faced by the majority of Indigenous Peoples who live off-reserve.<sup>142</sup> For those that live in cities and urban centres, the institutional failures of the police have been much more pronounced. Intersectional marginalization in urban centres is particularly robust and feeds into a structure of racist police practices that disproportionately targets Indigenous Peoples. Income gaps between Indigenous and non-Indigenous Peoples remain pervasive even in urban settings, and various studies have also found that Indigenous Peoples in urban settings are vastly overrepresented within homeless populations, child welfare/foster care systems, and those managing adverse health conditions.<sup>143</sup> This is problematic as the police are routinely tasked with managing gaps in social services through the justice system, which they are not effectively trained or equipped to do.<sup>144</sup>

Some of the major factors that contribute to Indigenous victimization both as a result of crime and police discrimination are homelessness, mental health issues, and addiction.<sup>145</sup> Each of these disproportionately affect Indigenous Peoples; however, homelessness appears to have a particularly strong influence on Indigenous victimization. A study conducted by Belanger, Awosoga, and Head examined homelessness in major Ontario cities and found that in each case Indigenous representation among the homeless was significantly higher in comparison to their representation within the city population.<sup>146</sup> They also found that nationally, Indigenous Peoples

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<sup>141</sup> Council of Canadian Academies, "Toward Peace," 51-52, 129.

<sup>142</sup> Jones et al., "First Nations Policing," 1.

<sup>143</sup> Sinclair, Littlechild and Wilson (Commissioners), "Honouring the Truth," 147, 182; National Association of Friendship Centres, "Urbanization and Indigenous Peoples," 8; Belanger, Awosoga and Head, "Homelessness, Urban Aboriginal People," 14, 19.

<sup>144</sup> Sinclair (Lead Investigator), "Thunder Bay Police Services," 61.

<sup>145</sup> Sinclair (Lead Investigator), "Thunder Bay Police Services," 46; Clark, "Overrepresentation of Indigenous People," 12.

<sup>146</sup> Belanger, Awosoga and Head, "Homelessness, Urban Aboriginal People," 13.

in urban settings were over eight times more likely to be or become homeless than non-Indigenous Peoples.<sup>147</sup> Given the difficulties in accurately counting homeless and transient populations, it is likely that this number is realistically higher than what has been reported. Adequate socioeconomic infrastructure is thus a necessity for urban communities as when there are gaps, this responsibility primarily falls upon the police. In the meantime, it is also necessary that municipal police services find alternative strategies in their management of social infrastructure shortages that acknowledge Indigenous socioeconomic marginalization and offer alternatives beyond simply criminalizing those in need of social supports.

As mentioned, marginalized groups like the homeless, Indigenous Peoples, and even women, find themselves over-policed for trivial matters and under-policed as victims of more serious crimes.<sup>148</sup> This is not just because police are inadequately trained and ill-equipped to manage these issues. It is also due to the connection between the broader culture of Indigenous discrimination and hate within urban communities and the systemic racism of individual police officers. Results from the Urban Aboriginal Peoples Study indicate that Indigenous Peoples feel that non-Indigenous populations hold negative stereotypes about them that include perceptions of addiction, laziness, lacking intelligence, and that they are reliant on social assistance.<sup>149</sup> Such biases also seep into municipal police services and are subsequently expressed by individual officers. This connection is demonstrated in the OIPRD's *Broken Trust* report which details numerous parallels between the racist conduct of individual officers and members of the community.<sup>150</sup> These community attitudes appear, to some degree, to reinforce police racism and

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<sup>147</sup> Belanger, Awosoga and Head, "Homelessness, Urban Aboriginal People," 14.

<sup>148</sup> McNeilly (Independent Police Review Director), "Broken Trust," 72; Buller et al. (Commissioners), "Reclaiming Power and Place," 49.

<sup>149</sup> National Association of Friendship Centres, "Urbanization and Indigenous Peoples," 6.

<sup>150</sup> McNeilly (Independent Police Review Director), "Broken Trust," 42-46.

provide some indication as to why communities have remained largely indifferent to current discriminatory police operations.

It is important to discuss the wider attitudes within larger communities and among non-Indigenous Peoples as these surely function in a way that influences and defines institutions, especially because they represent the views of the majority. From an organizational institutionalists perspective, institutions like the police do not always act rationally in the interest of their purported goals and mandate, but rather act and change in response to ideological and cognitive pressures in their environment (i.e., racism and racial stereotypes).<sup>151</sup> It is thus, unsurprising that Thunder Bay, a community with one of the highest hate crime rates in the country primarily toward Indigenous Peoples, is also grappling with a deeply interwoven problem of systemic Indigenous racism within its police force.<sup>152</sup> Just as historic racist attitudes legitimized policies of Indigenous oppression within institutions like education and healthcare, contemporary discriminatory attitudes among the non-Indigenous majority continue to legitimize and influence the racist behaviour and conduct of municipal police services.

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<sup>151</sup> Campbell, “Problems of Institutional Analysis,” 17.

<sup>152</sup> McNeilly (Independent Police Review Director), “Broken Trust,” 17, 22.

## CHAPTER III: CASE STUDIES

This chapter will examine how two police agencies, the Nishnawbe Aski Police Service, and the Thunder Bay Police Service, are addressing systemic racism within their organizations. Both police agencies service large Indigenous populations. The Nishnawbe Aski Police Service, as a self-administered regional police service operating within Nishnawbe Aski Nation territory will serve to showcase an Indigenous approach to policing Indigenous populations. On the other hand, The Thunder Bay Police Service which operates in the City of Thunder Bay will demonstrate a municipal approach to policing Indigenous populations. The two case studies will detail the organizational structures each service and also outline the relevant policies and initiatives that each has implemented as part of its overall strategy and approach to policing Indigenous Peoples.

### **Nishnawbe Aski Police Service**

NAPS is the largest Indigenous police service in Canada. It is headquartered in Thunder Bay and services 34 communities across Nishnawbe Aski Nation territory in Northern Ontario, many of which are remote, fly-in communities with populations under 2,000.<sup>153</sup> Formed in 1994, it has continued to grow and now currently oversees a compliment of over 230 sworn officers and 40 civilian staff members scattered throughout the province.<sup>154</sup> Most of its officers work as front-line officers in Indigenous communities, but it also has a small compliment of speciality officers working in drug enforcement, emergency response, crime, and intelligence units.<sup>155</sup> Due to its mandate as a regional police service and the largest self-administered Indigenous police service in Canada, NAPS does uniquely engage in more specialized areas of policing and operate

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<sup>153</sup> Nishnawbe Aski Police Service, “Strategic Plan 2020-2023,” 7, 25.

<sup>154</sup> Nishnawbe Aski Police Service, “2019-2020 Annual Report,” 15.

<sup>155</sup> Nishnawbe Aski Police Service, “2019-2020 Annual Report,” 45; Nishnawbe Aski Police Service, “2018-2019 Annual Report,” 6; Nishnawbe Aski Police Service, “About Us,”.

more specialized units compared to other smaller Indigenous police services.<sup>156</sup> Similar to a municipal police force, its officers are appointed and share the same status as provincial peace officers under COPSA.<sup>157</sup> Its agency is governed by its own police services board and operates under the same oversight framework as municipal police services with the recent legislative changes under COPSA. However, there are still distinct differences with respect to its organizational structure and governance. As it was founded under the FNPP, rather than being funded directly by its communities, it is funded by both the provincial and federal governments and governed under a tripartite agreement between the Ontario government, Federal government, and Nishnawbe Aski Nation.<sup>158</sup>

The current FNPP framework has presented significant organizational challenges for the police service as it has been subjected to strict limitations over its mandate and authorities due to restrictive legislative constraints over the use of its funds. For example, NAPS is prevented from using government funds for institutionally necessary operations like major capital expenditures or purchasing assets, and it must also regularly rely upon assistance from the OPP for specialized services as a result of these funding deficiencies.<sup>159</sup> It has also “not been considered an essential service and the quality of its service delivery is not guaranteed by law.”<sup>160</sup> This has prompted NIMMIWG to specifically call for the FNPP to be replaced due to its incompatibility with Indigenous self-governance and its flagrant funding inequities in comparison to non-Indigenous police services.<sup>161</sup> In spite of these comprehensive structural deficiencies, NAPS has still been

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<sup>156</sup> Jones et al., “First Nations Policing,” 3, 45.

<sup>157</sup> Clairmont, “Aboriginal Policing in Canada,” 43; *Comprehensive Ontario Police Services Act*, S.O. 2019, c. 1, s. 101.

<sup>158</sup> Armstrong and Metatawabin, “Anticipated Evidence of NAPS,” 1; Clairmont, “Aboriginal Policing in Canada,” 90.

<sup>159</sup> Armstrong and Metatawabin, “Anticipated Evidence of NAPS,” 1; Nishnawbe Aski Police Service, “2019-2020 Annual Report,” 25.

<sup>160</sup> Armstrong and Metatawabin, “Anticipated Evidence of NAPS,” 1.

<sup>161</sup> Buller et al. (Commissioners), “Reclaiming Power and Place,” 69.

able to provide a police service superior to what it had previously replaced. More importantly, NAPS has demonstrated a unique approach to policing which has allowed it to largely overcome issues of Indigenous discrimination and systemic racism which continue to be rampant in municipal police services.

A key factor of NAPS success in reconciling historic and deeply ingrained Indigenous-police tensions can be attributed to its internal organizational framework. Its Police Services Board is entirely independent and Indigenous-led, composed of eight directors each chosen by separate regional Tribal Councils along with one ex-officio Director appointed by Nishnawbe Aski Nation leadership.<sup>162</sup> Unlike municipal police services boards which have their heads of council sit on their boards, NAPS excludes community Chiefs from serving as directors on the Board to prevent problematic conflicts of interest.<sup>163</sup> There are numerous examples of criticisms relating to mayoral corruption and interference on police services boards, notably in Thunder Bay by Mayor Hobbes and also more recently in Ottawa by Mayor Watson.<sup>164</sup> With respect to Ottawa, Mayor Watson faced serious allegations of political interference concerning his orchestrated removal of an Ottawa Police Services Board member which prompted two other members of the Board to resign which left the Ottawa Police Service and Board in disarray.<sup>165</sup> These allegations of political meddling also spurred significant concerns in Ottawa and across the province over the ability of municipal police services board to engage in independent governance and oversight of municipal police services.<sup>166</sup> As such, the unique restrictions incorporated within NAPS' governance structure ensures that the Board can provide more

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<sup>162</sup> Nishnawbe Aski Police Service, "Strategic Plan 2020-2023," 6.

<sup>163</sup> Nishnawbe Aski Police Service, "2018-2019 Annual Report," 6.

<sup>164</sup> Hayes, "High-level Departures,"; Smith, "Legal Bill for Police,".

<sup>165</sup> Hayes, "High-level Departures,".

<sup>166</sup> Hayes, "High-level Departures,".

effective and independent oversight and governance over its strategic priorities and the direction of the police force without undue political interference. Furthermore, to foster even greater transparency it has also committed to ensuring that its Board members are replaced with new members at the end of each term.<sup>167</sup> As NAPS indicates, this is meant to assist in fostering greater gender representation on the Board, avoid conflicts of interest, and promote ethical and responsible behaviour among its Board members.<sup>168</sup>

Diversity has also demonstrably been a top priority throughout the entire police service as well as within its leadership positions. While this has been a significant challenge for many municipal police services, NAPS officers and staff have remained uniquely diverse. The only apparent diversity challenge has been its Board of Directors which in previous years has had no female representation.<sup>169</sup> Although, in recent years it has made progress by appointing two new female Board members.<sup>170</sup> With respect to Indigenous representation within the police service, it has been an institutional leader. Roughly 60 percent of its officers are reportedly Indigenous and Board Chair Metatawabin has underlined that recruitment of Indigenous Peoples remains a top priority for the organization evinced by its numerous community-based initiatives to connect and build relationships with Indigenous students and youth.<sup>171</sup> Its recently appointed Chief of Police, Roland Morrison, is also a member of Chapleau Cree First Nation.<sup>172</sup>

Another important achievement made by NAPS, is that it has been the first self-administered agency to develop its own training program that aligns with provincial accreditation

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<sup>167</sup> Nishnawbe Aski Police Service, “2018-2019 Annual Report,” 6.

<sup>168</sup> Nishnawbe Aski Police Service, “2018-2019 Annual Report,” 6.

<sup>169</sup> Nishnawbe Aski Police Service, “2018-2019 Annual Report,” 6.

<sup>170</sup> Nishnawbe Aski Police Service, “Board of Directors,”.

<sup>171</sup> The Canadian Press, “Canada’s Largest Indigenous Police,”; Nishnawbe Aski Police Service, “2019-2020 Annual Report,” 5.

<sup>172</sup> Alex, “‘Honour and Privilege’,”.



standards to better manage and train its officers for supervisory roles.<sup>173</sup> As its training and hiring programs are entirely self-developed it is able to streamline cultural competency within the agency and ensure that Indigenous diversity is maintained in leadership positions and throughout the entire police service. Organizational diversity is just one aspect of NAPS' overall strategy, but it is a determinately important tool for institutional decolonization. It elevates Indigenous perspectives and voices which have for too long been excluded from municipal policing and confined to lower, non-leadership roles. This provides an opportunity for Indigenous perspectives to be heard and to ultimately influence and shape organizational policies.

In its nearly 30 years as Canada's largest Indigenous police service, NAPS has not once shot and killed anyone, nor have any of its officers died while on duty.<sup>174</sup> This is an incredible accomplishment considering its daily staffing and resource challenges that conventional municipal police services, by and large, do not face. Its officers work in isolated, remote communities often times without a partner or access to immediate support.<sup>175</sup> As acknowledged by the Chief of Police, NAPS also faces strenuous institutional obstacles such as insufficient equipment, lack of infrastructure, and inadequate funding to effectively carry out its operations.<sup>176</sup> These circumstances contribute to a much more dangerous, difficult, and stressful work environment for officers. However, it is evident that their policing philosophy, training, and enforcement approaches have managed to successfully reduce police violence even in these particularly trying circumstances. This achievement is a testament to their community-based and culturally competent approaches which are uniquely centered in a recognition of Indigenous

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<sup>173</sup> Clairmont, "Aboriginal Policing in Canada," 92.

<sup>174</sup> The Canadian Press, "Canada's Largest Indigenous Police,".

<sup>175</sup> Armstrong and Metatawabin, "Anticipated Evidence of NAPS," 5.

<sup>176</sup> Nishnawbe Aski Police Service, "Strategic Plan 2020-2023," 1.

culture and the historic realities of colonial oppression as expressed in their guiding organizational principles and internal reports.<sup>177</sup>

In each of its annual reports, NAPS has consistently underlined its mission to represent Indigenous communities, provide community-based police services, and to emphasize prevention, education, and appropriate enforcement.<sup>178</sup> While a similar philosophy is defined under COPSA, NAPS' actions and results corroborate its commitment to these principles. In recent years it has made a devout effort to emphasize more proactive and holistic approaches that tackle the root-cause of crime in its communities.<sup>179</sup> Its Board members and senior management have all agreed that the substantive issue in its communities is not crime, but rather social issues like substance abuse and economic prosperity.<sup>180</sup> In its Annual Report for 2016-2017, it notes that it has engaged in a number of consultations and collaborative engagements with community leaders on proactive policing measures to better address social issues that contribute to crime in their communities.<sup>181</sup> For instance, their Northeast region participates in two task forces, one with Mushkegowuk Council and another with the Porcupine Health Unit, focused on drug prevention and other underlying issues within its communities.<sup>182</sup>

One of its more significant programs, the Provincial Anti-Violence Intervention Strategy (PAVIS), provides proactive enforcement and specialized services for the purposes of reducing community violence “by focusing on intervention, prevention, enforcement, and community mobilization.”<sup>183</sup> Such initiatives demonstrate a comprehensive commitment to community-

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<sup>177</sup> Nishnawbe Aski Police Service, “2019-2020 Annual Report,” 4.

<sup>178</sup> Nishnawbe Aski Police Service, “2019-2020 Annual Report,” 4.

<sup>179</sup> Nishnawbe Aski Police Service, “2019-2020 Annual Report,” 42; Nishnawbe Aski Police Service, “2018-2019 Annual Report,” 25.

<sup>180</sup> Nishnawbe Aski Police Service, “2018-2019 Annual Report,” 25; Clairmont, “Aboriginal Policing in Canada,” 96.

<sup>181</sup> Nishnawbe Aski Police Service, “2016-2017 Annual Report,” 22.

<sup>182</sup> Nishnawbe Aski Police Service, “2019-2020 Annual Report,” 38.

<sup>183</sup> Nishnawbe Aski Police Service, “2019-2020 Annual Report,” 47.

based policing, even as its funding framework limits its ability to engage in such strategies. Its internally conducted audits also reflect the success of its community-based policing strategies. In its 2016 audit on sexual assault investigations, NAPS reported that the number of unfounded investigations conducted by its agency was well below the provincial average and it attributes this to more accurate classification and the superior investigational procedures of its service.<sup>184</sup> NAPS' prioritization of officer mental health and wellness has helped to ensure that officer conduct remains in line with its organizational philosophy. In 2020 it established a new Wellness Officer position which, along with its Critical Incident Response Team, provides support for officers dealing with trauma and mental health issues.<sup>185</sup> Overall, these initiatives foster a more positive organizational culture that provides officers with the necessary supports, and implements important institutional checks to ensure that crime is approached proactively, and officers conduct themselves appropriately.

Most importantly, NAPS has recognized and responded to the intersectional victimization of Indigenous Peoples within the criminal justice system by implementing organizational initiatives to alleviate systems of racial and gender discrimination. One of its major initiatives, the Survivor Assistance Support Program, was first developed in 2017 as a pilot project and later relaunched in 2020 as it secured necessary government funding.<sup>186</sup> The program attempts to address the gaps in services and supports for victims of domestic abuse and sexual assault (particularly women) by maintaining continuous contact with victims and providing them with the necessary education, resources, and on-going support services.<sup>187</sup> As NAPS states, the gaps

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<sup>184</sup> Nishnawbe Aski Police Service, "2016-2017 Annual Report," 34.

<sup>185</sup> Nishnawbe Aski Police Service, "2019-2020 Annual Report," 26.

<sup>186</sup> Nishnawbe Aski Police Service, "A New N.A.P.S.," 33-34; Nishnawbe Aski Police Service, "2018-2019 Annual Report," 15.

<sup>187</sup> Nishnawbe Aski Police Service, "A New N.A.P.S.," 33-34.

in victim support services lead to circumstances where the police are unable to pursue charges on perpetrators as they lose contact with victims and because the victims would subsequently fail to attend court or testify.<sup>188</sup> NIMMIWG also underlines that the lack of services and supports for Indigenous women living on-reserve, often times in remote communities, is a significant problem which further marginalizes them in the criminal justice system.<sup>189</sup> Thus, this program addresses a systemic, intersectional failure within policing and was ultimately deemed to be a “huge success” by NAPS.<sup>190</sup> This program along with its many other initiatives, demonstrates the agency’s commitment to move beyond conventional, reactive approaches to policing and to instead deliver a more holistic service that recognizes wider systems of Indigenous oppression.

Public complaints and allegations of police misconduct are one of the most explicit and telling indicators of police racism. Such incidents have been a major source of Indigenous-police tensions. NAPS approach to addressing public complaints and allegations of officer misconduct uniquely offers a more proactive investigative and disciplinary framework to address complaints. It has also reported highly positive outcomes as a result of this approach. Throughout the years, its annual reports have highlighted key improvements to the way that the organization collects and analyzes data regarding misconduct complaints, such as by implementing new software programs to better track, manage, and assess complaints.<sup>191</sup> It has also formally recognized the need to continuously improve its response to these issues, specifically through educational tools which it has continued to update and develop.<sup>192</sup>

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<sup>188</sup> Nishnawbe Aski Police Service, “2018-2019 Annual Report,” 15.

<sup>189</sup> Buller et al. (Commissioners), “Reclaiming Power and Place,” 38, 70, 100.

<sup>190</sup> Nishnawbe Aski Police Service, “2018-2019 Annual Report,” 15.

<sup>191</sup> Nishnawbe Aski Police Service, “2016-2017 Annual Report,” 27; Nishnawbe Aski Police Service, “2018-2019 Annual Report,” 28-29.

<sup>192</sup> Nishnawbe Aski Police Service, “2018-2019 Annual Report,” 29; Nishnawbe Aski Police Service, “2016-2017 Annual Report,” 27.

Overall, the data has indicated that its current training and disciplinary framework has had a positive impact as it notes that officer and agency complaints have significantly declined year-over-year. For 2018 NAPS reported a 62% decline in misconduct files and a similar decline of 55% for 2019.<sup>193</sup> Although, due to the recent changes under COPSA, NAPS will no longer have oversight of officer misconduct and civilian complaints.<sup>194</sup> Instead, the process will be the same as municipal police services, with the OIPRD and SIU overseeing and investigating complaints that are unresolved internally and that relate to more serious incidents officer misconduct.<sup>195</sup> While this does represent a loss in the self-determination of the organization, its successful organizational policies relating to its Board, police enforcement, hiring, training, and discipline will remain unchanged and evidently continue to influence a more positive Indigenous-police relationship.

### **Thunder Bay Police Service**

TBPS began its mandate in 1970, formed as a product of the amalgamation of Fort William and Port Arthur as well as the neighbouring townships of Neebing and McIntyre.<sup>196</sup> It oversees police operations throughout the City of Thunder Bay and Municipality of Oliver Paipoonage with a compliment of 233 officers and 110 civilian staff members.<sup>197</sup> Thunder Bay is situated at the head of Lake Superior in Northwestern Ontario, on the traditional lands of the Fort William First Nation within Robinson Superior Treaty territory. It has a population of roughly 110, 000 people and is home to the largest Indigenous population in Canada with about 18.5% of the population identifying as Indigenous.<sup>198</sup> Other estimates of the Indigenous population in the

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<sup>193</sup> Nishnawbe Aski Police Service, “2018-2019 Annual Report,” 29.

<sup>194</sup> Nishnawbe Aski Police Service, “2018-2019 Annual Report,” 5-9.

<sup>195</sup> Nishnawbe Aski Police Service, “2018-2019 Annual Report,” 5-9.

<sup>196</sup> McNeilly (Independent Police Review Director), “Broken Trust,” 38.

<sup>197</sup> Woods, “Police Associations,”.

<sup>198</sup> Abebe et al., “Community Report Thunder Bay,” 7.

region have been somewhat lower (around 13%); however, most studies have acknowledged that Indigenous populations tend to be undercounted and suggest that the population is likely much higher than what is actually reported.<sup>199</sup> The substantial Indigenous population is largely a result of the community being geographically surrounded by numerous Indigenous communities for which the city acts as a service hub. This has resulted in significant in-migration from those living in smaller and more remote communities with inadequate opportunities for employment, education, and social services.<sup>200</sup> However, while the city may have a significant Indigenous population, it has not been particularly welcoming of Indigenous Peoples and culture.

Like many other cities across the province and country, Thunder Bay has a regional history starkly situated in colonialism and institutional racism influenced by the historic policies of the Canadian government. The Indian Residential School System, Sixties Scoop, and the expropriation of Indigenous territory are all a part of this city's history, and the destructive legacies of these policies remain evident throughout the community to this day. Notably, St. Joseph's Residential School operated in what is now Thunder Bay for nearly a century, housing hundreds of Indigenous children until it closed in 1970.<sup>201</sup> Colonial policies like these have resulted in extensive intergenerational traumas that continue to affect those living in the community and have contributed to the racial socioeconomic disparities within the region. For instance, a large majority (66%) of those who have experienced homelessness in the city are Indigenous and are often further marginalized as a result of other challenges such as poverty and mental health issues.<sup>202</sup> The city also continues to grapple with a deeply strained relationship

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<sup>199</sup> Abebe et al., "Community Report Thunder Bay," 8-9; Mercer, "Administrator's Report to OCPC," 24.

<sup>200</sup> Parsons, "Solving the Homelessness," 12.

<sup>201</sup> McNeilly (Independent Police Review Director), "Broken Trust," 35-38.

<sup>202</sup> Community Safety and Well-Being Thunder Bay, "2021 Population," 16.

with Indigenous Peoples exacerbated by persistent and flagrant incidents of Indigenous racism in the community.

On multiple occasions, Thunder Bay has gained the title of the hate crime capital of Canada with the highest rate of hate crimes in the nation, the majority of which were directed toward Indigenous Peoples.<sup>203</sup> One of the more highly publicized examples was the 2017 murder of Barbara Kentner who was struck by a trailer hitch thrown by a white male.<sup>204</sup> This is the daily environment of the City of Thunder Bay and TBPS. The racist community environment has proven to be a strong contributor to what McNeilly describes as “strained relations between TBPS and Indigenous people who live in or travel to Thunder Bay.”<sup>205</sup> The OIPRD and TBPSB investigations, both underline “an extreme level of racism” within TBPS, marked by a wide range of problematic incidents that include racist social media posts by officers, unprofessional behaviour, and improper Indigenous death and missing persons investigations.<sup>206</sup> Indigenous community members have explained that this pattern of conduct by TBPS is reflective of its racist institutional attitudes and treatment, negative preconceptions of Indigenous Peoples, and a systemic devaluation of Indigenous lives.<sup>207</sup>

TBPS operates in an Indigenous relations environment that is largely historically influenced and exceedingly complex as it continues to grapple with multiple dimensions of intergenerational traumas and marginalization due to historic and present-day colonial policies in the community. However, while Indigenous inequities may be historically based, the organizational policies and culture of TBPS continues to demonstrate contempt for Indigenous

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<sup>203</sup> Community Safety and Well-Being Thunder Bay, “2021 Population,” 14.

<sup>204</sup> McNeilly (Independent Police Review Director), “Broken Trust,” 47.

<sup>205</sup> McNeilly (Independent Police Review Director), “Broken Trust,” 5.

<sup>206</sup> Sinclair (Lead Investigator), “Thunder Bay Police Services,” v; McNeilly (Independent Police Review Director), “Broken Trust,” 6, 42-44.

<sup>207</sup> McNeilly (Independent Police Review Director), “Broken Trust,” 5.

equity and embodies an institutional culture of racial discrimination that reflects the broader attitudes of racism within the community. Indigenous community members have further criticized the social services in the city as being inadequate, lacking the necessary cultural appropriateness, and riddled with stigma and racism which has fostered the ongoing homelessness, mental health, and addictions crisis in the city.<sup>208</sup> As a result, the police are used to fill the social services gaps which has resulted in an exceedingly high number of non-criminal calls for service to manage mental health issues, intoxication and addiction, and family violence throughout the community.<sup>209</sup>

Specifically, addiction and mental health issues represent the largest increases of calls for service in Thunder Bay and are a significant strain on police resources.<sup>210</sup> This is inevitably connected with the policing of Indigenous Peoples as well, as many Indigenous Peoples continue to struggle with high rates of addiction and mental health issues due to the legacy of residential schools.<sup>211</sup> In response, the police service has introduced special initiatives such as the Community Oriented Response & Engagement Unit to help connect vulnerable populations with support services.<sup>212</sup> However, TBPS is still, often times, forced to charge and detain individuals in cases where there are inadequate alternative services.<sup>213</sup> This is an indication that its alternative approaches have remained strictly piecemeal and that the police are still overly reliant on conventional, reactive approaches to manage social issues. The unfortunately high rate of Indigenous incarceration at the Thunder Bay Jail, which has been reported to be between 39 and

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<sup>208</sup> Abebe et al., “Community Report Thunder Bay,” 22.

<sup>209</sup> Thunder Bay Police Service, “2021 Annual Report,” 22-23.

<sup>210</sup> Thunder Bay Police Service, “2021 Annual Report,” 5.

<sup>211</sup> Sinclair, Littlechild and Wilson (Commissioners), “Honouring the Truth,” 178.

<sup>212</sup> Thunder Bay Police Service, “2021 Annual Report,” 12.

<sup>213</sup> Thunder Bay Police Service, “2021 Annual Report,” 23.



75 percent, underlines the problematic consequences of using detention to manage socioeconomic-based issues.<sup>214</sup>

The police service has taken some important positive steps toward a more proactive policing approach, specifically in response to mental health-related service calls. TBPS along with the Canadian Mental Health Association and the Thunder Bay Regional Health Sciences Centre, established a Joint Mobile Crisis Response Team in 2018 whereby social workers partner with officers in responding to mental health-related calls.<sup>215</sup> The program was used to respond to roughly half of all mental health and substance use calls in 2019, and has been successful in diverting numerous individuals away from police custody.<sup>216</sup> While positive, there are still clear gaps in their response as this team only managed to respond to half of all related calls.<sup>217</sup> It is unclear if this was due to a lack of resources or perhaps some other factor as the deficiency was not explained. Nonetheless, the police remain the primary responders to poverty, homelessness, mental health, and addictions-related calls for service and are “under stress and ill equipped” to deal with such issues on a daily basis.<sup>218</sup>

As underlined in the TBPSB’s report “Housing, counselling and medical services may be strained beyond capacity, but the courthouse does not turn anyone away.”<sup>219</sup> While social service deficiencies may not be the fault of the police, their current approach has resulted in much higher levels of minor and nuisance charges, and thus does not effectively manage the socioeconomic issues in the region, but rather makes them worse by promoting a cycle of criminalization.<sup>220</sup>

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<sup>214</sup> Turner, “Thirteen People,”

<sup>215</sup> Thunder Bay Police Service, “2021 Annual Report,” 22; Community Safety and Well-Being Thunder Bay, “2021 Population,” 13.

<sup>216</sup> Community Safety and Well-Being Thunder Bay, “2021 Population,” 13.

<sup>217</sup> Community Safety and Well-Being Thunder Bay, “2021 Population,” 13.

<sup>218</sup> Sinclair (Lead Investigator), “Thunder Bay Police Services,” 61.

<sup>219</sup> Sinclair (Lead Investigator), “Thunder Bay Police Services,” 61.

<sup>220</sup> Sinclair (Lead Investigator), “Thunder Bay Police Services,” 61.

Indigenous Peoples find themselves victimized not only through legacies of colonialism, but also by the police who are often ill-equipped, culturally incompetent, and who too often criminalize those in need of support.<sup>221</sup>

The organizational structure of TBPS is perhaps even more troubling, given the chaos and lack of prioritization of Indigenous issues within its leadership. Mercer notes that these divisions within the board and TBPS leadership extend back to at least early 2020 and have continued into 2021 and 2022 with multiple claims of Indigenous discrimination made against TBPS leadership with the Human Rights Tribunal of Ontario.<sup>222</sup> In addition, in light of multiple institutional reviews into systemic racism within the police service, there has been little meaningful action taken to improve its relationship with Indigenous Peoples. For example, Indigenous representation within the organization remains disproportionately low and there has been little action taken to address this disparity. The results from its Workforce Census survey, reported Indigenous representation among its civilian employees at 0% and representation among its sworn officers at 11%.<sup>223</sup> Overall, this is well below even the lower estimates of 13% Indigenous representation within the community and excessively below the higher estimates of 18.5%.<sup>224</sup> In effect, this exclusion of first-hand Indigenous perspectives from front-line policing compounded with the racially motivated divisions in its leadership, have hindered the organization's ability to carry out institutional reconciliation.

TPBS has also struggled to adequately address the recommendations made by the OIPRD concerning systemic racism within the police service. Since the release of its report in 2018, TBPS has made some progress by formally acknowledging the issue of Indigenous racism and in

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<sup>221</sup> Parsons, "Solving the Homelessness," 19.

<sup>222</sup> Mercer, "Administrator's Report to OCPC," 8, 19-20.

<sup>223</sup> Desmoulins, "Diversity Within," 6.

<sup>224</sup> Desmoulins, "Diversity Within," 6; Abebe et al., "Community Report Thunder Bay," 7.

pursuing an Organizational Change Project to improve diversity training and community engagement within the force.<sup>225</sup> Additionally, it has also expanded the role of its Community Inclusion Team which focuses on reconciling Indigenous-police relations through community enforcement, education, engagement, and cultural awareness training.<sup>226</sup> However, these initiatives reflect only minor progress in the face of widespread, deep-rooted racism within the institution. For example, while it did expand its Indigenous Liaison Unit to promote greater engagement within the community, this was already previously criticized by community members as insufficient. A concern, highlighted by the OIPRD from one of its engagement sessions specifically stresses the need not just for Indigenous liaison officers, but for all officers to engage in community-based initiatives with Indigenous Peoples.<sup>227</sup>

Nishnawbe Aski Nation Grand Chief Fiddler makes clear that it is not enough for an organization to simply adopt new policies and training, it must also emphasize community-led initiatives that humanize policing.<sup>228</sup> In his view, this approach would help reduce tensions and promote a more positive relationship between Indigenous Peoples and the police.<sup>229</sup> Although, apart from some minor initiatives, widespread Indigenous-police engagement efforts have not occurred within TBPS. The recent rise in complaints against the police, in 2021 and 2022 is evidence of its lack of engagement and strained relationship with the community, and perhaps also inadequate training.<sup>230</sup> In these past two years complaints have risen back up to a total of over 50 complaints marking the end of a three-year-long decline.<sup>231</sup> Its current efforts have thus

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<sup>225</sup> Thunder Bay Police Services Board, “Summary of OIPRD Recommendations,” 5, 9.

<sup>226</sup> Thunder Bay Police Service, “2021 Annual Report,” 10.

<sup>227</sup> McNeilly (Independent Police Review Director), “Broken Trust,” 65.

<sup>228</sup> Fiddler, “Submission of Nishnawbe Aski,” 8.

<sup>229</sup> Fiddler, “Submission of Nishnawbe Aski,” 8.

<sup>230</sup> Office of the Independent Police Review Director, “Stats Dashboard,”; Thunder Bay Police Service, “2019 Annual Report,” 39.

<sup>231</sup> Office of the Independent Police Review Director, “Stats Dashboard,”; Thunder Bay Police Service, “2019 Annual Report,” 39.

proven ineffective in fostering positive, sustainable change and there is clearly a need to emphasize deeper and more long-term community-oriented policing strategies that are cognizant of the unique circumstances of Indigenous Peoples.

While there have been many positive initiatives targeting systemic racism within TBPS like its specialized Indigenous Liaison Officers and Diversity and Inclusion Committee. These relatively minor improvements to community-based policing have been overshadowed by the agency's larger focus on reactive policing. Given the widespread deficiencies in social services within the community, particularly for Indigenous Peoples, TBPS has still focused the majority of its resources on front-line, reactive response that inevitably criminalize vulnerable populations. Community-based and proactive services account for only 9.5% of its officer allocation, while reactive responses account for 55%.<sup>232</sup> The police service does highlight other key priorities in the city beyond just social issues, specifically the prevalence of organized crime and drug trafficking.<sup>233</sup> Reactive policing approaches may be necessary to some degree for these types of crimes, but it has proven to be woefully ineffective in reducing Indigenous criminalization and it is relied upon too heavily as a means to address social-based crimes and minor criminal activity.

As they highlight in their *2021 Annual Report*, TBPS resources are clearly strained by social-based calls for service which include domestic dispute calls for service that generally take over 4 hours for front-line officers to manage, mental health related calls that take about 5 hours, and intoxication calls that amount to roughly 2 hours of an officer's time.<sup>234</sup> While its Joint Mobile Crisis Response Team and Impact Unit have made some headway in diverting vulnerable

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<sup>232</sup> Thunder Bay Police Service, "Deployment Model," 11.

<sup>233</sup> Thunder Bay Police Service, "2021 Annual Report," 5, 17.

<sup>234</sup> Thunder Bay Police Service, "Deployment Model," 10.

individuals from police custody, conventional and reactive police responses still largely remain the primary approach to police calls for service.<sup>235</sup> The police, of course, did not create the social services crisis in the city, but they are evidently tasked with its management, and their conventional, status-quo approaches have only exacerbated the marginalization of vulnerable groups like Indigenous Peoples. Social issues require alternative approaches beyond simply charging and incarcerating individuals which ultimately creates a discriminatory cycle of criminalization and victimization for Indigenous Peoples. It is necessary for TBPS to approach crime in a way that is organizationally cognizant of intersectional marginalization, and which recognizes the unique needs of Indigenous Peoples in the community to effectively reduce their discriminatory practices.

Apart from some piecemeal efforts, TBPS has not implemented any major organizational reforms to address the systemic culture of racism and Indigenous discrimination within the agency as detailed in the OIPRD's 2018 report. Mercer points out that in the last four years the OIRPD's recommendations have been subjected to unacceptable delays and insufficient policy attention by the police service and Board.<sup>236</sup> This refusal by the police service and its Board to implement the necessary institutional reforms and recommendations as advised by multiple oversight agencies amounts to a systemic failure in policy and governance at the institutional level. Furthermore, recent developments in 2021 and 2022 have outlined concerning allegations of Indigenous discrimination and serious misconduct within TBPS leadership.<sup>237</sup> These allegations present a troubling continuation of previous findings by the OIPRD that TBPS leadership has failed to adequately address systemic racism and has continued to engaged in

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<sup>235</sup> Community Safety and Well-Being Thunder Bay, "2021 Population," 13; Thunder Bay Police Service, "2021 Annual Report," 14.

<sup>236</sup> Mercer, "Administrator's Report to OCPC," 27.

<sup>237</sup> Mercer, "Administrator's Report to OCPC," 8-11.

efforts to minimize such concerns.<sup>238</sup> While the corruption and chaos within the governance structure of TBPS may surely be a factor for its dismay, its failure to effectively act on the recommendations of the OIPRD is itself a crucial institutional policy failure. By consistently delaying and ignoring important recommendations from oversight bodies, it is clear that TBPS has demonstrated a consequential failure in policy and a failure to Indigenous Peoples and its community.

Its piecemeal attempts at reform continue to be overshadowed by the persistent instances of Indigenous racism in its leadership and throughout the community by its officers. Some of the most vital recommendations by the OIPRD have also gone ignored. Recommendation 35 from the OIPRD's *Broken Trust* report, calling for the establishment of a permanent advisory group between TBPS, and Indigenous leadership still has yet to be enacted.<sup>239</sup> Even in 2022, Indigenous leaders continue to echo previous calls to disband the police service. With respect to the recent reform initiatives within TBPS leadership and its Board, Nishnawbe Aski Nation Deputy Grand Chief has reiterated her calls to disband the force and former Fort William First Nation Chief and current TBPSB member Morriseau, has continued to criticize the lack of accountability from TBSP leadership.<sup>240</sup> Some positive piecemeal steps toward Indigenous reconciliation have unarguably been made by TBPS, but overall it has not meaningfully engaged in comprehensive institutional action to address systemic racism within the agency or throughout the community. As a result, the institution continues to be burdened and paralyzed by a culture of systemic racism marked by its own inaction which is evidently its own greatest policy failure.

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<sup>238</sup> McNeilly (Independent Police Review Director), "Broken Trust," 187.

<sup>239</sup> Thunder Bay Police Services Board, "Summary of OIPRD Recommendations," 10.

<sup>240</sup> Thompson, "First Nations Leaders,".

## **Discussion**

The two cases examined explore some of the institutional approaches and strategies implemented by police services in the context of Indigenous policing. Policing has long been an institution influenced and defined by colonialism and the two agencies, NAPS and TBPS, are used to showcase two inherently different organizational approaches to systemic racism and the residual effects of these approaches on contemporary Indigenous-police relations. Specifically, as an Indigenous police service, NAPS was used to demonstrate how the modern-day institution of policing can overcome its colonial vices and move toward a decolonial future. While TBPS was used as an example of a conventional, colonial police service reliant upon piecemeal institutional reforms. Systemic racism remains a pervasive problem within all levels of government and its institutions. However, it is a significantly paralyzing obstacle for many municipal police services across Ontario hoping to achieve greater Indigenous reconciliation. While TBPS showcased this challenge, it is not hard to find similar parallels across the province and country that have contributed to this institutional system of Indigenous racism and discrimination and failed to adequately address it.

Police discrimination operates along a number of intersectional social, economic, and political touchpoints which is why it has had such a profound impact on Indigenous Peoples. It is also a reason why systemic racism remains such an extraordinarily complex issue to which there is unfortunately no simple solution and no easy path toward institutional decolonization. While the issue has been amply defined among a deluge of government studies and reports, there is still a significant gap pertaining to an effective solution. Institutional recommendations and calls for justice as offered by NIMMIWG, the Truth and Reconciliation Commission, and other oversight bodies may be helpful, but are only impactful insofar as they are meaningfully understood and implemented by police services. As demonstrated by NAPS, holistic, Indigenous-informed and

community-based policing strategies provide a measured improvement over conventional, piecemeal municipal approaches with respect to Indigenous-police relations and appear to reduce police complaints and violence.<sup>241</sup> Thus, the approaches of Indigenous police services appear to offer a more effective and reproduceable path forward for municipal police services to better address their institutional deficiencies in relation to Indigenous Peoples and ultimately move toward a future of institutional decolonization.

In the case of NAPS, it is evident that Indigenous representation within leadership has a substantial impact in fostering more positive policies and a more culturally cognizant philosophy in the organization. Furthermore, strong Indigenous representation throughout the entire organization correlates with a more positive Indigenous-police relationship which is likely because, as Fiddler explains, shared experiences and understandings of intergenerational trauma “has the power to make or break effective policing.”<sup>242</sup> Jones et al. examined this approach in a number of other Indigenous communities and similarly found that officers directly from the communities in which they police are able to establish greater connections and trust with members of the community.<sup>243</sup> Given the lack of scholarship on Indigenous policing, it is somewhat difficult to present a clear statistical relationship of the improvements facilitated by NAPS. Although, broadly speaking, officers working in remote Indigenous communities in Canada do agree that there is greater emphasis on restorative justice and informal justice strategies in their communities as opposed to larger, urban communities.<sup>244</sup> There is also a strong indication that prioritizing culturally competent, community-led policing initiatives as

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<sup>241</sup> Nishnawbe Aski Police Service, “2018-2019 Annual Report,” 29; The Canadian Press, “Canada’s Largest Indigenous Police,”; Clairmont, “Aboriginal Policing in Canada,” 29.

<sup>242</sup> Fiddler, “Submission of Nishnawbe Aski,” 8.

<sup>243</sup> Jones et al., “First Nations Policing,” 67; Lithopoulos and Ruddell, “Policing Isolated Aboriginal Communities,” 445.

<sup>244</sup> Lithopoulos and Ruddell, “Policing Isolated Aboriginal Communities,” 445.



implemented by NAPS, has helped to repair the historic relationship of mistrust between Indigenous Peoples and the police. Many other examples have corroborated this positive correlation and the Council of Canadian Academies further concurs that community-led and trust-building approaches are by far “the most promising ways to promote safety and well-being” in both Indigenous and non-Indigenous communities.<sup>245</sup> Overall, NAPS’ success in reducing institutional racism appears to correspond with the positive effects examined within other Indigenous police services in the scholarship.

A significant challenge for NAPS and with all self-administered police services governed under the FNPP, has been inadequate funding and restrictive operational regulations. Given its wide range of operations, particularly in remote locations, NAPS per capita policing costs have been excessively high at nearly four times the national average and well above the average in Ontario for FNPP services.<sup>246</sup> Many have argued that this framework has ultimately set Indigenous police agencies up to fail.<sup>247</sup> While NAPS has been historically constrained in its ability to provide effective services beyond basic, front-line policing, it has demonstrated a distinct focus on providing proactive and community-led police services within its current means. This has been evinced in its efforts to collaborate with local leaders on solutions to crime, its participation on regional task forces, its training framework, and through specialized programs, like PAVIS and the Survivor Assistance Support Program. Overall, it has deemed many of these initiatives to be considerably successful.<sup>248</sup> In spite of this, its ability to adequately

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<sup>245</sup> Council of Canadian Academies, “Toward Peace,” 141.

<sup>246</sup> Jones et al., “First Nations Policing,” 49-50.

<sup>247</sup> Clairmont, “Aboriginal Policing in Canada,” 29; Council of Canadian Academies, “Toward Peace,” 80.

<sup>248</sup> Nishnawbe Aski Police Service, “2019-2020 Annual Report,” 23; Nishnawbe Aski Police Service, “2018-2019 Annual Report,” 14, 15, 29.

fund and pursue initiatives that promote Indigenous equity remains solely dependent on the approval and financial support from the provincial and federal government.

As for TBPS, the organization has demonstrated no such commitment to consult or collaborate with local Indigenous leaders and it continues to be confronted with countless allegations of misconduct and racial discrimination from its leadership all the way down to the constabulary level. These developments are particularly troubling as they come against the backdrop of repeated findings of institutional racism from oversight investigations into the police service. In addition, the marginal implementation of recommendations provided by the OIPRD in 2018 appears to be indicative of the indifference within TBPS leadership surrounding the pursuit of meaningful structural change to address systemic racism. It is important to note that the pandemic and tensions within the Board and leadership did negatively impact its efforts to implement reforms.<sup>249</sup> However, the fact remains that the “Board did not implement recommendations, policies and procedures as it should have done” and were not adequately equipped to even do so.<sup>250</sup>

This is not to say that the city and the police service did not take any steps to address its systemic failures in responsibly and effectively policing Indigenous Peoples. In fact, TBPS has compiled a list of its completed and ongoing accomplishments with respect to the OIPRD’s recommendations, of which many new reforms have been introduced.<sup>251</sup> The city has also engaged with residents to help inform new ways to address policing failures within the community.<sup>252</sup> Although, overall, the efforts by the city and TBPS have been predominantly marginal and piecemeal. TBPS has not made any broad or substantive organizational changes to

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<sup>249</sup> Mercer, “Administrator’s Report to OCPC,” 8, 13-20.

<sup>250</sup> Mercer, “Administrator’s Report to OCPC,” 27-28.

<sup>251</sup> Thunder Bay Police Services Board, “Summary of OIPRD Recommendations,” 1-13.

<sup>252</sup> Community Safety and Well-Being Thunder Bay, “‘What We Heard,’” 7, 10.

its internal or front-line policing operations, nor has it demonstrated any significant accomplishments in reconciling Indigenous-police relations. The critical rhetoric of local Indigenous leaders makes this unmistakably clear.<sup>253</sup> TBPS has continued to maintain the current status quo and operate predominantly along conventional, reactive policing approaches which have simply perpetuated Indigenous criminalization and overrepresentation. Given the widespread prevalence of systemic racism within the organization and the community, small policy changes have not been and will not be enough. To address systemic racism within TBPS and more broadly within the community, there must be systematic changes to the way that organizational policies are developed and implemented by including more Indigenous perspectives and representation, and by promoting an organizational culture of Indigenous respect and colonial recognition within the community.

Systemic racism in policing is an intersectional issue that requires multidimensional social, political, and economic solutions. The two cases emphasize this relationship as they highlight the prominent influence of intersectional marginalization on Indigenous police discrimination. Of course, Colonialism is also inherently connected as it serves as the source of social, economic, and political Indigenous marginalization. Additionally, pervasive environmental attitudes, both colonial and Indigenous, are noticeably connected to systems of institutional racism within police services. Recognizing these factors represents the first step in reconciling institutional racism and can subsequently help inform more long-term, comprehensive, and community-based solutions that are needed to address the primary causal factors of systemic racism within municipal police services.

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<sup>253</sup> Thompson, “First Nations Leaders,”; Turner, “Thirteen People,”.

## CHAPTER IV: CONCLUSION

Indigenous overrepresentation in the criminal justice system is a product of political, social, and economic intersections of colonial oppression. These systems continue to perpetuate racial divisions in policing and throughout society. Testimonies from Indigenous Peoples recounted in NIMMIWG lend credence to the fact that categories of race, gender, and class work in conjunction to disproportionately oppress Indigenous Peoples both as victims of crime and victims of police discriminatory and racism.<sup>254</sup> However, institutional police racism is not maintained by these factors alone. It is also largely influenced by the enforcement methods and approaches used by the police. As demonstrated, conventional colonial-based policing approaches exploit existing systems of oppression and result in the disproportionate criminalization of Indigenous Peoples. On the other hand, community-led, Indigenous approaches evidently have a much more positive influence on Indigenous-police relations and result in more equitable outcomes for Indigenous Peoples in the criminal justice system.

The comparative case study analysis demonstrates that Indigenous approaches are best equipped to manage systemic racism in policing. The multifaceted approach taken by NAPS which includes greater Indigenous recruitment, cultural training, proactive enforcement, and community-based policing has led to a more positive Indigenous-police relationship and less incidents of police discrimination and violence. Year-over-year the service has reported sharp declines in complaints of officer misconduct noting a 62% reduction in 2018 and 55% in 2019.<sup>255</sup> In comparison, TBPS complaints with the OIPRD remain stagnant with 37 received in 2020, 57 in 2021, and is on track to receive over 50 for 2022.<sup>256</sup> The analysis also substantiates that these

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<sup>254</sup> Buller et al. (Commissioners), “Reclaiming Power and Place,” 11, 37.

<sup>255</sup> Nishnawbe Aski Police Service, “2018-2019 Annual Report,” 29.

<sup>256</sup> Office of the Independent Police Review Director, “Stats Dashboard.”

institutions operate under the theory of organizational institutionalism. TBPS remains influenced and constrained by the pressures of Indigenous racism within its environment which has resulted in insincere and half-baked approaches to address system racism within the agency and community. While NAPS' more positive community environment has enabled it to carry out objectives that are more in line with its institutional philosophy and goals.

While the police represent only a single element of the broad issue of systemic racism, they are by far the primary and most egregious perpetrators of Indigenous discrimination. The police are the first point of contact for many Indigenous Peoples who too often find themselves trapped in a cycle of involvement in the criminal justice system. It is thus, the most determinative mechanism toward a solution to this crisis. This paper has chosen to showcase two divergent approaches to policing: one that remains entrenched in conventional colonial ideology and another that incorporates Indigenous perspectives and epistemes. Ultimately, it aims to demonstrate how policing approaches can be transformed away from structures that reproduce systems of oppression and instead into institutions that reconcile Indigenous oppression and that are cognizant of Indigenous Peoples, culture, and intergenerational traumas.

It is evident that both NAPS and TBPS continue to make progress in reconciling Indigenous-police relations and have similarly pursued initiatives and action plans to better serve Indigenous populations. Although, in comparison, NAPS has demonstrated a much greater commitment to reconciliation and greater success in its community-based approaches to Indigenous policing. Even with the significant barriers NAPS faces on a daily basis, from inadequate funding to remote community enforcement, it has still managed to foster a more positive relationship with Indigenous Peoples and reduce race-based police violence and discrimination. Other studies of self-administered Indigenous police services, namely the Six

Nations Police Service, have also reported similar achievements according to members in their communities.<sup>257</sup> For TBPS, its relationship with Indigenous Peoples remains distinctly broken, but not irreparable. While the agency has vocalized ambitious plans to repair this relationship, it remains to be seen if these will ever be meaningfully implemented and if the recent changes in leadership will perhaps foster greater action.

To echo Ladner's critiques of RCAP, piecemeal reforms are not enough to begin decolonizing Canadian institutions.<sup>258</sup> Numerous inquests, systemic reviews, and oversight investigations have provided a comprehensive toolkit for TBPS and other municipal police services to address systemic racism within their agencies. However, it is clear that to fully decolonize and repair Indigenous-police relations, institutions and their environments must change. As Fiddler suggests, there must be a restructuring of policing systems that prioritizes Indigenous-police relations and that introduces humanity into policing approaches that involve Indigenous Peoples.<sup>259</sup> Plainly speaking, community-based approaches must replace the conventional, reactive policing doctrines that have dominated municipal police services and there must also be an effort to address broader structures of racism within communities themselves.

It is essential that Indigenous leaders are included in this process and are permitted to act as municipal changemakers in leadership positions within police organizations. COPSA defines policing as an equitable, holistic, culturally sensitive, and co-operative institution; however, this has not been the reality for many municipal police services and Indigenous Peoples across the province.<sup>260</sup> Institutional decolonization is an understandably long and complex process and

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<sup>257</sup> Clairmont, "Aboriginal Policing in Canada," 45.

<sup>258</sup> Ladner, "Negotiated Inferiority," 262.

<sup>259</sup> Fiddler, "Submission of Nishnawbe Aski," 8.

<sup>260</sup> *Comprehensive Ontario Police Services Act*, S.O. 2019, c. 1, s. 1.

while there are no simple solutions, Indigenous approaches should provide the most promising path toward a decolonial future.

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## VITA AUCTORIS

NAME: Terran Morris

PLACE OF BIRTH: Thunder Bay, ON

YEAR OF BIRTH: 1998

EDUCATION: Sir Winston Churchill Collegiate & Vocational Institute,  
Thunder Bay, ON, 2016

Lakehead University, HBA, Thunder Bay, ON, 2021

University of Windsor, MA, Windsor, ON, 2023