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Amy M. Alberton  
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Predictive Effects of (Neo)Colonialism and Other Forms of Structural Violence on  
Involuntary Contacts with the Criminal Justice System in Canada: A Statistical Analysis  
with an Autoethnographic Perspective

by

Amy M. Alberton

A Dissertation  
Submitted to the Faculty of Graduate Studies  
through the School of Social Work  
in Partial Fulfillment of the Requirements for  
the Degree of Doctor of Philosophy  
at the University of Windsor

Windsor, Ontario, Canada

2020

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Predictive Effects of (Neo)Colonialism and Other Forms of Structural Violence on  
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### **Declaration of Originality**

I hereby certify that I am the sole author of this thesis and that no part of this thesis has been published or submitted for publication.

I certify that, to the best of my knowledge, my thesis does not infringe upon anyone's copyright nor violate any proprietary rights and that any ideas, techniques, quotations, or any other material from the work of other people included in my thesis, published or otherwise, are fully acknowledged in accordance with the standard referencing practices. Furthermore, to the extent that I have included copyrighted material that surpasses the bounds of fair dealing within the meaning of the Canada Copyright Act, I certify that I have obtained a written permission from the copyright owner(s) to include such material(s) in my thesis and have included copies of such copyright clearances to my appendix.

I declare that this is a true copy of my thesis, including any final revisions, as approved by my dissertation committee and the Faculty of Graduate Studies at the University of Windsor, and that this thesis has not been submitted for a higher degree to any other university or institution.

## **Abstract**

Social work, since its inception, has been premised on the value of social justice. At its core, social justice is about the elimination of structural violence. Thus, social work practitioners, educators, and researchers must be acutely aware of what structural violence is, how it is perpetuated, and what can be done to work towards its reduction and ultimate elimination. However, little social work research has been dedicated to quantitatively assessing the impacts of structural violence, especially as they relate to the criminal justice system. The current study, using autoethnographic narratives and statistical analyses, contributes to important dialogues related to structural violence and social justice, and how they are related to the criminal justice system, specifically regarding policing. The purpose of this study was to test the effects of structural violence on involuntary contacts with police and criminal courts in Canada, while opening opportunities for dialogue on atonement and reconciliation. In so doing, this research was premised on working toward personal, social, and cultural understanding and transformation.

Six hypotheses related to involuntary contacts with police were tested and were systematically replicated for contact with criminal courts. These hypotheses were tested using the 28<sup>th</sup> cycle of Statistics Canada's General Social Survey. The sample consisted of 1,162 First Nations, Inuit, and Métis peoples and 27,371 white settler people. Univariate frequency distributions were employed to describe the study samples and binary logistic regression models were used to test the hypotheses across both outcomes.

The independent predictive effects of being an Indigenous person, of having experienced violence in multiple structures of Canadian society, and of having

experienced discrimination extensively on contacts with police and criminal courts were all quite large. The predictive effect of gender was very small. No support was found for the interaction hypotheses; meaning the effects of structural violence and discrimination are equally as harmful for everyone. However, the risk of an Indigenous person having been involuntarily contacted by the police was more than three times greater than the risk among white settler people. The autoethnographic narratives weaved throughout each of the chapters highlighted the importance of understanding both privilege and oppression and engaging in reciprocity, alliance building, trust, authenticity, and knowledge and skill transfer between Indigenous peoples and settler white people.

The novel findings of this study add to the current literature related to structural violence, including colonization, and contacts with police in Canada. Moreover, the current study highlighted that without public critique and measures being instituted to bring about change, the status quo of domination over Indigenous peoples and the harmful impacts of structural violence are likely to continue. Social workers must function to eliminate continued indifference, ineffective policies, programs and practices, and deliberate acts of violence, racism, sexism, hegemonic discourses, and ignorance. Only through understanding and recognizing these issues can social workers and other helping professionals, and the public begin to develop the urgently needed counter-narratives.

*Keywords:* structural violence; social justice; criminal justice system; critical theory; police

### **Dedication**

This work is dedicated to all First Nations, Inuit, and Métis peoples who have historically and are presently entangled in the criminal “justice” system. Your resilience and resistance are inspiring.

## Acknowledgements

The dominant culture in which I was raised, and that the educational system in which this doctoral degree was completed, is one that promotes individualism. As with many things in my life, I have at times taken this “value” to an extreme. It was not until my mid-twenties and in a situation of disconnection and discontent that I realized the importance of relationships. Not only connections to other human beings, but connections to the earth, water, air, and all the plants, trees, and critters (big and small) that make life possible and meaningful. Although the Doctor of Philosophy degree is premised on individualism, and as a result, it is a requirement that the dissertation be completed independently, this work would not have been possible nor would I be who I am today without the connections that I have had the benefit of developing throughout my life.

I am truly grateful to have had the opportunity to realize the importance of appreciating the taken-for-granted things like the air and water that provide the sustenance of life for all living creatures. Even just the beautiful sunrises and sunsets that have brought me joy and a sense of serenity in moments that I needed them. I am also grateful for the natural capacities that I was born with that have allowed me the opportunities to pursue my dreams, past, present, and future.

My family was the first place I felt a sense of connection, even if for a long time I could not fully understand what that genuinely meant. To my parents, Jim and Patty Alberton, this would not have been possible without you. Not only did you bring me life, but you went above and beyond in your unconditional support and love for me – even when sometimes I am sure it was not easy. Most importantly, Dad, you have shown me how to live with humility and balance; and Mom, you have shown me how to live with



passion and tenacity. To my sister and my best friend, Alyssa Alberton, through thick and thin you have always had my back. You have shown me how to live gracefully and sensibly while always still having fun. I love the three of you more than anything in this world and none of this would have been possible without each of you.

Although most of my life I excelled in school, I never felt like I belonged. That is, until I met Dr. Kimberly Calderwood. Dr. Calderwood, you showed me a career path I never had the opportunity to truly consider and encouraged me to pursue the Doctor of Philosophy degree program to achieve it. My connection with Dr. Calderwood led me to be connected with Dr. Brent Angell, my advisor throughout this dissertation process. Dr. Angell, you have demonstrated to me how to live with intention and integrity. You have also shown me how to be an ally and better ways to fight injustice. These qualities have not only taught me how to be a successful academic but also how to be the best human I can be. Indirectly, through the PhD program, my connection with Dr. Calderwood also led me to be connected with Dr. Kevin Gorey. Dr. Gorey, you have shown me how to live loyally, candidly, and in service to others. Again, these are qualities that will not only contribute to my success as an academic but also to maximizing my potential and purpose as a human being. To both Dr. Angell and Dr. Gorey, thank you for always reminding me to have fun during this dissertation journey. In the same way I was connected to Drs. Angell and Gorey through Dr. Calderwood, I was also connected to Dr. Thecla Damianakis. Dr. Daminakis, you demonstrated the gentlest insistence and thoroughness I have ever experienced. These are also qualities I will do my best to carry with me throughout my life.

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My sincerest gratitude is also owed to Carolyn Burton and the entire crew at Ten Friends Diner. Carolyn, you are one of the strongest people I know. Thank you for the work you do for and the unconditional love you show to every soul who has entered the Diner, including me. To the rest of the crew, thank you for always creating a safe and comfortable place for me to go and for always showing me care, understanding, happiness, resilience, and most of all, how to laugh at and love ourselves despite our flaws.

I would also like to thank Mr. Harold Johnson and Senator Murray Sinclair who both took their time to share their knowledge with me. And to one of my best friends, Candice Mowbray, thank you for your editing expertise.

Despite the fact they cannot read, although given the amount of time they spent at my desk they ought to be able to by now, my dogs Grace and Kash also deserve

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Finally, I appreciate every person who has come into and who has gone from my life. Good, bad, or indifferent, each of you has made me who I am today, and so contributed to this work. For that I am eternally grateful.

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### **Preamble: My Positionality**

I experience, express, and embrace many forms of my personal and professional self. Who I am today is not who I was in the past, nor who I will be in the future. Like everyone, I am an evolving being whose identity is a construction of how I see myself and how others experience me. My identity, as Mead (1934) has discussed, has been shaped, like all humans, by my perceptions of my life experiences as I have constructed, de-constructed, and re-constructed them within my social locations. To be clear, my social locations currently include, but are not limited to, being a “white,” heterosexual, middle-class, female who is 34 years young. I could be described as a somewhat-spiritual agnostic. Although, as a child I was baptized as Anglican. I was born in Thunder Bay, Ontario but for most of my life resided in Windsor, Ontario.

While these identities make up my social location, some vary depending on contexts, including the circumstances, people, and places involved. For example, a few years ago in a workshop I was asked to tell attendees who I was. I chose to depict myself as a graduate student who was, to put it eloquently, recovering from a self-instigated predicament. If I were asked the same question today, I would choose to describe myself differently. Not to negate my past, but to qualify who I am in the present as someone whose identity and subsequently social location, are and always will be, transitioning. In saying this, some things are more fixed. As I mentioned, genetically and biologically, I am a female with a fair complexion and features. So, most people would label me white. However, I am troubled by division by colour and the disunity it fosters. Regardless, the light colour of my skin, hair, and eyes has afforded me assumed and assigned social privileges. Although I am aware of this, I also understand that these privileges are

experienced and expressed involuntarily. Thus, I realize the power and contempt that accompany being privileged.

In addition to race, ancestry has been an important part of this dissertation process. In the beginning, I located myself as “a female of European descent.” This is not entirely true. I believe that as a result of colonialism, some of my ancestors had their Indigenous identity stolen from them. In turn, so did I. Growing up people would ask my ethnicity. It was a question I always struggled with, so I settled for calling myself Canadian. It was too complicated to explain that I was English, Irish, Italian, French, and Indigenous. People would always come back with something like, “you don’t look Italian,” or, “you don’t look Indian.” My dad described us as “part Indian.” That is what my grandmother, his mother, told him. Once, fairly recently, I had a dentist ask me if I was “Native.” He said I have “Native” teeth, whatever that means. Either way, it was a part of my identity I was proud of, even though I really did not know what it meant or what the implications were. As I got older and began asking more questions, the word Métis was thrown around. I understand now, though, that to be Métis does not mean just to have a mixed heritage. It means that you have to be accepted by a Métis Nation.

This ancestry story is an unfinished one. As I write this, my dad is working on trying to figure out exactly who in our lineage was connected to a First Nation or Métis community. I recently learned through conversations with my paternal grandmother’s cousin that when First Nations women wanted to marry Roman Catholic French men they had to be adopted by the Church. When this happened, they were forced to change their names and they lost their First Nation status. Tracing the lineage of both my paternal great grandmother and great grandfather is difficult, if not impossible, for this reason. All



of this being said, what matters is that I have been perceived as “white” my whole life. And for this reason, I did not and cannot embody a true Indigenous culture. However, I feel secure in saying that bits and pieces of these oft told family stories have influenced who I am, who I am becoming, how I think, what I do, and what I talk and write about. In all things, I move forward by circling back to the meaningful interpretations I have made, do make, and will make about myself and my relations.

## **Chapter 1: Introduction**

Social work, since its inception, has been premised on the value of social justice (Canadian Association of Social Workers, 2005; International Federation of Social Workers, 2018; Jennison & Lundy, 2011; Knight, 2005; National Association of Social Workers, 2017). This is the value that primarily differentiates social work from other helping professions such as therapists, teachers, clinical psychologists, and physicians (Marsh, 2005). At its core, and as will be described in more detail, social justice is about the elimination of structural violence. Thus, social work practitioners, educators, and researchers must be acutely aware of what structural violence is, how it is perpetuated, and what can be done to work towards its reduction and ultimate elimination. More specifically, we must confront both privilege and oppression, and change dominant discourses. Working towards these goals requires courageous conversations and transformation of key social, cultural, and economic systems. The current study contributes to important dialogues related to structural violence and social justice and how they are related to the criminal justice system, specifically with regard to policing.

The criminal justice system in Canada is complex and multifaceted. It consists of three interconnected social institutions: policing, corrections, and the court. These in turn include many divisions, departments, and personnel. The criminal justice system is an instrument of state, and by association, a product of colonialism (Foucault, 1977), and instrument of neocolonialism (Palmater, 2016). In the case of Canada, colonialism is defined as the historical actions taken by European, primarily British and French, imperialists who expropriated the land by force and fraud. Colonial people migrated to and settled Canada to exploit the Indigenous peoples and resources of the land and waters

(Buescher & Ono, 1996). These actions included the creation of new forms of governance, framed in terms of domination, deception, and self-deception. This led to the control, removal, exclusion, and at times, systemic eradication of Indigenous peoples who were deemed to be uncivilized and of no or little use to the colonial project. Or, as Sider (1987) conceived, a threat to the colonists and their projects to acquire wealth and resources. In response to colonial projects across the globe, some scholars posited a postcolonial theory, focusing primarily on critical discourse related to postcolonial conditions (Hammer, 2007). However, despite its utility at the time, to promote change to the colonial status quo in working toward postcolonial societies, neocolonialism has prevailed. As Indigenous scholar, Tuhiwai Smith (1999) stated, “naming the world as post-colonial is, from indigenous perspectives, to name colonialism as finished business” (p. 99).

Neocolonialism relates to the prevailing willful blindness of contemporary elected officials and bureaucrats, as well as the majority of Canadians, to the legacy and impact of colonialism (Buescher & Ono, 1996). Neocolonialism is perpetuated by socially constructed narratives embedded in contemporary culture which continue to weave colonial ideology throughout the social, political, and economic fabric of society. Neocolonial ideologies create the illusion that genocide, racism, sexism, nationalism, and inequitable capital distribution are necessary, and thus justifiable (Angell & Dunlop, 2001; Buescher & Ono, 1996; National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019).

For example, it was recently determined that Canadian laws and institutions perpetuate human, and more specifically, Indigenous rights violations. This resulted in

deliberate, yet often covert, genocide against all Indigenous peoples, particularly women and girls (National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019). Some of these genocidal laws and institutions include, but are not limited to, the Indian Act, historic and current child welfare institutions, and the residential school system (National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019; Truth and Reconciliation Commission of Canada [TRCC], 2015).

Moreover, a comprehensive review of the literature revealed how the criminal justice system has been used as an instrument of oppression by the state to maintain the status quo of both colonialism and neocolonialism. The resulting forms of structural violence have contributed to the overrepresentation of Indigenous peoples, especially women, across the criminal justice system (Alberton, 2018). It is important to note that the definitions of colonialism and neocolonialism vary across the literature (Ali, 2018; Buescher & Ono, 1996; Comack, 2012; Lassou et al., 2019; Monchalin, 2016; National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019; Onebunne, 2017; Orlowski & Cottrell, 2019; Razack, 2015; Schuerch, 2017). However, these two terms will be used as defined here throughout the dissertation as they encompass the most frequently cited aspects and apply most directly to the Canadian context (Orlowski & Cottrell, 2019; Monchalin, 2016; National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019; Razack, 2015). To be clear, colonialism will refer to historical actions and neocolonialism will refer to the current state of affairs. When referring to both the historical actions (colonialism) and the current state of affairs (neocolonialism), the term (neo)colonialism will be used.

Structural violence was originally coined by Galtung (1969). At the heart of structural violence are social inequalities, which lead to social injustice including exploitation and oppression (Farmer, 2004; Rylko-Bauer & Farmer, 2016). Some authors suggest structural violence and social injustice are the same and can be used interchangeably (Galtung, 1969; Rylko-Bauer & Farmer, 2016). Mullaly (2010) suggests that the term social injustice is covering up what it really is, violence that is socially sanctioned. Social injustices, or structural violence, are a result of taken-for-granted, covert social arrangements and relations that put people and groups at risk of harm (Galtung, 1969; Farmer, 2004; Rylko-Bauer & Farmer, 2016).

These social arrangements and relations are ubiquitous and detrimental. Indeed, the wellbeing of those impacted is felt in their intersection with the key economic, political, legal, religious, and cultural institutions of the society (Galtung, 1969; Rylko-Bauer & Farmer, 2016). Additionally, patriarchy, colonialism, and neoliberalism increase the level of injury and despair experienced by those who find themselves on the wrong side of the criminal justice fence (Maddison, 2013; Pederson et al., 2019; Rylko-Bauer & Farmer, 2016). These structures, in turn, calculatedly contribute to poverty, marginalization, exclusion, and exploitation, which impede individuals and groups from achieving their maximum human potential (Galtung, 1969; Mukherjee et al., 2011). This type of violence is considered structural in that it is embedded within social institutions whose agents use their authorized and informally understood powers to organize the social world of people and communities perceived as being noncompliant, or in opposition. It is violent because it causes avoidable suffering, injury, illness, and/or death (Galtung, 1969; Farmer et al., 2006; Rylko-Bauer & Farmer, 2016). Evidence suggests

that across the globe, structural violence causes more fatalities than physical violence (Gilligan, 1999). Arguably, indifference to and tolerance of structural violence and “the humiliation that accompanies it, sets the stage for normalization of more overt and visible forms [of violence], from police brutality...to massacres and genocides” (Rylko-Bauer & Farmer, 2016, p. 54).

Relatedly, intersectionality, as coined by Crenshaw (1989), emerged initially as a mechanism for understanding how individual and social identities, specifically gender and race, interact to affect the lived experiences of Black women, as identified by the qualifying statement of dark skin colour. Since then, intersectionality evolved to include analyses of not only gender and race/ethnicity, but also other social categories of difference, or social locations. Proponents of intersectionality assert that oppressive societal institutions are organizationally connected, and thus their effects should not be considered only separately, but also evaluated as an interacting aggregate (Crenshaw, 1989; Reitmanova & Henderson, 2016; Smith, 2005).

Considering structural violence and intersectionality, language serves as both a mechanism which perpetuates social control and as a means of resistance (Foucault, 1972; Freire, 1970; Habermas, 1984, 1987; Smith, 2005). The language used throughout this dissertation offers a narrative to support Indigenous peoples' discourse of resistance to the disruptive and destructive impact the Canadian criminal justice system has had and continues to have on their lives and communities. It is important to note here that throughout this dissertation, the societal system that handles criminal matters will be referred to as the criminal justice system. However, this is not the author's preferred terminology. The preferred label would be “criminal legal system.” As this dissertation

will demonstrate, there is very little justice, especially for Indigenous peoples, across the Canadian criminal justice system. However, given that this system is labelled as such throughout the literature (Barker, 2009; Comack, 2012; Comack & Balfour, 2004; Monchalin, 2016; National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019; Palmater, 2016; Truth and Reconciliation Commission of Canada, 2015), “criminal justice system” are the words that will be used.

As contended by Habermas (1984, 1987), critique of dominant discourse and ideology must be directed at self, as opposed to others. Only through this self-reflective critical action will emancipation, or decolonization, be possible. Efforts were made to consult with Indigenous peoples throughout the process to ensure that both mutually agreeable and appropriate language was used, and that conceptualizations are respectful of Indigenous understandings of the world. Every effort was made to write this dissertation in a way that is complex enough to pass the test of academic rigor, but also humble and straightforward so that it can speak to the people, not just academics. You will notice some statistical language in the subsequent chapters, this contributes to the academic rigor. However, efforts were made to appeal to the broadest possible audience and care was taken to clearly explain methods and concepts.

Cumulative and intersecting effects of structural violence, as an explanation for overrepresentation of Indigenous peoples in policing and court systems, have yet to be tested. Further, many studies have relied on police-reported, as opposed to self-reported data related to Indigenous identity (e.g. Fitzgerald & Carrington, 2008; LaPrairie, 2002). This is problematic because ethnicity (or race) is not reported consistently within or across police departments and detachments, and usually depends on the individual police

officer's perceptions of their observations of socially constructed racial identifiers, such as skin colour (Millar & Owusu-Bempah, 2011).

This study, which employed statistical analyses of a national survey and autoethnographic narratives, provides novel insights and knowledge related to the intersecting sites of structural violence that lead to involuntary contacts with police and criminal courts in Canada. The statistical analysis created generalizable, confident knowledge and helped to tell a story about cumulative experiences of structural violence and discrimination and their effects on involuntary contacts with police and criminal courts. Additionally, the author's personal stories, told through an evocative autoethnographic method, offered deeper understanding of the research process and results. Together, these methods provide rich, reflective, and contextual accounts of the effects of structural violence on individuals, groups of people, and their cultures and communities. The purpose of this study was to test the effects of structural violence on involuntary contacts with the criminal justice system, while opening opportunities for dialogue on atonement and reconciliation. In so doing, this research was premised on working toward personal, social, and cultural understanding and transformation (Ellis, 2002; Ellis et al., 2011; Smithers Graeme, 2013).

## **Background**

Indigenous peoples in Canada represent diverse, heterogeneous groups with distinct and unique histories, languages, cultures, and spiritual beliefs and practices (Williamson & Roberts, 1999). They also share a history of colonization and experience present-day neocolonialism (Buescher & Ono, 1996). For the purposes of this paper, 'Indigenous peoples' is used to describe First Nations, Inuit, and Métis peoples in



Canada. Where possible, efforts were made to disaggregate these pan-Indigenous conceptualizations, referring to the individual groups (First Nations, Inuit, Métis) as distinct nations, communities, and peoples. It should also be noted here that the “s” in “peoples” is used to signify that the term is representative of all three groups and the variability within these groups, rather than just individuals from First Nations.

Further, Canada is a country developed by a foreign, colonial government which, arguably, used its power to dominate the peoples and deceive them of their rights and livelihoods in order to exploit and gain control of their ancestral lands and resources (Comack & Balfour, 2004; Monchalin, 2016; National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019; Sider, 1987). For most Indigenous peoples, the place now called Canada is part of what they call Turtle Island. In fact, all of North America is known to Indigenous peoples as Turtle Island (Monchalin, 2016).

Finally, the criminal justice system, from the perspective of Indigenous peoples, is an imposed system put in place by foreign settler peoples. Most Indigenous peoples have come to accept that trying to amend or change the mainstream criminal justice system is not possible (Johnson, 2019; Monchalin, 2016; Zimmerman, 1992).

Many Indigenous peoples and settler-allies believe that the goal should be Indigenous self-governance (Lavoie et al., 2015; Monchalin, 2016; National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019; Truth and Reconciliation Commission of Canada, 2015; Zimmerman, 1992). This author agrees. Indigenous peoples should have the right to develop and maintain governance of their land, resources, and peoples, shaped according to their values, traditions, and beliefs. This matter is complicated by the fact that Métis people never had land per se (Barkwell et al.,

2001), and the Inuit never signed treaties (Bonesteel, 2006). Unfortunately, the federal, provincial, and municipal governments in Canada will likely remain in control of criminal justice outside of ceded and unceded Indigenous territories. Ideally, Indigenous peoples would be sent back to their own communities to face justice, though this does not seem feasible. One reason for this lack of feasibility is that the federal government's policies, such as the Indian Act, have resulted in many Indigenous peoples, especially women, losing their "status" (National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019; Truth and Reconciliation Commission of Canada, 2015; Turpel, 1993). In some cases, this has also meant losing their band membership (Bhandar, 2016; Turpel, 1993) and thus direct or generational disconnection from their communities.

Indigenous peoples historically had their own social and traditional governance mechanisms. Bands are a colonial construction developed under the Indian Act. From the outset, the intention of creating bands was to assimilate Indigenous peoples into colonial society by imposing a foreign governance system and disrupting traditional forms of governance (First Nations Studies Program, 2009). Another problem related to sending Indigenous peoples back to their communities to address criminal issues is the migration of Indigenous peoples (including those with status) to urban centres, which could be hundreds or thousands of kilometres away from their home communities (Jones et al., 2014). This would pose logistical problems, including getting the offender back to the community, and in the cases of crimes involving victims, it would require much coordination. Because the problems faced by Indigenous peoples are not Indigenous problems, rather Canadian, or colonial problems (Monchalin, 2016), the counter-narrative produced by this work is directed towards the neocolonial country of Canada and related

primarily to Indigenous peoples residing off-reserve. It is long overdue that Indigenous beliefs, values, and traditions be valued and respected within Canadian, and more broadly Western, discourses and social, political, and economic systems (TRCC, 2015).

Indigenous women are also a heterogeneous group of people. However, again, their experiences of colonial and neocolonial domination, including racism and sexism, embody and exemplify shared experiences of oppression, marginalization, and vulnerability (Baldry et al., 2015). Because of these experiences, Indigenous women are “among the most severely disadvantaged of all groups in Canadian society,” especially in respect to employment, single-parent status, death, and suicide rates (LaPrairie, 1987, p. 122). Cree scholar, lawyer, and judge Mary Ellen Turpel (1993) noted that their First Nation community, Muskeg Lake Cree Nation, never viewed women as naturally inferior, and it was the Canadian state, through ignorance of the reality of their lived experiences, which imposed the notion of a patriarchal heritage. Through exposing how sites of structural violence intersect and impact Indigenous women involved with the criminal justice system, this study provides evidence for counter-narratives and contributes to reconciliation efforts between Canadians and Indigenous peoples.

Although little evidence is publicly available, what is available suggests that the overrepresentation of Indigenous women in both provincial and federal custody in Canada is steadily increasing. Recent data suggests that between 2006/2007 and 2015/2016 the number of Indigenous women in federal custody increased by 58% (Public Safety Canada Portfolio Corrections Statistics Committee, 2017). Although this increase has been a national trend, in 2014/2015 the highest proportion of Indigenous women were admitted in the western provinces and northern territories. Specifically, in Manitoba,

Saskatchewan, and Northwest Territories Indigenous women represented 86%, 85%, and 100% of women admitted into custody, respectively (Mahoney et al., 2017). Of note, the representation of Indigenous men has also steadily increased nationally but remains lower than that of Indigenous women (Public Safety Canada Portfolio Corrections Statistics Committee, 2013, 2017).

From the perspective of intersectionality, one explanation for this discrepancy between incarceration rates of Indigenous women and men is the intersecting effects of structural violence experienced disproportionately by Indigenous women. The correctional system has been the primary focus in literature related to the overrepresentation of Indigenous peoples in the criminal justice system (e.g. Balfour, 2008; Gebhard, 2012; Martel & Brassard, 2008; McGill, 2008; Miller, 2017; Walsh et al., 2011; Walsh et al., 2013), but this does not mean that it is the most detrimental aspect (Rudin, 2005; Zimmerman, 1992). Overrepresentation is also apparent in the policing and court systems (Monchalin, 2016; Rudin, 2005).

Relations between Indigenous peoples and police have historically been damaged by colonial narratives and acts of oppression (Brown & Brown, 1973; Morgan, 1970). Conceptual literature suggests that colonizing and abusive practices that have contributed to these deleterious relationships date back to the 1860s, concurrent with the establishment of the North West Mounted Police [NWMP] (Brown & Brown, 1973; Monaghan, 2013).

From its inception, the NWMP was established as a paramilitary force whose main, and perhaps sole, purpose was to dominate and control Indigenous peoples and others who stood in the way of the expansionist objectives of the federal government and

corporate elite of the time (Brown & Brown, 1973; Monaghan, 2013). Furthering this argument, Angell and Dunlop (2001) contended that the federal government used various social welfare approaches as instruments of oppression to coercively gain and maintain control of Indigenous peoples' lands and resources through the disruption, and, arguably extermination of the peoples and their ways of life, cultures, and communities. The police, as an extension of the state, have always been instruments of colonialism and neocolonialism, aiding in the federal, and by extension provincial and municipal, governments' control of Indigenous peoples (Christmas, 2012; Comack, 2012; Lithopoulos & Ruddell, 2011; Monchalin et al., 2019; Nettelbeck & Smandych, 2010; Palmater, 2016). Indeed, historical police actions were premised on the understanding that Indigenous peoples needed to be civilized, and assimilated (Nettelbeck & Smandych, 2010).

These oppressive and coercive narratives were (and still are) embedded in the Indian Act and other policies and practices related to Indigenous peoples (Palmater, 2014; Tobias, 1976). For example, separating First Nations peoples from their humanity, section 12 of the 1876 Indian Act stated: “if any person *or* [emphasis added] Indian...” (Indigenous and Northern Affairs Canada, 2010, p. 5). The fact that this distinction was made, in letter and effect, objectified Indigenous peoples and assigned them an otherness that justified the state and its agents to treat them in ways that were inhumane and genocidal.

The 1876 Indian Act also made it illegal for First Nations people to possess, sell, or use intoxicants (Indigenous and Northern Affairs Canada, 2010). It was not until 1951 that amendments to the Indian Act were made that permitted First Nations peoples to

drink alcohol in licensed bars. This was not the only status offense that only applied to Indigenous peoples. In 1884, an amendment was made to the Indian Act that outlawed the Potlatch, a ceremonial gift-giving tradition, and Tamanawas, a healing ceremony. Six months imprisonment was sanctioned for anyone found in violation (Comack, 2012). Further, although not implemented across Canada, police in several Prairie regions played a pivotal role in the enforcement of the pass system (Comack, 2012). The pass system was set up and labelled as such because First Nations peoples who wished to leave the reserve required a pass to be issued by an Indian agent. In order to receive their pass, people were required to explain the duration and purpose of their trip. First Nations peoples found to be violating the pass system were subject to arrest (Monchalin, 2016). The pass system was created in 1885 and not repealed until 1951 (Indigenous Corporate Training Inc., 2020).

Since at least 1989, there have been many commissions, inquiries and reports which have included specific foci on and/or specific recommendations related to Indigenous peoples' interfaces with police. A limited list of these commissions, inquiries, and reports is presented as Appendix A. Except for the Missing Women Commission of Inquiry (Oppal, 2012), Human Rights Watch (2013), and National Inquiry into Missing and Murdered Indigenous Women and Girls (2019) reports, none focused specifically on the experiences of gendered and racialized violence experienced by Indigenous women (Palmater, 2016). Despite numerous reports, commissions, inquiries with lists of recommendations, and the increasing media attention related to police violence toward Indigenous women and girls, little, if anything, has changed (Palmater, 2016). There seems a willful blindness and avoidance by the various levels of government to recognize

ongoing police violence, abuses of authority, and racism toward Indigenous peoples (Dale, 2014; Palmater, 2016). The consequences of this willful blindness have been catastrophic. Rather than addressing the problem, the criminal justice system continues to compound this crisis.

It has been argued that racism drives policing in Canada (Comack, 2012; McNeilly, 2018; Palmater, 2016; Razack, 2000). For example, after a thorough investigation it was found that racist attitudes and stereotyping by police in Thunder Bay resulted in failures to adequately investigate sudden deaths of Indigenous women, girls, men, and boys (McNeilly, 2018). There are also numerous cases throughout the literature of Indigenous women and men being driven to the outskirts of cities by police and left to fend for themselves (Comack, 2012; Razack, 2015). Euphemistically, these abuses by police are referred to as "starlight tours" and have resulted in psychological harm, physical injury, and even death (Comack, 2012; Monchalin, 2016; Razack, 2015; Renaud & Reber, 2005). Unfortunately, these transgressions are rarely reported, and even when they are, there is no requirement of police forces to submit the reports to an oversight agency (Comack, 2012; Human Rights Watch, 2013; Palmater, 2016; Razack, 2015). According to Comack (2012), Monchalin (2016), and Razack (2000, 2011, 2016), the abuse and ignorance on the part of Canadian agents of social control and society in general indicate that neocolonialism, and the resulting racism, exist.

### **Autoethnographic Reflection: The Process Begins**

On a cold day in February 2019, I made my way to campus to have lunch with one of my committee members, Mohawk lawyer and academic, Beverly Jacobs. As we were speaking, she mentioned that because of the way I look people would listen to me. I

was stunned. It really was not a site of privilege that I had thought of much before. I have thought much about racism and colonialism, but I had not thought about how some people might be more inclined to listen to what I had to say because of my skin, hair, and/or eye colour. While unjust, it unfortunately is the established colonial way. I realized then that more than anything, this dissertation is about getting people who look like me, white settler people, to pay attention to structural violence, including (neo)colonialism, and its horrific implications. Moreover, it is about acknowledging the role that privilege plays in perpetuating structural violence.

As much as I would like to deny race, it exists as a social construction and it is an undeniable part of how the society is structured and sustained. As much as I want to deny that I am “white,” (I would rather say I am a peachy tone), it is a category that has been socially constructed, and it is where I have been placed as a result of my birth. I also must admit the privileges that this has afforded me. Most of my life, I was unaware of these privileges. I know I am not alone. Many “white” settlers live their entire lives without realizing the enormous role race has played in how our lives turned out. The jobs we were offered. The tickets or prison time we avoided. Every facet of our lives was experienced differently just because of the colour of our skin. This being said, colonialism and neocolonialism are so much bigger than race. Race and thus racism are but one part of it.

I was told a story recently about how someone dear to me was followed through a store, simply because of the way they looked. This may have happened to me when I was young (and probably up to no good, looking suspicious), but this was not a young person. It has never happened to my parents, to their knowledge. We do not live our lives



wondering if we are being surveilled. It is not even in our realm of possibility when travelling through life. That is privilege.

## **Chapter 2: Literature Review**

The premise of enforcing (neo)colonial policies and laws, which far too frequently also included malice of intent, has, and does, contribute to Indigenous peoples', especially women's, overrepresentation across the criminal justice system. It has become abundantly clear throughout this process that colonialism and neocolonialism are forms of structural violence, if not its quintessence. Although this dissertation presents a review of literature which may seem pathologizing, or take on a deficit view of Indigenous peoples, the focus is on the deficiencies of perspective in the literature, not the deficiencies of the peoples. Moreover, great care was taken to ensure that the works and perspectives of Indigenous scholars are included, and their voices heard.

### **Overrepresentation of Indigenous Women Across the Criminal Justice System**

There is a lack of literature related to Indigenous women and the criminal justice system in Canada. This scarcity, at least partially, results from insufficient data being reported and limitations of existing data being reported by police agencies, provincial correctional systems, and the courts (Department of Justice, 2018a; Reitmanova & Henderson, 2016; Rudin, 2005; Sittner & Gentzler, 2016; Walter & Andersen, 2016; Zimmerman, 1992). This is concerning given the high proportions of Indigenous women not only involved with the correctional system, but also in contacts with police (Comack, 2012; Human Rights Watch, 2013; Razack, 2000), arrests and charges (Bienvenue & Latif, 1974; Fitzgerald & Carrington, 2008; LaPrairie, 2002), and convictions (Bienvenue & Latif, 1974; Zimmerman, 1992).

Indigenous women are also more likely to receive longer sentences and to be deemed high risk (Avio, 1987; Bienvenue & Latif, 1974; Moyer, 1992; Rudin, 2005;

Thompson & Gobeil, 2015; Williams, 2008; Zimmerman, 1992). Individuals are deemed high risk if they are perceived to be more of a potential danger to Canadians and Canadian society than others (Correctional Service Canada, 2015). In evaluating risk, criminal record, attitude, past or current substance use, domestic violence, and/or motivation to change are taken into consideration (CSC, 2015). The experiences of Indigenous women with the criminal justice system seem, on one hand, to have been historically erased from the public's mind. On the other hand, the current understandings of this complex system seem founded on indifference, ignorance, and neglect of the impact that it has on the women's lives (Dyck, 2013; Human Rights Watch, 2013; Macdonald, 2016; TRCC, 2015).

The Canadian criminal justice system is premised on Western narratives and discourses that support neoliberalism, and thus promote such behaviours as competition, greed, and materialism (Comack & Balfour, 2004; Johnson, 2019; Monchalin, 2016). The focus of the criminal justice system is on the protection of goods and property, not on people (Roach, 2019). Many Indigenous scholars agree that these narratives and resulting knowledge systems, or ways of interpreting and understanding the world, contrast pre-contact Indigenous systems of social control (Absolon, 2011; Angell, 1997; Chansonneuve, 2007; Kovach, 2009; Monchalin, 2016; Monture-Angus, 1999; Razack, 2011; 2015; Sinclair, 1994). Moreover, the individualism and personal responsibility promoted by neoliberalism hinder any collective efforts to remedy the situation (Pollack, 2009a). A report released by the Native Women's Association of Canada ([NWAC], 2007) concluded that the criminal justice system, through its perpetuation of dominant discourses, played a pivotal role in the devaluation of Indigenous peoples. Further,

Cunneen (2011) argued that the Canadian criminal justice system was one of many forms of structural violence exercised against Indigenous peoples. To this end, Cunneen noted that the justice system neither protected nor healed Indigenous offenders. Rather, it further disrupted communities and limited opportunities for individuals. This structural violence is further exemplified by deaths in custody (Razack, 2011; 2015), wrongful convictions (Palmater, 2016), and deprivation of liberty through incarceration and community monitoring.

After seven years of inquiry, the Royal Commission on Aboriginal Peoples ([RCAP], 1996) concluded that the criminal justice system overall was failing Indigenous peoples. Rather than mitigating or resolving the problems they faced, the criminal justice system aggravated the challenges faced by Indigenous peoples. The report noted that the overrepresentation of Indigenous peoples in the criminal justice system was ultimately a result of dispossession, cultural oppression, and the resulting disempowerment and marginalization of Indigenous peoples and communities. Over 20 years later, these failures of the criminal justice system continue, and the contexts remain the same (NWAC, 2007).

Similarly, the United Nations Committee on the Elimination of Discrimination against Women (2015) received three letters from the Feminist Alliance for International Action and the Native Women's Association of Canada, requesting an inquiry into the "grave and systematic violations by the State" (p. 3) related to the alarmingly high rates of violence Indigenous women and girls experience in Canada, including in their interfaces with the criminal justice system. An inquiry was undertaken, and it concluded that Indigenous women and girls were facing serious injustices attributed to racism and

gendered violence at the hands of the criminal justice system, especially at the hands of police forces.

## **Causes of Overrepresentation Across the Criminal Justice System**

### ***Structural Violence***

Most literature related to structural violence is conceptual, and a large majority of the research studies that do exist are qualitative ([Rylko-Bauer & Farmer, 2016]; e.g. Banerjee et al., 2011; Huffman et al., 2012; Maddison, 2013; Milaney et al., 2019; Ortiz & Jackey, 2019; Shannon et al., 2008). In their study exploring structural violence in long-term care for older adults in Canada and Scandinavia, Banerjee et al. (2012) concluded that the poor working conditions experienced by care workers in long-term care in Canada constituted a form of structural violence. Evidence of this conclusion was found in that the working conditions were detrimental to the workers' physical and mental health and this, in turn, negatively impacted their ability to maximize their quality of patient care.

Huffman et al. (2012) explored the mechanisms within employment, legal, and healthcare contexts that contributed to the exploitation of migrants in Kazakhstan and in turn, created vulnerabilities to tuberculosis and access to treatment. They found that structural violence resulted in exploitation and social marginalization, which both produced vulnerabilities to tuberculosis and restricted peoples' access to treatment. Similarly, Milaney et al. (2019) found three interrelated structural-level factors: patriarchy, disjointed services, and lack of support systems. These factors resulted in structural barriers and contributed to family homelessness.

Finally, and of pertinence to the current study, Maddison (2013) concluded that settler colonialism was a form of structural violence. The author argued that the regulation of the ‘authenticity’ of Indigenous identity by settler governments was a form of structural violence. They opined that settler states, such as Canada and Australia, should enact legislation to protect, rather than diminish or eradicate Indigenous identities.

There are also several quantitative studies worth noting. For example, in their mixed methods study, James et al. (2003) operationalized structural violence as hyper-surveillance, lack of information related to social assistance, lack of school support, and internalized negative images. They found that these dimensions of structural violence showed no statistically significant associations, suggesting that these variables did not represent the same concept (i.e. structural violence). In another study, Kohrt and Worthman (2009) used access to resources, specifically social support, and psychosocial burdens (e.g. exposure to stressful life events), as proxies for structural violence.

More recently, Pederson et al. (2019), like Maddison (2013), operationalized and conceptualized structural violence as colonialism. In the Pederson et al. (2019) study, structural violence as colonialism was measured by respondents identifying as First Nations, Inuit, or Métis. They used data from the 2004 General Social Survey to examine Indigenous and non-Indigenous inequalities as they related to postseparation intimate partner violence against women. This study failed to account for cumulative and intersecting sites of structural violence experienced by Indigenous peoples. To this author’s knowledge, there have been no studies explicitly examining the effects of the multiple types of structural violence (including (neo)colonialism), or its cumulative effects, on contacts with police or criminal courts.

## *Colonialism*

The causes related to the overrepresentation of Indigenous peoples in the criminal justice system have been attributed to many individual, family, peer, community, societal, and systemic level factors (Dhillon, 2015; Dyck, 2013; Human Rights Watch, 2013; Kellen & Powers, 2010; Monture-Angus, 1999; Oudshoorn, 2015; Pernanen et al., 2002; Razack, 2015; Sittner & Gentzler, 2016). Although variance regarding the cause of overrepresentation is apparent throughout the literature, international and domestic research consistently suggests that the legacy of colonialism and present neocolonialism are at the root, both of which are forms of structural violence (Maddison, 2013; Pederson et al., 2019; Rylko-Bauer & Farmer, 2016). While the virtues of law are presumed to be impartial and objective, evidence suggests that they are not (Comack & Balfour, 2004). Rather, law as it is interpreted perpetuates inequalities across ethnic, gendered, and socioeconomic lines. From an Indigenous standpoint, Chief Allan Ross of Norway House described how his people perceive “lady justice” to the *Aboriginal Justice Inquiry of Manitoba* as follows:

Anyone in the justice system knows that lady justice is not blind in the case of Aboriginal people. She has one eye open. She has one eye open for us and dispenses justice unevenly and often very harshly...She does not give us equality. She gives us subjugation. She makes us second class citizens in our own land.

(Manitoba, 1991, p. 6)

Moreover, through a thematic analysis of publicly available documents, Proulx (2014) argued that Indigenous peoples have historically been and continue to be “socially sorted, securitized and discursively constructed as criminals” (p. 85).

Within dominant discourse, Indigenous women's involvement with the criminal justice system is often explained as a legacy of past colonialism. This view ignores the reality of a neocolonial present. As Dobchuk-Land (2017) noted:

This construction of colonialism as a 'past event' is often the logic through which the state constructs itself as a benevolent responder to problems in Indigenous communities in the present, and it is a condition of possibility for ongoing state-led intervention in Indigenous communities—including the interlinked projects of policing, imprisonment, and state-directed social programming. (405)

The participants in Dobchuk-Land's (2017) qualitative study described the current situations facing Indigenous youth involved in the criminal justice system as not simply a result of a colonial past, but rather products of "contemporary aggravations and exclusions" (p. 407) resulting from the neocolonialism that continues to plague Canada. Moreover, evidence from this study suggested that although programs and policies were developed under the guise of serving Indigenous peoples' interests, they actually attempt to manage what the federal government has deemed a problematic population. Ultimately, the criminal justice system, specifically prisons, policing, and the criminalizing logic of all levels of Canadian government, but especially the federal government, serve as key elements of settler colonialism in Canada and continue to perpetuate harm against Indigenous peoples.

As the land in what is now Canada was expropriated and developed by settlers, relations between Indigenous peoples and the federal government of Canada were framed by discourses of Indigenous deviance and colonial trusteeship. These discourses validated, bolstered, and set in motion a range of violent interventions which impacted



nearly every aspect of Indigenous peoples' lives. Colonizers claimed, by way of force and deception, the moral and political right, ultimately by advancing the colonial, and more specifically religiously, constructed Doctrine of Discovery, to impose specific systems of law and punishment over the Indigenous peoples they encountered. These discourses also produced and reinforced the very problems and pathologies they targeted. As these interventions, purportedly aimed at 'civilizing' Indigenous peoples, expanded and intensified, so too did the range and scope of suffering in Indigenous communities (Cunneen, 2011; de Leeuw et al., 2010).

Crosby and Monaghan (2016) argued that unlike colonizers of other countries, settlers in Canada were not interested in Indigenous peoples' labour to gain capital, but rather their land, and its resources. These authors focused on how Canadian structures, specifically police and security agencies, were set up to ensure the dispossession of Indigenous land. They premised their argument on the assumption that Canadian governments use, and have historically used, both explicit (physical) and structural violence to silence and destroy Indigenous autonomy, independence, and collective identity, all to maintain control over land and resources. Furthering this argument, Angell and Dunlop (2001) contended that the federal government used various social welfare approaches as instruments to gain and maintain control of the land and Indigenous peoples. Cunneen (2011) suggested that land dispossession and removal of sovereignty were the losses of liberty Indigenous peoples faced even prior to their over-incarceration.

Canadian institutions, their employees, and representatives, at the direction of all levels of government, but primarily the federal government, have a long history of surveillance and criminalization targeting Indigenous peoples (Brown & Brown, 1973;

Crosby & Monaghan, 2016). In 1869, the Act for the Gradual Enfranchisement of Indians was passed. Its first two decrees were to make illegal both the opening of taverns on reserves and the selling of liquor or intoxicants to Indigenous peoples. According to de Leeuw et al. (2010), these decrees linked the consumption of alcohol in any quantity to addiction and presupposed the inability of Indigenous peoples to manage or control themselves.

Following the Enfranchisement Act, the Indian Act was legislated in 1876. The Indian Act perpetuated state intervention by expanding the scope of the federal government into Indigenous affairs. According to de Leeuw et al. (2010) and Monchalin (2016), the main purposes of the Indian Act were assimilation and control (Monchalin, 2016). It was meant to be temporary until all Indigenous peoples were eliminated or assimilated into Canadian society. The federal government at the time of enactment asserted that Indigenous peoples needed regulation and protection due to their incompetence and uncivilized dispositions.

By 1927, the Indian Act included specific provisions for punishing parents who did not send their children to residential schools, ranging from fines and imprisonment to the removal of lands and arrest of truant students. Through the years, several amendments to the Act have been made. Most notable were the 1951 revisions. With these, the Act outlawed First Nations' cultures, dancing, and ceremonies, particularly potlach ceremonies. These ceremonies were and continue to be an integral part of west coast First Nations, but the premise of generous communal gift-giving was contrary to the western capitalist tenet of personal wealth accumulation (Monchalin, 2016).

The 1951 revisions also mandated that First Nations people who wanted to obtain a university degree or to become a lawyer, doctor, or clergyperson had to relinquish their status (TRCC, 2015). Finally, women with status who married a non-status man, including Métis, Inuit, Native American, or non-Indigenous, lost their status (National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019; TRCC, 2015). It was not until the passing of Bill C-31, meant to bring the Act in line with the Charter in 1985, that gender discrimination related to women's status within the Act was reversed. In the meantime, many women lost their status, and some were banished from their communities (National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019).

Aligned with the RCAP (1996) report, Rudin (2005), writing for the Ipperwash Inquiry, argued that colonialism was the main cause of overrepresentation of Indigenous peoples involved in the criminal justice system. He also theorized that culture clash and socioeconomic factors contributed to this issue. He explained culture clash as being the irreconcilable differences between Indigenous and Western conceptualizations of justice. For example, the Indigenous value of taking responsibility for one's actions translates to a guilty plea within the Canadian criminal justice system, even though the plea may not be warranted.

Aligned with the culture clash perspective, Milward (2008) noted that the Western models of criminal justice were based on punitive sanctions and adversarial procedures, which are inherently confrontational. These were not only in direct conflict with many Indigenous models of restorative justice, but also the healing of individuals and communities. Further, in opposition to Western law, Indigenous law was not codified,

rather it consisted of commonly held traditions and beliefs that were transmitted through examples set by respected community members and oral teachings through generations. Again, Milward's (2008) theory failed to account for the oppressive nature of the interconnected dominant social, political, and economic institutions.

LaPrairie (1997) suggested that cultural conflict and racial discrimination lead to differential processing within the criminal justice system. LaPrairie offered three additional explanations for overrepresentation of Indigenous peoples in the correctional system. First, Indigenous peoples committed offences at higher rates than non-Indigenous peoples. Second, the offences they committed were more likely to result in incarceration. Finally, LaPrairie suggested that criminal justice policies and practices impacted Indigenous offenders differently because of their socio-economic status. This perspective seems to blame Indigenous peoples for their overrepresentation, ignoring the fact that this population is both over- and under-policed (Rudin, 2005). LaPrairie also argued, based on assumptions, that crime was the most severe in geographically isolated communities. Recent data suggests that this may not be the case.

Five years later, to address the role of cities in contributing to overrepresentation, LaPrairie (2002) completed a secondary analysis of Statistics Canada, Department of Indian Affairs and Northern Development, Canadian Centre for Justice Statistics, and Correctional Service of Canada data. This descriptive analysis of nine Canadian urban centres found that the cities with the highest proportions of disadvantaged Indigenous peoples, as measured by employment, educational attainment, mobility rates, and single-parent families, had the highest rates of overrepresentation of Indigenous peoples in custody. Further, Indigenous peoples with status were most disadvantaged and

represented the greatest proportion of incarcerated people. LaPrairie (2002) concluded that social and economic organization within cities dictated levels of crime and disorder. This analysis did not account for cumulative or intersecting effects of gender or any other structural factors on overrepresentation of Indigenous peoples in custody, nor were the strength of association or statistical significance of the differences reported.

I believe it is time for all levels of government in Canada and the individuals working within the criminal justice system to recognize, acknowledge, and address neocolonialism if any improvement is to be made in the lives of Indigenous women who have been criminalized by it. Interestingly, a report regarding a recent criminal justice system review released by the Department of Justice in March (2018a) made no mention of colonization, neocolonialism, or their historical and current impacts. This report is not an exception. Most reports released by federal and provincial government organizations tend to focus on Indigenous women from a deficit perspective, blaming substance use, addictions, trauma, and poverty as contributing factors to their criminality. These individual deficit perspectives fail to recognize the role that interconnected societal structures play in contributing to Indigenous peoples' overrepresentation across the criminal justice system. Structural violence perpetuated by these Canadian social, political, and economic institutions, including colonization and neocolonialism, and the resulting discrimination and racism, have resulted in oppression of, and thus disadvantaged conditions, for Indigenous peoples.

### ***Socioeconomic Status***

Evidence suggests that disadvantages related to socioeconomic status contribute to the overrepresentation of Indigenous women in the criminal justice system. In their

study, Walsh et al. (2013) found that the involvement of Indigenous women in the criminal justice system was predominately associated with economic survival. The women in the study made explicit connections between poverty, homelessness, and their initial contacts with the criminal justice system. LaPrairie (1995) also argued that social and economic position, including neighbourhood mobility, were related to the intensity and length of involvement with the criminal justice system. Further, LaPrairie found that of the total sample of Indigenous peoples from four inner cities across Canada, 81% had been charged with a Criminal Code offence. There were also differences among the three distinct inner-city groups studied. In the most marginalized regions, 91% of males and 67% of females included in the study had been charged with a Criminal Code offence.

Although Stenning and Roberts (2001) concluded that socioeconomic status was the best explanatory theory for Indigenous overrepresentation in the criminal justice system, Rudin (2005) suggested that this minimized the role of the criminal justice system in perpetuating injustices against Indigenous peoples. Although Rudin (2005) advocated for improving social and economic conditions for Indigenous peoples, he noted that the issue was larger than this. Rudin posited that the history of residential schools, the sixties scoop, overrepresentation of Indigenous peoples in child welfare, lack of appropriate housing, and lack of healthcare, all directly related to colonization and neocolonialism, were to blame.

### ***Education System***

Although the effects of the residential school system have had wide-ranging impacts on Indigenous peoples (TRCC, 2015), the education system as it currently stands also contributes to the overrepresentation of Indigenous peoples across the criminal

justice system. According to a report by the Canadian Senate, 70% of First Nations high school students do not graduate in any given year (The Standing Senate Committee on Aboriginal Peoples, 2011). There are many reasons for this low level of attainment. Many schools in First Nations communities do not have libraries, science labs, computer labs, internet access, or athletic facilities such as gyms that may promote student engagement. Moreover, there are serious issues regarding training, recruitment, and retention of teachers, development and implementation of culturally appropriate curriculum including traditional language education, engagement of parents in students' success, and adequate funding (McCue, 2018; The Standing Senate Committee on Aboriginal Peoples, 2011).

This situation is no better for many Indigenous youth living in urban environments. For example, Brownell et al. (2010) evaluated the 2006 to 2007 school year in Winnipeg and found that 92% of high school students living in neighbourhoods with the highest average incomes graduated, compared to only 56% of students living in the lowest income neighbourhoods. Not surprisingly, there are higher concentrations of Indigenous students in these lower income neighbourhoods and the outcomes are, on average, even worse for those students (Comack et al., 2013). It should come as no surprise that "poor educational outcomes matter" (Comack et al., 2013, p. 58). Success in and attachment to school including attendance lead to lower delinquency rates which, in turn, are key protective factors for positive outcomes including reducing the likelihood of becoming involved in street gangs or other activities that lead to entanglement in the criminal justice system (Totten, 2012).

In this regard, Gebhard (2012) argued that Canadian education systems were setting Indigenous peoples up for entry into the criminal justice system, more

specifically, prisons. Getting into trouble at school is often the first slip into the “school-to-prison pipeline.” This is a term coined by researchers in the United States, who have identified links between schooling and prison for several decades. The term describes systemic practices in public schooling such as special education, discipline, and streaming programs, that move impoverished racialized youth out of school, placing them on a pathway to prison. Across Canada, Indigenous students are overrepresented in special education and alternative schooling programs (Gebhard, 2012).

Throughout this research process, including the literature review, I had several meaningful exchanges which allowed me to engage in praxis. For example, more than once through this dissertation process, I was asked to explain my topic to white-settler people. More than once, their response was something along the lines of, “they get free education, what more do they want?” At first, I struggled to respond to this, and because it is what I had always heard growing up, I had never questioned it. Through listening to First Nations colleagues and students I learned that this is certainly not the truth.

I had the privilege of hearing a story about education funding for First Nations from Cree author and lawyer, Harold R. Johnson that I think is important to share here. It was shocking to me, and it should not have been. As Canadians, we should all be aware. I learned through listening to others that education in First Nations communities is underfunded. What I learned from Mr. Johnson was that if a First Nations youth goes to a provincial school, the school in the already underfunded First Nations community must pay the province. So, say for example a First Nation school gets \$5,000 per student and the provincial school gets \$8,000 per student. When a First Nation youth moves to a provincial school, the First Nation school has to pay the province \$8,000 for that student.



This means that the already underfunded First Nation school ends up paying \$3,000 out of their budget on top of the \$5,000 they received for that student's education. This reduces the amount of money available to assist First Nations members with post-secondary education. A finite amount of money is available, and it is not granted to every band member who chooses to pursue post-secondary education, nor does it fully fund that education indefinitely.

As Canadians, we should be appalled by this, and when we are done being appalled, we need to act. Speak up. Next time someone says to you that we do enough for "them" by providing free education, share this story.

### ***Trauma and Violence***

Colonial and neocolonial ideologies and discourses have created institutionalized and political contexts of violence and intergenerational trauma amongst far too many Indigenous peoples (McIvor & Nahanee, 1998; Monchalin, 2016). For example, the residential school system was based on the colonial assumptions that Indigenous peoples were cognitively incapable and so provided only basic math and literary education (McKenzie et al., 2016; TRCC, 2015). Further, Indigenous peoples were taken away from their families and communities and subjected to grave physical, sexual, and emotional abuses while attending the residential schools (TRCC, 2015). Children were taken from their parents and sent to residential schools, "not to educate them, but primarily to break their link to their culture and identity" (TRCC, 2015, p. 2). In 1883, Canada's first prime minister, John A. MacDonald, made the following statement in the House of Commons: "When the school is on the reserve the child lives with *its* [emphasis

added] parents, who are savages; he is surrounded by savages, and though he may learn to read and write...He is simply a savage who can read and write” (TRCC, 2015, p. 2).

According to the TRCC (2015), many generations of Indigenous peoples were raised not by their parents, but by the sometimes-violent agents upholding the status quo of these institutions that frequently promoted assimilationist and eliminationist policies and procedures. Moreover, when allowed to return to their communities, they were left with very few avenues to address the trauma they faced (TRCC, 2015). Arguably, the prison system performed and performs a similar function to the residential school system (van der Meulen et al., 2017). As one participant in van der Meulen et al.’s (2017) study noted: “They built the prisons so that they could incarcerate the Native peoples rather than put them in residential schools” (p. 11). Just as the colonial project of the past deemed Indigenous peoples as cognitively incapable, the neocolonial project of the present deems them to be deviant. Both the colonial and neocolonial projects justify violence and intergenerational trauma, especially against Indigenous women and girls (National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019).

The literature reviewed to date tends to ignore the impacts of long-term and systemic violence on Indigenous women and its implications for their involvement in the criminal justice system. Of the 39 women interviewed by Sugar and Fox (1989), 27 described experiences of violence in their childhood and 21 reported that they had been sexually abused or assaulted as children or adults. The study by LaPrairie (1987) concluded that colonization, role conflict, and the effects of role loss contributed to disadvantaged conditions in communities with high concentrations of Indigenous peoples. LaPrairie argued that disadvantaged conditions perpetuated violence against

Indigenous women, concluding that to properly understand criminalization of Indigenous women, their victimization must be understood at both micro and macro levels of analysis. LaPrairie's analysis was limited due to a lack of available data, and the arguments were based primarily on newspaper articles, term papers, and textbooks. Eight years later, 75% of respondents in LaPrairie's (1995) study reported childhood abuse. The author concluded that this was an "interaction of factors that influence[ed] the degree of involvement in the criminal justice system" (p. 39).

Jackson (1999) argued that because Indigenous women experienced violence at disproportionately high rates, violence was their primary pathway to criminalization. Along the same vein as LaPrairie (1987), Jackson argued that assimilationist policies lead to high levels of poverty and violence in Indigenous communities or communities with high proportions of Indigenous peoples. Assimilationist policies, combined with racism, frequently lead to men abusing substances and acting violently towards women. Jackson found that most contemporary analyses do not fully consider the interactive linkage of factors such as gender, Indigenous identity, and class in discussions related to Indigenous women offenders. Jackson has shown that examinations of Indigenous women's involvement with the criminal justice system must consider intersections of ethnicity, class, and gender, and these variables need to be considered within the context of neocolonialism.

Many women labelled as criminals, especially Indigenous women, have experienced trauma, violence, and abuse at higher proportions than women who have not been criminalized, or even their male criminalized counterparts. A research report by Tam and Derksen (2014) prepared for Correctional Service Canada presented a review of

the literature related to trauma exposure among women offenders. The study was not systematic and there was no specific discussion related to Indigenous women, however, the authors concluded that women offenders in general were more likely to have experienced trauma and endorse symptoms of posttraumatic stress disorder than their male counterparts. Further, they suggested that although trauma was not a significant predictor of recidivism, understanding the implications of trauma on women offenders should inform trauma-informed approaches to programs in federal and provincial correctional facilities.

Although not directly related to involvement with the criminal justice system, First Nations scholar Amy Bombay and colleagues (2011) performed statistical regression analyses of data from surveys of 143 First Nations' adults. They found that those whose parents attended residential schools were more likely to display symptoms of depression, which they attributed to childhood adversity, adult traumas, and perceived discrimination. Conversely, LaPrairie (1995) found, in interviews with 621 Indigenous peoples living in four Canadian inner cities, that residential school placement was not significantly associated with negative adult outcomes. The statistical methods used to make this determination, however, were not reported.

More recently, in their analysis of 127 case files of Indigenous residential school survivors, Corrado and Cohen (2003) found that almost half of their sample (49%,  $n = 62$ ) had been convicted of 150 offences, primarily assault and sexual assault. No distinction was made between males and females included in this study, however, the authors indicated that 30% of the sample was female. Further, the findings were limited in that the frequency descriptions did not allow for an understanding of the strengths of

associations between variables and did not account for possible confounds. Finally, the authors did not provide a comparative analysis with Indigenous peoples of the same age who did not attend residential school.

Adding to this body of knowledge, in Walsh et al.'s (2013) study, participants described situations related to poverty, homelessness, and incarceration. The participants noted that these situations contributing to ongoing disadvantage were deeply rooted in their involvement with the child welfare system, childhood trauma and abuse, family breakdown, and lack of access to services. Several authors have suggested that inadequate social services to address substance use, trauma, and other factors such as lack of housing contributed to overrepresentation (Department of Justice, 2018a; Walsh et al., 2013).

### ***Substance Use***

It is important to note here that in Canada, “there are more people in the Aboriginal population who are completely abstinent [from alcohol] than in the general population” (Johnson, 2016, p. 128). However, it is difficult to ignore the overwhelming statistics related to substance use and Indigenous women's involvement with the criminal justice system. Recent evidence from Derkzen et al.'s (2013) secondary data analysis suggested that federally incarcerated Indigenous women were one and a half times more likely to meet the DSM-IV psychological diagnostic criteria for alcohol dependence than their non-Indigenous counterparts.

These authors also found significant differences between Indigenous and non-Indigenous women's lifetime use of marijuana, amphetamine, and sedatives. However, the authors did not report their findings in a way that the odds ratios could be calculated

to compare the differences between Indigenous and non-Indigenous women. Although dated, Indigenous women in Sugar and Fox's (1989) qualitative study reported high rates of alcohol and drug abuse and dependence. The Métis and Non-Status Indian Crime and Justice Commission (Canadian Solicitor General, 1977) found that of 300 Indigenous inmates across Canada, nearly 90% of crimes committed by Indigenous peoples involved the use of alcohol or drugs, and that nearly half of these offences had been committed under the influence of alcohol alone. Another report, *Tay Bway Win: Truth, Justice and First Nations*, prepared for the Ontario Attorney General and Solicitor General and released in 1990, posited that about 80% of all court appearances for criminal offences involved alcohol or solvents (Osnaburgh-Windigo Tribal Council, 1990). Neither of these reports considered gender differences or even disaggregated findings by gender. These historical reports suggest that the associations between substance use and Indigenous women's criminal justice system involvement are not new. Despite the historical and recent recognitions of the association between substance use and Indigenous women's involvement in the criminal justice system, very few quantitative studies have been undertaken to examine the strength of the associations between Indigenous women, substance use, and involvement in the criminal justice system.

Although the high rates of substance use among Indigenous women involved with the criminal justice system may suggest individual deficiencies, one must examine the structural factors contributing to the high rates of use. (Neo)colonial practices have played an integral role in reproducing substance using behaviours and targeting Indigenous peoples specifically in terms of criminalizing substance use behaviours (de Leeuw et al., 2010; McKenzie et al., 2016; Monchalín, 2016). In other words, Indigenous

peoples are not more morally deficient than non-Indigenous peoples, but they have been more often unfairly targeted and punished for their substance using behaviours or behaviours related to substance use. For example, historically embedded within the Indian Act, was the decree that it was lawful for police to arrest any Indigenous person who they believed to be intoxicated and to bring them to jail or other form of confinement, *without* due process of law, and keep them in custody until they became sober (Monchalin, 2016). To put it simply, the federal government was willing to suspend all due processes of law to ensure sobriety of Indigenous peoples.

Although changes were made to the Indian Act related to substance use, results of van der Meulen et al.'s (2017) study identified that current punitive drug policies continued to have detrimental impacts, especially on Indigenous and other racialized women. These authors suggested that Canada's antiquated and punitive drug policies must be changed both inside and outside of the prison system to reduce the harms faced by racialized women, especially those who are Indigenous. One concerning set of policies van der Meulen et al. noted was the zero-tolerance drug policy in federal prisons. Despite Correctional Services Canada's assertion that the policy was established to prevent substance use in federal prisons and to hold people who are incarcerated accountable for their substance use while incarcerated (Government of Canada, 2015), drug use is still occurring. All the women in van der Meulen et al.'s study indicated that injection drug use in prisons was common and recent statistics suggest that approximately 10% of Indigenous women in federal custody are living with HIV and approximately 50% are living with hepatitis C.

(Neo)colonialism and related factors, including oppression, are the main causes of Indigenous women's overrepresentation across the Canadian criminal justice system, not individual pathologies or shortcomings. Oppression is a relational, multidimensional, and dynamic process (Gil, 1998; Mullaly & Dupré, 2018). It can be defined simply, as one group having power and advantage at the expense of another group because of some identified "otherness" (Gil, 1998). Oppression prevents individuals from achieving their maximum potential (Mullaly, 2010). For example, Csiernick and Rowe (2010) frame addiction as oppression. When people are labelled as alcoholics or drug addicts, others within mainstream society may objectify the person in terms of this characterization. People experiencing addictions can, in turn, be deemed by others by way of their condition and circumstances as unwelcomed, unwanted, or loathingly as a subspecies of humanity. Arguably, being labelled as criminal also serves as a point of oppression. These individual deficit perspectives fail to recognize the role that interconnected societal structures play in contributing to contacts with the criminal justice system. As noted by Johnson (2019), labelling someone as criminal "does not assist in that person's rehabilitation," rather, "it limits their ability to re-engage with their community and to become a productive member of it" (p. 130).

### **Indigenous Women's Interfaces with the Canadian Criminal Justice System**

It is worth reiterating that the criminal justice system is complex. Understanding how the various components of the system work together (or do not) within the social, political, and economic contexts of Canada is imperative in building an understanding of how Indigenous women have come to be and continue to be ignored and overrepresented in the criminal justice system. The previous sections of this paper have provided



explanations for the relevance, scope, and causes of the overrepresentation of Indigenous women in the criminal justice system. This section will provide a comprehensive overview of the literature as it relates to Indigenous women's interfaces with the Canadian criminal justice system and the impacts that the system has had on the lives of these women and their communities.

Indigenous women are facing abuse and violence at the hands of those who are in positions of authority who are entrusted, albeit arguably naively, to keep society safe (Comack, 2012; Human Rights Watch, 2013; NWAC, 2007; Opall, 2012; Palmater, 2016). One example of this abuse is the case of former provincial court judge David William Ramsay, who was found to have reduced young Indigenous girl's sentences in exchange for coerced sexual acts which often turned violent (Human Rights Watch, 2013; NWAC, 2007). In 2004, he plead guilty to "sexual assault causing bodily harm, obtaining sexual services from someone under 18 and breach of trust by a public officer" (Human Rights Watch, 2013, p. 31). Devastatingly, at 13 years old, Celynn Cadieux was victimized by Ramsay. She died at the age of 22. Her father told Human Rights Watch (2013) that before her death she disclosed to him that she had also experienced sexual abuses by police when she was as young as 17 or 18 years old. Many other instances of abuse at the hands of criminal justice authorities are described by Human Rights Watch (2013). Since this report is primarily focused on Indigenous women's interfaces with police it will be discussed in the next section.

For decades evidence has shown that the approaches undertaken thus far to alleviate social injustice against Indigenous women in conflict with the criminal justice system are not working. In their report, Sugar and Fox (1989) concluded that participants

in their study clearly asserted that the needs of Indigenous women were much different than non-Indigenous women. They noted that the critical difference is racism. To this end, they stated: “We are born to it and spend our lives facing it. Racism lies at the root of our life experiences. The effect is violence, violence against us, and in turn our own violence” (p. 482). Along this same line, twenty years later, Restoule (2009) noted that Indigenous women continued to be ignored by and within the criminal justice system. And, yet again, the same story unfolded ten years later in 2019 with the release of the final report of the federally mandated inquiry into Missing and Murdered Indigenous Women and Girls.

### **Indigenous Women’s Interfaces with Police**

#### ***Police Forces in Canada***

Policing in Canada is the responsibility of federal, provincial, and municipal governments. Specific First Nations police also exist in Canada and operate within First Nations' reserves. A full discussion of First Nations' policing, specifically conceptualized to encompass policing undertaken on reserve land, is beyond the scope of this paper. However, a brief overview of First Nations policing will be provided here because there is much overlap with off-reserve policing. Jones et al. (2014) conducted a comprehensive review of literature related to First Nations policing, with a focus on Saskatchewan. They outlined three distinct types of organizations responsible for policing Indigenous communities and peoples. These included:

- (a) Large national and provincial police organizations including the RCMP, Ontario Provincial Police (OPP), and La Sûreté du Québec;

- (b) Self-administered Indigenous police services where First Nations or Inuit communities manage their own police forces according to provincial or territorial policing legislation and regulations; and,
- (c) Specialized Indigenous police programs overseen by municipal or regional police services such as the Aboriginal Peacekeeping Unit in Toronto and the Diversity and Aboriginal Policing Section in Vancouver.

Jones et al. (2014) noted that in the latter case there was very little overall understanding of priorities, practices, and inter-relationships with other Indigenous police services. Of these options, it has been argued that the most viable option for off-reserve policing is the indigenization of mainstream police forces. However, the integration of Indigenous officers must accommodate rather than try to assimilate them (Zimmerman, 1992). Unfortunately, what this view fails to consider is the overwhelming impact of police culture on individual police officers. According to Crank (2014), police culture is a worldview held by police officers which is shaped by the real and perceived dangers of their work. Police culture is characterized by a distrust of anyone outside of the policing arena and results in an “us versus them” mentality which is reinforced by the selection of police officers, training, and the experiences of their work.

Since 1989, there have been numerous inquiries and reports which have included a specific focus on Indigenous peoples’ interfaces with police. Except for the Missing Women Commission of Inquiry (Oppal, 2012) and Human Rights Watch (2013) reports, both of which focused on situations British Columbia, none specifically discussed the experiences of gendered and racialized violence experienced by Indigenous women at the hands of police (Palmater, 2016). In 1989, the Royal Commission on the Donald

Marshall Jr. Prosecution was initiated in light of the wrongful conviction of Mi'kmaw man, Donald Marshall Jr. This Commission concluded that the criminal justice system failed this man at every level.

In 1990, The Osnaburgh/Windigo Tribal Council Justice Review Committee, which resulted in the "The Osnaburgh/Windigo Report," was triggered by Stanley Shingebis, an Osnaburgh Band member, who became a quadriplegic while in police custody. The arresting officer, an OPP constable, was acquitted of aggravated assault. The officer, however, was found guilty of neglect of duty through a discipline hearing under the Police Services Act. This finding of guilt resulted in his rank being reduced (by one class of constable) for one year. The Osnaburgh/Windigo Report provided an overview of how the criminal justice system was operating in four Indigenous communities in northern Ontario and made recommendations for change, including the recommendation that the OPP not be allowed onto land in northern Canada without proper training.

In 1990, the Report on the Task Force on the Criminal Justice System and its Impact on the Indian and Métis People of Alberta, the "Cawsey Report," was released. The Task Force was appointed by the Solicitor Generals of Canada and Alberta to provide a complete overview of the criminal justice system in Alberta to ensure that the process was fair and equitable for First Nations and Métis peoples. Although not specifically related to policing, one-third of the 340 recommendations concerned police.

Shortly after, in 1991, The Rolf Commission of Inquiry in Alberta was triggered by concerns regarding police investigations into deaths on the Blood Reserve in Alberta. Interestingly, this report concluded that none of the witnesses who testified at the inquiry

disclosed “evidence of physical abuse of persons arrested by the RCMP, or the Lethbridge City Police in the isolated cases it dealt with” (Commission of Inquiry—Policing in Relation to the Blood Tribe, 1991, p. 7).

In 1991, yet another broad-based provincial inquiry related to the criminal justice system was undertaken in Manitoba. The Aboriginal Justice Inquiry in Manitoba was triggered in the aftermath of the murder of Indigenous woman, Helen Betty Osborne, by four non-Indigenous men, only one of whom was convicted of the crime, and the shooting of an unarmed Indigenous man, J. J. Harper, by police in Winnipeg. This inquiry concluded, among other things, that the criminal justice system failed to protect Indigenous women and girls from violence.

In 1996 the federal government undertook the Royal Commission on Aboriginal Peoples. In relation to involvement with the criminal justice system, an Indigenous stakeholder stated: “Our women face racism and systemic stereotyping at every turn. For Aboriginal women, this racism and stereotyping is rampant right through the system, from the police to the courts” (p. 434). Nearly a decade later, the *Saskatchewan Commission on First Nations and Métis Peoples and Justice Reform* concluded that racism presented a major barrier to positive First Nations-police relations in Saskatchewan. Yet another charge of racism was brought forth in 2007. The Ipperwash Inquiry, in response to the unarmed shooting of Dudley George by the OPP, concluded that cultural insensitivity and racism were not individual officer issues, rather they were systemic issues that permeated the OPP.

In 2010, the Missing Women Commission of Inquiry was ordered by the Lieutenant Governor of British Columbia. This Commission was a response to the

alarming number of missing and murdered women in Vancouver, British Columbia's downtown Eastside and the lack of response by police, especially as it related to convicted serial killer, Robert Pickton. The Commission's report (Oppal, 2012) highlighted the stunningly high proportion of Indigenous women included in the missing and murdered, as well as the increased susceptibility of Indigenous women to physical and sexual violence due to structural violence. Among other conclusions, the Commission found that the police failed in their investigations, did not address issues related to crimes committed in different jurisdictions, and had inadequate internal review and external accountability mechanisms. However, the Commission concluded that there were no findings of overt or widespread institutional bias on the part of police individuals and/or agencies.

In 2013, Human Rights Watch released a report entitled, *Those Who Take Us Away: Abusive Policing and Failures in Protection of Indigenous Women and Girls in Northern British Columbia, Canada*. This report was prepared following receipt of a letter from Justice for Girls, a grassroots group advocating for the rights of women and girls, based in Vancouver, BC, who believed the levels of abuse and neglect occurring at the hands of police toward Indigenous women and girls was a human rights issue. Human Rights Watch agreed it was. In July and August 2012, they conducted 87 interviews with community members, including 42 Indigenous women and eight Indigenous girls. They discovered an overwhelming number of cases of excessive use of force against women and girls. They also found that participants overwhelmingly lacked confidence in the ability of the police to protect them and were appalled at how they responded to the disappearances, murders, domestic violence, and sexual assault of Indigenous girls and

women. They concluded that the complaint and oversight procedures in place are inadequate, and Canada was violating its obligations under international law related to the responsibilities to address violence against women and girls, protect the rights of persons in custody, and address discrimination. The RCMP Commissioner's response to the Human Rights Watch (2013) report "was to tell his 29,000 RCMP members: 'My message to you today is – don't be worried about it. I've got your back'" (Palmater, 2016, p. 279 as cited in CEDAW, 2015, para. 151). There seems to be no accountability on the part of individual police officers and police organizations.

The lives of Indigenous women are persistently devalued by police officers and organizations, and this devaluation is compounded by their experiences of the intersecting effects of other oppressive institutions (Comack, 2012; Human Rights Watch, 2013; Palmater, 2016). For example, there were a series of events that occurred, related to the killing of Tina Fontaine. According to Palmater (2016), prior to her murder, 15-year-old Fontaine, who was under the care of the child welfare system, had been stopped by police. Despite reportedly being intoxicated and in the presence of a man much older than her, rather than returning her to safety, the two officers released her with the much older man. One of the officers involved remained on active duty and was not charged for failing to protect her before she was murdered. In a separate incident, this same officer was later found guilty of stealing a fellow officer's boots. In that case, he was charged with a criminal offence. The value of a young Indigenous girl's life compared to a pair of boots in the eyes of the Canadian justice system is clear and appalling (Palmater, 2016).

Abuses and deaths of Indigenous peoples in police custody have been the subject of inquiries, as noted above. However, Razack (2011, 2015) argued that inquiries related to deaths in custody often pathologized Indigenous peoples, ultimately blaming alcohol use and abuse for their deaths, as opposed to holding police accountable for ongoing violence and neocolonialism. A letter from the Assembly of Manitoba Chiefs to the *Globe and Mail* in relation to the Tina Fontaine case addressed this victim-blaming approach. They wrote:

I was saddened to read the *Globe and Mail*'s January 30, 2018 headline: ***Tina Fontaine had drugs, alcohol in system when she was killed: toxicologist***. It is this type of victim-blaming that helps shape the public discourse on the bigger issue of missing and murdered women and girls. (Assembly of Manitoba Chiefs, 2018, para. 1)

Through the presentation of several case studies, Palmater (2016) argued that despite numerous federal and provincial government reports, commissions, and inquiries with their lists of recommendations, and increasing media attention related to violence toward Indigenous women and girls perpetrated by police, little, if anything, had changed. There is a willful blindness by all levels of government to recognize ongoing police violence, racism, and abuse of authority (Palmater, 2016). There are no formal statistics of these exploitations being collected, so the women and girls remain silenced and the abuses and violence continue. The consequences of this willful blindness have been catastrophic. Rather than addressing the problem, the criminal justice system continues to compound this crisis.



It has been argued that racism drives policing in Canada. For example, Indigenous women interviewed by Comack (2009) discussed not being able to walk to the store without being stopped by police who thought they were prostitutes. Further, Dhillon (2015) said that Indigenous women are being “hunted, harassed, and criminalized” (p. 1) by police. Unfortunately, these abuses are rarely reported and even if they are, there is no requirement of police forces to submit these reports to an oversight agency (Human Rights Watch, 2013; Palmater, 2016). The abuses and ignorance on the part of Canada clearly indicate that neocolonialism exists (Razack, 2000).

### ***Over-Policing***

Overrepresentation in the criminal justice system begins with the police (Comack, 2012; Zimmerman, 1992). Police have a great deal of discretion in deciding where and who to surveille, who to arrest, when to lay charges, and what charges to lay (Bradford et al., 2009; Frank et al., 2005; LaPrairie, 1995; Zimmerman, 1992). This discretion becomes problematic, especially when racism is exhibited by individual police officers or is systemically embedded in police culture (McNeilly, 2018; National Inquiry into Missing and Murdered Indigenous Women, 2019). At the same time, Indigenous peoples, based on unique worldviews and experiences of oppression, may react differently to encounters with people in authority like police than non-Indigenous peoples (Alberston et al., 2019). Often, individuals working within the criminal justice system, especially police, erroneously see Indigenous peoples, particularly women and girls, as needing to be controlled due to their perceived lack of civility and social and moral order (National Inquiry into Missing and Murdered Indigenous Women, 2019). For this reason, police over-surveille communities with higher proportions of Indigenous peoples (Carmichael &

Kent, 2015; Jackson, 1988; Reitmanova & Henderson, 2016).

Over-policing can be understood as a situation in which government agents, such as the police, profile and focus more on the activities of one group as probable offenders over that of others who are considered less likely to commit crimes (Monchalin, 2016; Wong, 1998). This, then, can be viewed as a form of structural violence (James et al., 2008). As early as 1991, the Manitoba Justice Inquiry concluded that there were many complaints with respect to over-policing that focused on Indigenous peoples' reporting that they were singled out and stereotyped by police (Manitoba, 1991). For example, many Inquiry participants noted that they were stopped randomly on streets and questioned. Specifically, one woman noted that her boyfriend had been stopped by police simply because he was running down the street to see her (Manitoba, 1991). Evidence suggests that nearly 30 years later the situation has not improved. For example, Wendy Nahanee, a Squamish woman who works at a cultural centre in the Downtown Eastside of Vancouver stated, "As a person of colour, you are a target... everyone else is told to go to the police, they are here to protect you, but it's the exact opposite for Indigenous peoples" (Sterritt, 2020).

Colonialism and neocolonialism have resulted in policies and practices which result in Indigenous peoples being over-policed. For example, although discriminatory sections of the Indian Act, such as the outlawing of Indigenous peoples' ceremonies and alcohol consumption, were eventually repealed, the attitudes that permeated policing and the selection and socialization of officers have not changed. The worldview of police is embedded with racialized and discriminatory discourses and practices and readily identifiable in the statements of police and the acts of oppression they commit against the

people they are supposed to be protecting (Comack, 2012; Monchalin, 2016). This has created an environment in which racism, intentional or not, is normalized, accepted, and expected as the status quo (McNeilly, 2018).

Although there is a lack of academic literature related to this phenomenon, a more recent investigative report by CBC found that in Edmonton, Indigenous women were 9.7x more likely to be carded (stopped randomly by police) than white settler women (Huncar, 2017). In January 2017, changes were made to Ontario's Police Services Act related to carding practices by police. The new regulation mandated that police organizations must collect, and report data related to street checks. However, detailed information is only available through Freedom of Information Act requests (Police Services Act, 1990).

Evidence of racist attitudes were also found among police officers interviewed by the Office of the Independent Police Review Director in Thunder Bay. For example, one officer stated: "Every time we deal with them, it's – you're only dealing with me because I'm Native and, not to mention that they're pissed drunk, they're pissing up against a building, they're defecating [by] buildings, they're fornicating on the riverbank and on people's cars" (McNeilly, 2018, p. 185). These pejorative and racialized attitudes toward Indigenous peoples by police are not isolated to Thunder Bay. Indigenous women from Winnipeg, Manitoba who were interviewed by Comack (2012) discussed not being able to walk to the store without being stopped by police who assumed that they were prostitutes and consequentially treated them as criminals.

However, the available literature suggests over-policing may vary by region and jurisdiction. For example, LaPrairie (1995) found that Indigenous women from cities in

Canada's western provinces had more charges filed against them than their counterparts in cities in the country's eastern provinces. More recently, Ruddell et al. (2014) found that in Canada, the police officer to resident ratios increased with distance from the closest urban centre up to nearly three times the national average, and that crime rates were highest in these remote communities. However, they failed to consider that perhaps the higher crime rates are the result of racialized over-policing.

Interestingly, Ruddell and Thomas (2015) concluded that although evidence of the “minority threat proposition” was apparent in other countries, the results of their study suggested that this was not the case in Canada. In other words, they argued that there was not a significant relationship between the size of visible minority and First Nations, Métis, and Inuit populations and the number of police. Conversely, Carmichael and Kent (2015) found evidence that the “minority threat proposition” did exist across the 40 cities in Canada included in their analysis. They concluded that the most significant predictors of the size of a police force in Canada were the size of the city’s ethnic composition and level of poverty. In other words, the higher the proportion of people living in poverty, visible minorities, and Indigenous peoples living in a municipality, the larger the police force. The associations remained statistically significant even after crime rates, population size, and police organization budgets were accounted for.

By 1991, it was recognized that Indigenous peoples were being both over-policed and under-policed (Manitoba, 1991; Zimmerman, 1992). As the Human Rights Watch (2013) report concluded, Indigenous women were targets of over-policing and when they were victimized, they could not count on the police for protection. It is important to understand the policing paradox at work here. This paradox is reflective of the broader

irony of the colonial discourse, which claims the need to protect Indigenous people, yet attempts to disregard them.

Jackson (1988) contended that individuals working within the criminal justice system often saw Indigenous peoples as “uncivilized and without coherent social or moral order” (p. 5). On this same point, Reitmanova and Henderson (2016) contended that as a result of the belief that Indigenous peoples were lacking social and/or moral order that police over-surveilled communities with higher proportions of Indigenous peoples. Over-surveillance connects with police laying more charges, which results in overrepresentation. However, because police reporting standards are not uniform across the country, it is difficult to quantitatively assess police surveillance and contacts with Indigenous peoples.

Because police reporting standards are not uniform across the country, it is difficult to accurately assess police surveillance of and contacts with Indigenous peoples. Arrest statistics are one indicator of the number of contacts Indigenous peoples are having with police. Bienvenue and Latif’s (1974) study provides a historical account of the overrepresentation of Indigenous peoples, especially women, among arrest and conviction statistics in Winnipeg, Manitoba in 1969. The purpose of their study was to investigate if Indigenous peoples were overrepresented among arrests and convictions for all types of crimes, including liquor offences. They found that the pattern of Indigenous women’s overrepresentation was apparent. Indigenous women accounted for 70% of all charges involving women and were overrepresented in all types of offences except for robbery, major thefts, and fraud. Not only were Indigenous women over-charged, they were also overrepresented in convictions. Of all women convicted, 71% were Indigenous.

This study did not account for sociodemographic variables, such as income, occupational status, and education. The authors suggested that this was problematic in that arrest and conviction patterns may be more a reflection of economic status or social class than of Indigenous identity. The authors did not further contextualize the possibility that neocolonial policing, rather than or in addition to socioeconomic status, may be responsible for over-arresting and over-charging.

Fitzgerald and Carrington (2008) investigated the source of the high number of crimes perpetrated by Indigenous people in Winnipeg in 2001. They tested LaPrairie's (1992, 2002) hypothesis that the overrepresentation of Indigenous peoples across the Canadian criminal justice system was predominantly due to high concentrations of Indigenous peoples living in neighbourhoods populated by persons who were socioeconomically disadvantaged. The conditions impacting Indigenous peoples in these neighbourhoods included higher rates of poverty, residential mobility, and single-parent families, as well as lower levels of educational attainment and under-employment or unemployment. Fitzgerald and Carrington (2008) found neighbourhood crime rates increased with the number of Indigenous peoples living in them who were socioeconomically disadvantaged in terms of type or lack of work, level of education, income level, family makeup, and the availability of affordable housing.

Accounting for disadvantaged urban living conditions, including high levels of socio-economic disadvantage and crime rates that were higher than the national average, Fitzgerald and Carrington (2008) also found that Indigenous peoples were nearly seven times more likely to be identified as an offender than non-Indigenous people in Winnipeg in 2001. These authors did not consider gender and did not consider over-policing of

neighbourhoods populated with high proportions of Indigenous peoples as possible sources of the disproportionate rates of Indigenous offenders. They simply assumed that Indigenous peoples were “more likely to have committed recorded crimes” (p. 530).

Alternative explanations seem potent. For example, although statistics related to random police checks in Canada do not seem to be available in peer reviewed academic literature, a more recent investigative report by CBC found that in Edmonton, Indigenous women were nearly 10 times as likely to be stopped randomly by police than white settler women (Huncar, 2017). Moreover, investigating people’s confidence in police across the provinces of Canada using bivariate and multivariate analyses of the General Social Survey, Alberton et al. (2019) found that over a period of 12 months, 4.5% of Indigenous peoples experienced two or more involuntary contacts with police, while only 1.7% of non-Indigenous, white settler people experienced two or more contacts. This difference was found to be statistically significant. Involuntary contacts with police, such as traffic stops or reporting crimes or victimizations, are often associated with poorer attitudes toward police (He et al., 2018; Reisig & Correia, 1997; Sprott & Doob, 2009; Zhao et al., 2014). Further, these types of contacts can result in serious injury or death (Comack, 2012; Razack, 2015). Thus, it important to understand why Indigenous peoples are overrepresented among people who have these types of experiences.

### ***Attitudes Toward Police***

Attitude towards police is a multi-dimensional concept made up of several distinct constructs including confidence, satisfaction, trust, and fear (Avdija, 2010; Cao, 2014). These attitudes can go beyond health and safety and become a matter of life or death for First Nations, Inuit, and Métis peoples in Canada. For example, 18-year-old Matthew

Dumas was shot and killed while running from police. Dumas was “misidentified” as a robbery suspect. In an interview after his death, his sister suggested that Matthew and his friends had often been “roughed up” by police and feared contacts with them (Comack, 2012). This was not an isolated incident (Comack, 2012; Razack, 2016; Zakreski, 2015). Seemingly, some police officers and organizations arbitrarily deem Indigenous individuals as problematic based on their personal bias, including racism, against Indigenous peoples, as opposed to probable grounds (Razack, 2016). This has led to serious emotional and physical harm, and in many cases, death being inflicted on Indigenous peoples during their interfaces with the police. Indigenous peoples, it seems, have every reason to be suspect of the police and have negative attitudes towards them as officers and as an institution.

To date there have been very few national studies of Indigenous people’s attitudes toward the police in Canada (Alberton & Gorey, 2018; Cao, 2014). A notable exception to this was Cao’s (2014) national study of Indigenous peoples’ attitudes toward police in Canada, which found that Indigenous peoples had significantly less confidence in the police than other Canadians. However, Cao’s (2014) linear regression models emphasized statistical rather than practical significance. Contact with police and gender were not tested as independent predictors, and the study’s key outcome variable was perception of the effectiveness of local police, rather than general confidence in police. Finally, regional comparisons were not made.

Through an examination of public satisfaction with police in Saskatoon, Cheng (2015) found that Indigenous peoples had less satisfaction with police than non-Indigenous people. Despite utilizing a mixed methods approach to gain a deeper



understanding of Indigenous peoples' satisfaction with police, Cheng's (2015) study was limited to one urban locale. Furthermore, the impacts of colonization and neocolonialism on police-Indigenous relations were not explored. Notably, however, Cheng suggested that improved avenues for citizen participation and police accountability were most important for reducing the disparity between Indigenous and non-Indigenous peoples' satisfaction with police.

Examining the interaction effect of Indigenous identity and living in neighbourhoods where rates of crime are higher than the national average on satisfaction with police in Winnipeg, Weinrath et al. (2012) found that Indigenous peoples were twice as likely to be dissatisfied with police than non-Indigenous peoples living in other parts of Winnipeg. This study demonstrated the importance of examining interaction effects and within group differences across various regions in Canada. Further, Sprott and Doob (2014) suggested the importance of examining within group differences, especially related to public confidence in police, as the evidence suggested that there were variations across cultural groups.

In her submission to Review of Yukon's Police Force 2010, Moorcroft (2011) argued that Indigenous women in the Yukon did not trust police. This in turn inhibited their reporting of physical and sexual violence. Also based in the Yukon, Griffiths and Clark (2017) found that in the aftermath of several devastating events involving Indigenous peoples and the police, significant positive changes to the dynamics between First Nations communities and police occurred because of collaborative initiatives. For example, both the police and communities were willing to listen and attempt to understand each other. Building on this dialogue, communities became involved as equal

partners and were able to assume ownership of solutions. Griffiths and Clark (2017) concluded that systemic changes within large police forces such as the RCMP were possible and cited the changes in the Yukon as case in point.

In an essay related to trust between Indigenous communities and police, a Winnipeg Police Services staff sergeant argued that improved communication, engagement, and empowerment were necessary to regain trust. The sergeant also posited that increased police transparency and accountability, as well as promotion of alternative justice measures, such as restorative justice, may better align police agencies with the values of Indigenous communities (Christmas, 2012).

Based on the evidence presented throughout this section, it seems that colonial and neocolonial practices and policies related to policing have had significant impact on relationships between Indigenous peoples and the police. Future research examining the nature of these relationships should compare regions across Canada and test the interaction effects of factors such as involuntary contacts with police, involvement with the child welfare system, gender, socioeconomic status, educational attainment, employment, and other structural risk and protective factors.

### **Indigenous Women's Interfaces with Canadian Courts**

The criminal court system is multi-tiered and involves a diverse range of appointees and employees whose efforts culminate in court processes from across facets of the criminal justice system. The lowest level courts, provincial and territorial, adjudicate most cases. The provincial and territorial superior courts are at the next level. They deal with appeals cases as well as serious cases that the provincial and territorial courts are not equipped to handle. The Federal Court of Canada is on the same level as

the superior courts, except it deals with national matters. These include issues related to national security, review of federal government decisions (including decisions related to prisoners in federal institutions), claims involving the Crown, intellectual property, and maritime and admiralty disputes (Courts Administration Service, 2015). The third level includes the provincial and territorial courts of appeal as well as the Federal Court of Appeal. These courts will hear appeals from the lower level courts. Finally, the highest-level court in Canada is the Supreme Court, which is Canada's final court of appeal and where constitutional decisions are made (Department of Justice, 2017). It should be noted that there has never been an Indigenous person appointed to the Supreme Court of Canada.

A recent investigation by Griffith (2016) identified 2.4% of Federal Court judges, 0.7% of Provincial Supreme Courts judges, 1.3% of Provincial Courts of Appeal judges, and 0.1% of Superior Courts/Queen's Bench judges as Indigenous. Specific percentages of Indigenous peoples appointed to the lower provincial courts were not reported, however the data suggests that proportions vary regionally and are marginally higher in most provinces than in the Federal Court of Canada and superior courts. The lack of representation of Indigenous peoples employed within the criminal justice system is apparent across the entire system, from criminal defense lawyers, to police, to court and correctional services (Johnson, 2019; NWAC, 2007; Zimmerman, 1992).

Although not specifically related to Indigenous women's interfaces with the court system, Dyck (2013) interviewed 10 Indigenous women who had in some way been involved in the criminal justice system. A novel finding of the study was that the participants' narratives provided insights into their relationships with lawyers, decisions

related to court proceedings and outcomes, and the problems they faced upon the completion of their custodial term. Similar to the themes found by Dyck (2013), several women in Sugar and Fox's (1989) study reported that they neither believed that the court system would treat them justly, nor did they trust the lawyer who was made available to them, or more often than not appointed to act on their behalf. One participant simply noted: "Lawyers are not impartial" (476).

Many Indigenous peoples do not have a lawyer to represent them. A lack of appropriate legal representation, including legal aid, has been noted as a barrier to access to justice within the system (Department of Justice, 2018a; Johnson, 2019; Zimmerman, 1992). This is especially true in remote areas. Judges and defense lawyers often fly into remote communities on the day of the court appearance. The impacts of the systemic barriers are compounded by the brief amount of time that legal aid lawyers spend on any one case. Even more concerning, the RCMP act as Crown counsel in many cases in remote areas (RCAP, 1996; Griffiths et al., 2016; Jones et al., 2014). One implication of the RCMP acting as Crown counsel, as Jones et al. (2014) noted, relates to disclosure. It is the responsibility of the Crown to make full disclosure of all materials related to a case. This situation becomes complicated, and even biased, when the RCMP is acting as the Crown.

Further, lack of understanding of the judicial process, linguistic and cultural barriers to effective communication, and inadequate access to counsel, may result in judicial dispositions which are unnecessarily harsh or even unjustified (Canadian Corrections Association, 1967; Zimmerman, 1992). A 1967 survey by Canadian Corrections Association, "Indians and the Law," recognized that Indigenous peoples had

very little understanding of their legal rights and most were entering pleas of guilt because they did not fully understand the legal concepts of guilt and innocence, or they were afraid to exercise their rights. Half of a century later, the situation remains the same (Marsolais-Nahwegahbow, 2018).

In 1999, trying to remedy the unique situation faced by Indigenous peoples living in northern Canada, the Government of the Territory of Nunavut became the first, and remains the only, single-layer court system in the country. This means both territorial and federal (Superior) court cases are adjudicated within the same system. The purpose was to enhance cost-effectiveness and cultural sensitivity toward the majority Inuit population. Although some progress has been made, due to a lack of availability of legal aid lawyers, adequately trained Inuit court workers, and adequately trained and community-based justices of the peace, this new court system has yet to successfully fulfill its mandates of providing an efficient and accessible court system that can respond appropriately to the unique contexts and needs of Inuit peoples (Clark, 2011).

More recently, Ferrazzi and Krupa (2016) explored whether therapeutic courts, such as the mental health courts in urban areas, could achieve success in Nunavut. These authors concluded that differences in cultural values and beliefs between the Inuit peoples and the professionals trained in the western medical model would limit the court's success. For example, one participant in their study noted: "We don't really understand what mental health is, but yet we see symptoms of something all around us" (p. 162).

This comprehensive review of the literature revealed only one peer-reviewed study specifically related to Indigenous women's interfaces with the courts. Assuming some were missed, there is nonetheless a meagreness of academic literature related to this

topic. This is concerning given the significant impact the courts have on the lives of Indigenous women and their families, including children.

### ***Trial and Plea Bargaining***

Very little, if any, literature exists related to Indigenous women's experiences with plea bargaining or going to trial. However, Maeder et al. (2016) examined whether racial bias in jurors' decisions were contributing to overrepresentation. They were also interested in examining the interaction effect of race and type of offence on bias. Their findings indicated that a mock jury was not more likely to find Indigenous peoples guilty of stereotypical crimes than non-Indigenous peoples. However, this study was significantly limited in that the participants, or mock jurors, consisted only of students from a university in Ontario, which was not representative of the overall Canadian population. Further, they did not seem to consider the ethnicity of the mock jurors. Given this study's limitations, its findings should be interpreted with caution.

Maeder et al.'s (2016) study, although limited, is important, especially given the recent case of Gerald Stanley, a white settler who was acquitted of second degree murder for the shooting of Colten Boushie, a young Indigenous man, in the back of the head. This case prompted a call for an increase of diversity on juries by some legal experts and Indigenous peoples (Purdy, 2018). Because of this case, the Liberal government promised to act and included jury selection as one of the topics to be included in Bill C-75. This Bill, according to Parliament Canada (2018), proposed amendments to the Criminal Code, among other things, including the proposal to "abolish preemptory challenges of jurors" (para. 3). As it stands, during jury selection, lawyers can put forth a set number of preemptory challenges, anywhere between four and 20, depending on the severity of the

case (Friesen, 2018). These challenges allow either the Crown or the defense to dismiss jurors without having to provide justification to the judge. Interestingly, as far back as 1991, the Manitoba Justice Inquiry noted the discrimination against Indigenous peoples in jury selection and recommended that peremptory challenges be eliminated from the jury selection process.

### ***Sentencing***

The Criminal Code of Canada (s.718.2) sets out the fundamental purpose of sentencing. According to Canadian law, the purpose of sentencing is to contribute to the maintenance of a safe, peaceful, and just society by imposing just sanctions. In 1996, s.718.2 was amended as part of a review of sentencing policy to establish increased consistency in sentencing decisions. This amendment directed judges to consider all sanctions other than imprisonment, with special consideration given to the circumstances of Indigenous offenders. The purpose of this direction to judges was to reduce the overrepresentation of Indigenous peoples in custody.

Three years later, the Supreme Court presented a more specific interpretation of the amendment in *R. v. Gladue* (1999). This case involved a young Cree woman, Jamie Gladue, who had been convicted of killing her boyfriend. Although the Supreme Court upheld her three-year sentence, it concluded that in some cases it may be possible for an Indigenous person to be sentenced to a lesser term in custody than a non-Indigenous person for comparable crimes. Further, when sentencing Indigenous offenders, the court prescribed that principles of restorative justice must be given the greatest weight and less weight should be given to “deterrence, denunciation, and separation” (*R. v. Gladue*, 1999, para. 78).

Further interpretation of s.718.2(e) was made in *R. v. Ipeelee* (2012). The decision included the assertion that the *R. v. Gladue* (1999) principles were not being applied consistently across courts. It went on to specify factors for consideration in Indigenous sentencing which included “history of colonialism, displacement, and residential schools and how that history continues to translate into lower educational attainment, lower incomes, higher unemployment, higher rates of substance abuse and suicide, and of course higher levels of incarceration for Aboriginal peoples” (*R. v. Ipeelee*, 2012, para. 7). Further, where the *R. v. Gladue* (1999) decision used the word “may” in its discussion of considering alternatives to sentencing, the *R. v. Ipeelee* (2012) decision used the word “must.”

Because the judges in the *R. v. Ipeelee* (2012) decision determined that *R. v. Gladue* (1999) was not being applied consistently across the courts, they stressed the importance of Gladue reports. These reports are to be prepared for Indigenous peoples who have been convicted of an offence prior to their sentencing hearing. They are intended to provide an explanation of Indigenous peoples’ experiences of the residential school system, colonization, and other factors related to disadvantage to the court and to recommend alternatives to incarceration (Hannah-Moffat & Maurutto, 2010). All persons who identify as Indigenous have the right to have one of these reports presented at sentencing.

Marsolais-Nahwegahbow (2018), a member of the Whitefish River First Nation on Manitoulin Island, believed that the Gladue report was the most important and informative way to deal with overincarceration of Indigenous peoples. Marsolais-Nahwegahbow wrote over 200 Gladue reports using an Indigenous lens, taking



intergenerational and systemic traumas into account. Through writing these reports, Marsolais-Nahwegahbow (2018) realized that each report is a person's sacred story, an Indigenous person's life continuum. The implication of this was that the report, to him, was not about writing, but about traditional storytelling that captured the life experience and explained to the courts the impact of the Gladue factors that the Western justice system was interested in. Rather than referring to these documents as Gladue Reports, he preferred to refer to them as Sacred Story Reports. He has found that the process of developing the Sacred Story did more than provide information for the courts, it moved toward being a self-reflective activity for the individual. He suggested that many of the people he worked with never had a chance to be heard, and the report provided them with this opportunity, while assisting them to locate themselves and set goals to embark on their healing journey, whether or not it involved incarceration.

Unfortunately, Marsolais-Nahwegahbow cannot be everywhere to write reports and the service is not free. On the latter point, sometimes a Chief in Council will pay for the report and sometimes legal aid will help (Hebert, 2017). This becomes problematic when Indigenous peoples who are not part of an Indigenous community become involved with the courts (Pfefferle, 2006). To this end, Marsolais-Nahwegahbow believed that court services and the federal government should cover the costs. Although an advocate for the reports, Marsolais-Nahwegahbow agreed that after 14 years there was still a lack of knowledge and education about them and their importance in judicial decision-making. There were also inconsistent rules related to who may produce a Gladue report at sentencing. For example, in Ontario, an individual must be facing at least 90 days of incarceration to be allowed to produce the report. Further, many Indigenous women, if

they are even made aware that the Gladue report exists, interface with frontline workers who often do not understand their specific contexts of exclusion and oppression resulting from colonization, neocolonialism, and other systemic factors, such as sexism, that contribute disadvantaged conditions.

As mentioned, not everyone agrees that Gladue reports are helpful. Moreover, Hebert (2017) argued that they are not being applied consistently and this creates a substantial access to justice issue. Even if they were applied consistently, Hebert argued that they, alone, cannot achieve substantive equality for Indigenous peoples involved with the criminal justice system. Some authors even suggest they are harmful and may be contributing to overincarceration as opposed to reducing it. For example, Resoule (2009) noted that many frontline workers responsible for completing Gladue reports did not understand the specific contexts related to being Indigenous and/or being a woman, although no evidence is cited to reinforce this claim. However, Williams (2008) did cite evidence of the potential negative impacts of Gladue reports. In a thematic analysis of 18 sentencing cases of Indigenous women, Williams concluded that Indigenous women's narratives of intersecting oppression may cause more harm than good at sentencing. This was because these narratives were included in a process organized around controlling perceived risk and serving punitive, rather than healing or restorative, ends. Rather than taking the intersecting points of oppression into account, the courts, powerful institutions in society, consider individual failings. Thus, narratives, and ultimately discourses, were developed that construct Indigenous women as risky, their families as incubators of this risk, and incarceration is justified as being the only viable option for healing. These narratives and discourses related to individual failings and constructions of risk need to

be challenged. Williams (2008) found a need for less judicial discretion and more prescriptive means for preventing the incarceration of Indigenous women. It would be interesting to test the findings statistically, through a logistic regression analysis of the interaction effects of being female and Indigenous, among other variables, and their strengths of association with sentencing outcomes.

A recent exploratory meta-analytic study related to sentencing disparities between Indigenous peoples and settler white people by Alberton et al. (under review) found that although Indigenous peoples, on average, committed less violent crimes, they were approximately 25% more likely to receive more punitive sentences. Moreover, the authors found the risk of receiving a more punitive sentence was greater for Indigenous females than for Indigenous males. Out of the eleven studies included in their analysis, only one was conducted post-Ipeelee. Most concerning was that this post-Ipeelee study concluded that Indigenous peoples were nearly three times as likely to receive a more punitive sentence than white settlers. This suggests that the situation is far from improving.

Anecdotal evidence also suggests that just sentences are not being imposed, and perhaps this is a result of judicial bias. Criminal lawyer Mallea (2017) argued that sentencing was arbitrary, inconsistent, and inflexible, and thus unfair and unjust. Mallea blamed the situation at least partially on judicial discretion, presenting two cases which together demonstrated the lack of fairness and justice. The first, a group of over 200 Canadian lawyers misappropriated \$160 million dollars of residential school survivors' money. Of these 200 lawyers, only 23 were charged with criminal offences. The rest were simply ordered to pay the money back. Of those who were found criminally

responsible, penalties ranged from warnings and fines to being suspended or disbarred from their respective law societies (Pedersen et al., 2017). Not one of the lawyers served any time in jail. Conversely, an Indigenous client of Mallea's was charged for and convicted of stealing \$20 worth of clothes for her baby. She was imposed a jail sentence. These two cases also highlight the need to critically analyze the effects of socioeconomic status as well as racism and other forms of bias on criminal court decisions involving Indigenous peoples.

### **Indigenous Women's Interfaces with Canadian Corrections**

Like the other facets of the criminal justice system, the correctional system is complex. The federal correctional services are the responsibility of Correctional Service Canada. Typically, women serving sentences of two years or more are sentenced to a federal institution. The provinces and territories are each responsible for their provincial/territorial correctional system. Women sentenced to two years less a day are usually sentenced to a provincial institution. In some cases, women sentenced to federal time may serve their sentence at a provincial institution if this means keeping them closer to their families and other support systems.

Other options sentencing judges may consider, although they vary across the provinces, are probation, restitution orders, fines, fine option programs, and electronic monitoring. Probation is an order from the court that allows a person convicted of an offence to remain in the community under conditions set out by a judge (Ministry of the Solicitor General, 2019). These may include conditions to abstain from the use of alcohol and/or non-prescribed drugs, abide by a curfew, and/or to not associate with specific people or those with a criminal record. They also stipulate that the person must check in

with a probation officer at scheduled times. Breach of these conditions may result in more punitive sentences such as jail time being imposed. Restitution orders require offenders to financially compensate the victim for financial losses incurred as a result of the crime (Department of Justice, 2018b). Similarly, fines are financial penalties imposed by the courts wherein the offender is ordered to pay a set amount of money to the courts. If this payment is not made in due time, the offender faces more punitive sanctions such as jail time. In some provinces, although the legislation was revoked in Ontario in 2016, fine option programs give the offenders the option to work off their fines as opposed to having to pay them out of their pockets. Finally, electronic monitoring is an option for judges who wish to sentence an offender to house arrest. This allows the offender to remain in the community while giving the courts the ability to track the person's whereabouts. Oftentimes, electronic monitoring is used in conjunction with a probation order.

Restitution is a cash-based option which is not feasible for many Indigenous women who enter the criminal justice system and who are economically disadvantaged. A similar issue is found with fines. Fines are considered an option based on the dominant Western assumption that people have adequate financial resources and would rather pay a fine than go to jail. Which would make sense, except many people who are fined are unable to pay. Fines create a system that results in people being incarcerated merely because of their economic status (Zimmerman, 1992). To this end, LaPrairie (1997) posited that a high number of fines in Saskatchewan, Alberta, and Manitoba, the provinces with the most economically disadvantaged Indigenous peoples, were "bound to lead to over-incarceration in that group" (p. 51).

Perhaps there is a legitimate lack of other options for judges to consider, but without more research in this area, it is difficult to determine. Unfortunately, apart from federal incarceration (and this is also lacking), there is very little academic research dedicated to Indigenous women's experiences interfacing with courtrooms, remand centres, healing lodges, provincial jails, halfway houses, and probation (Dyck, 2013). To be clear, remand centres are facilities that house people while they are awaiting trial. In some cases, such as the Southwest Detention Centre in Windsor, Ontario, people may be held awaiting trial or to serve their provincial sentences (less than two years). Healing lodges are facilities designed specifically to house Indigenous offenders serving federal sentences (two years or more). However, offenders must request to be transferred from a traditional federal penitentiary to a healing lodge and they must undergo an assessment by Correctional Service Canada in order to qualify for the placement. Healing lodges offer culturally appropriate services and programs that incorporate Indigenous values, traditions, and beliefs (Correctional Service Canada, 2019). Finally, halfway houses are community-based facilities where offenders are allowed to serve part of their sentence in the community under supervision. Typically, inmates are released from federal institutions before the completion of their sentence to serve the remaining time under supervision at a halfway house.

### ***Incarceration***

Incarceration represents the most severe form of punishment in Canada (Neil & Carmichael, 2015). Like most Western countries, rates of incarceration vary regionally. For example, Neil and Carmichael (2015) noted that despite decreasing crime rates, Saskatchewan, Manitoba, and Alberta incarcerated people at rates two to three times

higher than Ontario and Quebec. These authors found very little evidence explaining why regional variations existed. LaPrairie's (1997) theory related to the high number of fines and high incarceration rates of Indigenous peoples in these provinces is an exception. Regardless, in every province and territory across the country, there is an overrepresentation of Indigenous women incarcerated in federal and provincial/territorial institutions (Perrin & Audas, 2018).

The phenomenon of overrepresentation in custody has been documented in the literature for decades (Barrett et al., 2010; Canadian Corrections Association, 1967; Dyck, 2013; Macdonald, 2016; Moffat, 1991; Monture-Angus, 1999; Sugar & Fox, 1990; Mahoney et al., 2017). Although this overrepresentation was recognized as early as the 1960s (Canadian Corrections Association, 1967), little appears to have been done to rectify the situation and the disproportionate rate of incarceration of Indigenous women has continued to increase unabated (Dyck, 2013; Macdonald, 2016). A lack of reported historical data makes it difficult to determine exactly when the overrepresentation began. Statistics Canada reported that data related to sentenced admissions of Indigenous peoples to provincial, territorial, or federal programs is not available prior to 1982/83 (Statistics Canada, 2014).

Despite the longstanding recognition of overrepresentation in custody and ongoing calls to address the issue, the proportions of Indigenous women serving time in federal and provincial/territorial institutions continues to increase (Macdonald, 2016; Mahoney et al., 2017). Although this increase has been a national trend, in 2014/2015 the highest proportion of Indigenous women were admitted in the western provinces and northern territories. Specifically, in Manitoba, Saskatchewan, and Northwest Territories

Indigenous women represented 86%, 85%, and 100% of women admitted into custody, respectively (Mahoney et al., 2017). In 2015, the TRCC once again recognized the ongoing issue of Indigenous peoples being overrepresented in the criminal justice system and called on all levels of Canadian government to commit to eliminating the overrepresentation of Indigenous peoples in custody by 2025. The TRCC also recommended that the governments release detailed annual progress reports related to the monitoring and evaluating of efforts to eliminate overrepresentation.

Evidence as presented in this review of the literature suggests that the entire system is colonial, racist, sexist, and violent (McGill, 2008; TRCC, 2015). Prisons are no different. Although not specifically related to Indigenous women, Neil and Carmichael's (2015) analysis of data related to admissions into federal custody found that "ethnic divisions" and the "minority threat theory" were present in Canada and significantly associated with variations in incarceration rates. Their findings, aligned with the ethnic divisions and minority threat theories, showed that as minority and Indigenous populations increased within a Canadian region, federal incarceration rates also increased.

In a content analysis of case files from Toronto's Andrew Mercer Ontario Reformatory for Females, Sangster (1999) explored the causal connection of factors leading to the overincarceration of Indigenous women. Sangster concluded that overincarceration was a "complicated process of domination, conflict, and overlap in notions of crime and justice" (p. 59). The analysis also suggested that the process of incarceration was bound to manifest in racialized and gendered ways. Sangster suggested that, as early as 1945, patterns of the overincarceration of Indigenous women were



emerging at Mercer. Three interconnected factors were theorized to contribute to overincarceration, including: material and social dislocation, gender and race paternalism of criminal justice system agents, and cultural gaps between Indigenous and Western value systems, which articulate starkly different notions of crime and punishment.

An analysis of existing research and reports by McGill (2008) documented serious and persistent violence and abuse, including death, against Indigenous women in federal custody. This analysis suggested that these violations occurred because of discrimination, racism, sexism, and a colonial past and neocolonial present, which deemed Indigenous females as inhuman, lacking value and worth. These violations continue to occur despite reports, inquiries, commissions, and task forces that have been brought forth because of the injustices faced by incarcerated women since at least 1870 (Canadian Human Rights Commission, 2003; Restoule, 2009). Except for the Task Force on Federally Sentenced Women (1990), very little attention has been paid specifically to Indigenous women.

Around 1989, Sugar and Fox were commissioned by the Task Force on Federally Sentenced Women to study Indigenous women serving federal time in the community. Their study was authorized due to a lack of satisfaction with the extensiveness of the research to date, but also because there were concerns from First Nations' communities that Indigenous women had not been effectively consulted throughout the process. Interestingly, Sugar and Fox (1989) found that throughout the Task Force meetings, faced with the speculative thoughts of the conditions of women in prison, voiced by people who had no lived experience and whose responsibilities were primarily administrative, they felt "repulsed and suffocated" (p. 468). They noted that during the meetings they

sensed the other Task Force members were disconnected from the experiences they themselves had as former inmates. Sugar and Fox concluded, among other things, that only through better understandings of federally sentenced Indigenous women could we “begin to make changes that will promote healing instead of rage” (p. 469). They also noted that despite participation in numerous task forces, sentencing commissions, investigations, and reports, the conditions remained unchanged.

The culmination of the Task Force’s work resulted in a report called *Creating Choices*. The findings of the report concluded that at the time, the federal Prison for Women (P4W) in Kingston, Ontario was not adequate for meeting the needs of federally incarcerated women. Women were not being prepared for reintegration in the community and prison was not promoting rehabilitation. The report noted that P4W was over-secure, the programming was poor, women were isolated from their families and other supports, and the needs of Francophone and Indigenous women were especially not being met. The report recommended that the responsibility for federally sentenced women must be broadened beyond CSC.

Like Sugar and Fox (1989), Hannah-Moffat (1991) was skeptical that the *Creating Choices* report would make a difference for the lives of federally sentenced females in Canada. In a critique of the feasibility and effectiveness of the recommendations, it was argued that an increase in federal facilities for women, although allowing them to stay closer to home, would in fact cause an increase in the likelihood that their sentences would include a period of incarceration. Hannah-Moffat argued that because of the deplorable conditions and geographic location of the P4W, judges had been reluctant to send women to this facility.

Eight years later, Morin (1999) interviewed 17 of the 20 federally sentenced Indigenous women identified as maximum security between December 1997 and February 1998 as well as eight CSC staff. Through semi-structured interviews, Morin (1999) concluded that CSC was not adhering to its own policies and guidelines with respect to Indigenous women serving federal time. The findings of the interviews suggested that CSC had not fully adhered to the recommendations put forth in *Creating Choices*, because the women had not been provided with meaningful and responsible choices, and the institutional environments remained unsupportive. Since this report, P4W closed and more regional facilities for women opened. Evidence suggests the establishment of more regional facilities has not provided women with meaningful and responsible choices nor has it created more supportive environments.

Nearly 20 years later, Barrett et al. (2010) undertook a survey of 178 women serving time in federal women's institutions between October 2007 and January 2008. Of the 178 women included in the study, 32.2% (n = 55) identified as being First Nations, Inuit, or Métis. These authors, representing CSC, found overall that there had been improvements made regarding the management of female federal offenders since the initial survey by the Task Force in 1990. However, the response rate for this survey was relatively low (34%). Other limitations of this study included the authors' focus on individual pathology, as opposed to structural and systemic factors related to the women's incarceration, and the reliability and validity measures related to the survey were not reported. These authors suggested the need to replicate this survey with specific offender sub-populations, specifically Indigenous women. Since the closing of P4W, this

seems to be the only report or study related to the progress being made specifically regarding Indigenous women who have been federally sentenced.

Although the mandates of both federal and provincial/territorial institutions suggest that rehabilitation is one of the main goals of incarceration, there has been a shift to a risk management paradigm. This paradigm seems to harm Indigenous women the most. In this regard, Martel et al.'s (2011) essay built on Hannah-Moffat's (2005) argument, that the prison system's risk assessment and management system constructed offenders into actuarial/risk subjects. Through objectification and perceived otherness, Indigenous women became transformed into subjects of risk, rather than individuals in need of healing. In their report, Barrett et al. (2010) noted Indigenous women were more likely to be classified as medium or maximum (63% and 11%, respectively) security than were non-Indigenous women (45% and 6.1%, respectively). This comes as no surprise because the assessment of risk involves the identification of aggregate populations based on statistically generated characteristics. In this case, characteristics that are based on neocolonial narratives and discourse. One result of this is that an understanding of crime and victimization among Indigenous communities is removed from specific historical and political contexts (Cunneen, 2011). In a conceptual paper, although not specifically about Indigenous women, Hannah-Moffat (1999) argued that the process of risk assessment for women in prisons redefined their needs as risk factors, which may have had disciplinary implications. Sugar and Fox (1989) echoed this sentiment.

### ***Healing/Rehabilitation***

The conflicting goals of punishing and rehabilitating, along with the new risk management paradigm in the correctional system, seem to be irreconcilable (Pollack,

2009b; Ross, 1994). It seems that even the language being used clashes with Indigenous ways of knowing. For example, rehabilitation implies a therapeutic process aimed at correcting, healing, and re-socializing an individual and thus suggests that the reason women are incarcerated is due to their personal, familial, and community failings. Indigenous approaches to remedying unacceptable behaviours focus more on healing and reconnecting offenders to their culture and communities. Angell and Jones (2003) discussed this in their work looking at the low incidence of recidivism among Lumbee Nation members who had contact with the criminal justice system and/or imprisonment and were effectively repatriated to the community. This was achieved by the community assuming that criminality was not entirely the person's fault, but rather the community's responsibility to better provide wraparound support of the individual so that they had chance of success. As such, healing is a holistic process that involves a symbiosis of self and community, working together, to succeed. Healing is both an individual and collective experience, from an Indigenous perspective (Angell & Jones, 2003; Cunneen, 2011). Further, it seems colonial and paternalistic to assume that the predominantly white settler male authority figures that are employed in the correctional systems could possibly contribute to the healing of Indigenous women. As Sugar and Fox (1989) asked: "How can we be healed by those who symbolize the worst experiences of our past?" (p. 476).

Although a variety of programs are available to incarcerated women, it is beyond the scope of this review to provide a complete overview. However, there are several important considerations that should be addressed. Literature suggests that women serving time in the provincial system do not have access to the same level of programming as women serving federal time, and correctional facilities for men and

women are not funded equitably (Dyck, 2013; Marsolais-Nahwegahbow, 2018; NWAC, 2007). Both are related to accessibility and contribute to inequitable opportunities for healing while incarcerated. NWAC (2007) argued that the unequal funding between women and men's correctional institutions and programs was a violation of section 15 of the Canadian Charter of Rights and Freedoms.

Even when women are incarcerated in a federal institution, as opposed to provincial/territorial institutions, evidence suggests that Indigenous women face specific barriers to healing. For example, Miller's (2017) legal essay analyzed the Mother-Child Program and concluded that Indigenous women were excluded because they were frequently over-classified in terms of their level of risk and were serving time for violent offences, which deemed them ineligible for the program. Moreover, they were discouraged from participating because a requirement for participation was child welfare involvement. The literature related specifically to Indigenous women and healing within the prison setting is limited, so it is difficult to ascertain what barriers to participation they may be facing for other programs.

Despite recent efforts of CSC to develop more culturally appropriate prison programming, the neocolonial efforts have resulted in a pan-Indigenous approach which does not meet the healing needs of many Indigenous offenders. To this end, Martel and Brassard (2008) conducted interviews with 18 women who had been or were currently incarcerated. These authors, however, did not explicitly state whether the women had served provincial or federal time, or both, and were limited by a small sample size. Their study, however, was valuable as it was one of very few studies undertaken from a social work perspective. They concluded that prisons took a pan-Indigenous approach to

programming. At best, this could be perceived as offensive. At worst, it may well inhibit the early release of Indigenous offenders because they were being mandated, predominantly by institutional social workers, to attend these programs as a condition of their release. Similarly, Pollack (2009b) found the success of programming in prisons was hindered by the correctional discourse and culture of punishment and control, which ultimately disempowered women. Conversely, Walsh et al. (2013) argued for an increase in Indigenous programming. Like the others, though, they did caution against the use of a pan-Indigenous approach.

A meta-analysis of the effectiveness of cognitive-behavioural approaches for reducing recidivism among Indigenous offenders by Usher and Stewart (2014) found that those who participated in programming were one and a half times less likely to re-offend than those who did not. However, the authors noted significant variability among the studies' effect sizes. They suggested that this may be a result of heterogeneity among those who identified as being Indigenous. This finding reiterates the importance of not taking a pan-Indigenous approach to programming. A major limitation of this study was it did not disaggregate male and female offenders within the Indigenous group. Interestingly, when they looked specifically at those who had participated in Indigenous specific programming, the odds were slightly lower at 1.39 times less likely to re-offend. However, the difference was not statistically significant.

Affirming Martel and Brassard's (2008) position that programming inhibits early release, a recent CSC report by Derkzen et al. (2017) found that women who completed Aboriginal Women Offender Correctional Programs (AWOCP) were more likely to be released early on parole (discretionary release) than those who did not complete the

programming. The women who did not complete the programs were more likely to have to serve their sentence behind bars, minus the one-third granted for good-time served under supervision in the community. Despite finding a 40% recidivism rate and flawed statistical analyses, their report concluded that the AWOCp were meeting their primary objectives of decreasing recidivism for those who participate. Unfortunately, except for Derkzen et al.'s (2017) report, evidence suggests that neocolonial approaches to healing are not effective. It should be acknowledged that Indigenous peoples are the experts when it comes to their own healing. It is time that they are given the opportunity to be involved in creating healing journeys that work for them culturally and involve the support their families and communities (Angell & Jones, 2003; Zimmerman, 1992).

### ***Reintegration into the Community and Recidivism***

This comprehensive review uncovered relatively little literature related to women's experiences of reintegration and even less literature with a specific focus on reintegration experiences and realities of Indigenous women. In this section of the paper, reintegration and recidivism are considered together under the assumption that if reintegration is successful, recidivism is unlikely. Evidence suggests for Indigenous women, recidivism is more the norm than successful reintegration (Walsh et al., 2013; Zimmerman, 1992). If over-policing, -charging, -convicting, and -sentencing contribute to over-incarceration, then they must also be contributing to recidivism. Also impacting recidivism are stringent release conditions and access to appropriate aftercare facilities and programs (Zimmerman, 1992). One of the factors impacting full and successful reintegration is the individual's criminal record (Department of Justice, 2018a; Pollack, 2004, 2009a).



Participants in Walsh et al.'s (2013) study discussed the stigma and shame associated with their criminalization, particularly the stigma associated with having a criminal record, and how this aggravated employment, housing, parenting, and other re-integrative and/or rehabilitative efforts. Similarly, the participants in Pollack's (2009a) study indicated concerns related to being open and honest with community services workers, such as parole officers, who were generally accountable to correctional services and had the power to re-incarcerate. Further, Pollack concluded that parole policies and practices placed women at increased risk of being reincarcerated. One example of this was non-association with other individuals with criminal records. This, among other factors, led to the participants' suggestion of a need for peer support workers to help facilitate reintegration.

Canada's Department of Justice (2018a), Harris et al. (2015), Rudin (2005), and Walsh et al. (2013) all recognized the importance of appropriate housing in reducing recidivism. A survey of 83 women serving provincial time in a women's correctional facility in British Columbia by Harris et al. (2015) found Indigenous women, women aged 25-34, and women with a history of more incarcerations were most vulnerable to experiencing housing issues upon release from custody and were more likely to believe that their lack of housing strongly contributed to recidivism. Although the response rate for this study was 72%, the study was limited by a small sample ( $n = 83$ ) from one institution. Further, although an Indigenous sample (26%) was included in the analysis, the statistical significance of this variable was not tested, as only descriptive statistics were provided.

Problematic substance use has also been indicated as a predictor of recidivism. To this end, MacDonald et al. (2015) tested the relationship of both the severity of substance use and the type of substances used with returns to custody. They surveyed 962 women who were admitted to federal institutions between February 2010 and February 2014. Using logistic regressions, they found that increased seriousness of drug use, in isolation or with alcohol, was positively correlated to more convictions and higher levels of risk. They also found that women who used only alcohol were less likely to return to custody, however they were also less likely to be granted discretionary release. Unfortunately, Indigenous identity was treated as a covariate in this study as opposed to a theoretically important variable and Indigenous identity was ignored in the post-release outcome findings.

Through interviews with 42 self-identified Indigenous men, Howell (2016) examined which factors helped and hindered the maintenance of a crime-free lifestyle. Factors found to help maintain a crime-free lifestyle included: transformation of self, cultural and traditional experiences, healthy relationships, having routine and structure in daily living, freedom from prison, purpose and fulfillment in life, attempting to live alcohol- and drug-free, professional support and programming, and learning to identify and express oneself. Hindering factors included: self, unhealthy relationships, substance use, and lack of opportunity and professional support. The primary implication of this study was the understanding of factors helpful for offender re-integration, which inform policies and programs related to community reintegration. Despite the utility and implications of these findings, Indigenous women were completely ignored, thus

silenced. This study should be replicated with a sample of Indigenous women sentenced to custody to determine if the findings may be generalizable to this population.

### ***Restorative Justice Alternatives***

The purpose of restorative justice is to promote healing: healing of the victim, healing of the offender, healing of the community, and healing of the relationships that may have been harmed because of the wrongdoing. A comprehensive review of Indigenous women's interfaces with the criminal justice system would not be complete without a discussion of restorative justice. This is an area that has been studied relatively extensively. However, like the other areas examined throughout this review, very few, if any, specifically address Indigenous women's interfaces with restorative justice initiatives.

Although restorative justice initiatives sound great, unfortunately, due to the neocolonial perspective that has typically been adopted, they are inadequate and insufficient to eliminate the oppression, discrimination, racism, sexism, and violence that Indigenous peoples face in their interfaces with the criminal justice system (Monture-Angus, 1995). Further, Milward (2008) argued that although restorative justice and traditional Indigenous justice shared commonalities, it should not be assumed that all Indigenous communities or individuals within those communities shared traditionalist ideologies. The effects of colonization have insidiously plagued these communities so deeply that some have been unable to continue, wholly or partially, to adhere to traditional values and beliefs. Finally, access to restorative justice initiatives is inequitable, there is a lack of resources to properly implement and run these programs,

and cooperation of the victim is mandatory for the process to be undertaken (Monture-Angus, 1995; NWAC, 2007).

In conclusion, there is an overall lack of research and literature related to Indigenous women and the criminal justice system (Department of Justice, 2018a; Dyck, 2013; Palmater, 2016). Evidence from this review suggests that what does exist is fragmented. The existing literature seems to aggregate either Indigenous and non-Indigenous women or Indigenous women and men, and base conclusions on these inaccurately aggregated sub-populations. This may partially be related to the lack of statistical data being collected, especially from a decolonizing, gender-sensitive lens (Department of Justice, 2018a; Palmater, 2016; Reitmanova & Henderson, 2016). Little existing data is publicly available, as much is considered restricted by Statistics Canada.

The lack of statistical data has specifically resulted in a dearth of literature assessing the strength of the associations among the neocolonial, oppressive factors reflecting the realities of Indigenous women involved with or in contact with the system. Only in 2009 did Statistics Canada begin collecting data regarding respondents self-reported Indigenous (First Nations, Métis, Inuk [Inuit]) identity for the General Social Survey (GSS). This has created new opportunities for researchers interested in the criminal justice system.

Both Palmater (2016) and Huey and Ricciardelli (2016) highlighted the invisibility of Indigenous women in policing research. Although Jones et al. (2014) undertook a comprehensive review of literature related to First Nations' policing it was not systematic, was funded by the RCMP, and did not undergo a peer-review process. Although informative, it is possible that the report contains biases. Further, this

investigation was not specific to Indigenous women's experiences. The lack of research in this area is concerning because the research that does exist suggests that the police have extraordinary neocolonial power and are likely contributing immensely to overrepresentation of Indigenous women across the criminal justice system (Comack, 2012; Sittner & Gentzler, 2016; Zimmerman, 1992). This is concerning given the historical relationship Indigenous peoples, especially women, have had with the police, and the high rates of violence and abuse that have been identified in the mostly qualitative literature. The lack of literature is likely due to the inconsistent data reporting standards for police organizations across Canada.

### **Philosophical Foundation and Theoretical Framework**

The following theoretical framework is based on assumptions aligned with a critical interpretivist philosophical position. Throughout this paper, literature related to Indigenous women's interfaces with the criminal justice system is examined based on the assumptions of narrative theory and critical theory with a focus on intersectionality. According to Mootz (1988) and Thompson (1981), the assumptions on which narrative and critical theories are premised complement each other. Both theories promote the deconstruction and reconstruction of dominant ideology and discourse to understand social phenomena. Narrative theory, however, pays less attention to power and domination and more attention to meaning and interpretation. Critical theory promotes deconstruction and reconstruction through critique of oppressive social structures with the ultimate goal of emancipation. Moreover, critical theory has been influential in creating space across the academy for decolonizing considerations and Indigenous epistemologies (Kovach, 2009). Intersectionality takes critical theory one step further,

with the assertion that oppressive societal institutions are interconnected and thus their effects should not be assessed singularly (Crenshaw, 1989; Reitmanova & Henderson, 2016; Smith, 2005). Both narrative theory and critical theory promote praxis, through which the effects of oppressive institutions should be analyzed.

It should be noted that although narrative and critical theories are often credited to Western scholars, these ways of understanding the world also have deep roots in Indigenous teachings and culture (Freire, 1970; Kovach, 2009; Monchalin, 2016). Kovach (2009) described critical theory as an “allied Western conceptual tool for creating change” (p. 48). The theoretical framework employed for this dissertation is not intended to be a way of culture appropriation. Conversely, it provides flexibility for countering colonial and oppressive lenses and narratives, which in turn can be applied effectively to the intended research. Throughout this project the intention was to remain aware that the even best-intentioned researchers of the past and future have the potential to cause harm to Indigenous peoples (Government of Canada Panel on Research Ethics, 2015). As Angell (2018) noted, research of this kind must be undertaken with humility, honesty, integrity, and reciprocity that acknowledges Indigenous ownership of Indigenous research. The praxis promoted by both critical and narrative theories contributed to this imperative awareness and to the investigator’s humility throughout the process.

### ***Philosophical Foundation***

Employing a critical interpretative paradigm encourages scientific rigor but can also facilitate an aesthetic appreciation that is creative and allows for the unpredictability of human beings (Agger, 1991; Rodwell, 2015). Critical interpretivism also promotes recognition and appreciation of human diversity and values (Agger, 1991; Habermas,

1984, 1987; Reamer, 1993). Although both the objectivity and subjectivity of human life are recognized, critical interpretivism assumes that all human experience and understanding are based on subjective experiences. Through subjectivity, people individually and collectively construct unique intersecting realities. Ontologically, it is assumed that multiple truths may and do exist (Agger, 1991; Habermas, 1984, 1987; Reamer, 1993; Rodwell, 2015; Roscoe & Jones, 2009). Subjectivity also implies that there are multiple ways of knowing and from this perspective, both reflexivity and critical analysis are integral in gaining understanding. Like Indigenous epistemologies, a critical interpretive perspective is one that aims to achieve respect, harmony, and balance through relationality and praxis (Absolon, 2011; Freire, 1970; Kovach, 2009; Monchalin, 2016).

In this regard, we may learn from Indigenous scholars and settler allies, like Paolo Freire (1970), who promoted praxis, action, and reflection in pursuits of knowledge (Absolon, 2011; Monchalin, 2016). Thus, the purpose of inquiry from a critical interpretative perspective is to relationally interpret meanings and gain deeper understandings of the specificities of human and social phenomena. Ontologically, it is assumed that multiple truths may exist in experiences as they relate to empirical conditions (Agger, 1991; Bhaskar, 1998; Habermas, 1984, 1987; Reamer, 1993; Rodwell, 2015; Roscoe & Jones, 2009). This aligns with Bhaskar's critical realism, that there is a reality external to subjective human experiences (Houston, 2001). However, it is also recognized that subjective human experiences shape perceptions of and contribute to the creation of these realities.

Bhaskar (1998) outlined three levels of reality: empirical, actual, and causal. The empirical level comprises only events that have actually been experienced. The actual

level comprises all events that have either been experienced or not, whereas the causal level recognizes the systems or structures which generate events. Bhaskar (1998) argued that because the mechanisms at the casual level cause events to occur, they are real. For example, Bhaskar (1998) considered structural violence one of these causal level mechanisms.

To this end, Bhaskar (1991) argued that social science should not be value-free. Rather, the goal of critical realism is not only to reveal violent structural mechanisms, but also to challenge their existence. For example, although the logistic regression models employed for this study may suggest large effects of structural violence on people's involuntary contacts with police, these effects may not be a reality, at the empirical level, for every person. However, they are still real at the actual and causal levels. To this end, the findings must be interpreted in relation to context (i.e. time and place) and peoples' thoughts, feelings and behaviours related to personal and/or vicarious experiences. Critical realism also leaves room for the understanding that through human agency, discourses are created which in turn shape all three levels of reality (Houston, 2001).

This is juxtaposed with the positivist position that there is an external, objective reality independent of the meanings, perceptions, narratives, and theories that humans ascribe to experiences (Maffie, 2000). This dissertation is thus based on the premise that paradigms and thus, research methods, can co-exist peacefully to create deeper and richer understandings. Generally, the positivist view of truth and reality leads to a deterministic notion of human nature. Thus, determinism is fundamentally disempowering as it is premised on the inference that human perceptions and behaviours are shaped by external forces. Given this perspective, human beings have very little, if any, agency.



### ***Theoretical Framework***

Critical theorists, in response to positivism, believe that rather than serving as a tool for liberation, pure reason perpetuates domination over life and nature, including categorization and hierarchical ordering, which includes the assignment of "otherness." Further, they argue that unquestioned belief in science is equally as dangerous as unquestioned belief in God (Adorno & Horkheimer, 1972; Sudarson, 1998). Pure reason's dismissal of all values leaves little, if any, room for reflexivity and consideration of contextual factors (Agger, 1991; Allen, 2016). As Agger (1991) importantly noted, dismissal of the existence of values in the pursuit of knowledge may demonstrate the strongest value commitment of all, establishing a pretense that purported facts are exempt from reflexivity and self-critique.

Conversely, narrative theory is premised on the assumption that individuals' conceptions of self-identity, relationships, and the world are a collection of stories that shape and are shaped by language and the different meanings ascribed to experiences. These stories, or narratives, offer the individual and others both individual and collective meaning and purpose (Goldstein, 1990). Narrative theory, as proposed by Ricoeur (1984), promoted interpretation of the motivation and intentions behind language and text. Further, it provided a heuristic, the hermeneutic circle, for undertaking such interpretive actions. It should be noted that not all narratives are verbally expressed, the presentation of self and entailing narratives also occur through both conscious and unconscious non-verbal cues (Goffman, 1959) as well as written text, including laws (Ricoeur, 1984). The importance of narrative, through oral tradition, is evident in most, if not all, Indigenous cultures (Kovach, 2009; Monchalin, 2016).

Critical theory, also aligned with the interpretivist position, has roots in Marxist theory and conceptualizations of relationships that are dialectic. However, it took a significant turn from the Marxist focus on the economy to a focus on society and culture. More specifically, Habermas (1984, 1987) shifted the focus from production or work to communication. Habermas' (1984, 1987) theory of communication was interested in what they called "communicative action." The purpose of this action was for humans to work collectively to "pursue their individual goals under the condition that they can harmonize their plans of action on the basis of common situation definitions" (Habermas, 1984, p. 286). In other words, Habermas' goal was for human beings to be able to communicate in a way that would perpetuate harmony and understanding, or "the good life" (Mootz, 1981, p. 583). Habermas believed that this could be achieved first and foremost through individual and collective reflexivity and critique. Narrative theory, as mentioned, provides a heuristic for both reflexivity and critique, the hermeneutic circle.

Much has been written by both Indigenous and settler-ally academics on issues related to Indigenous peoples from a critical theory perspective. For example, Fredericks (2009) examined the field of health and how these spaces reproduced hegemonic whiteness. They concluded that these reproductions hindered Indigenous women's access to these spaces and places because they felt as though they did not belong and were thus excluded, and their needs misunderstood or ignored. From an Australian perspective, Watson (2009) argued that structural violence, or violence of the state, was embedded within systems such as policing, military, law, and other government bureaucracies, masquerading as protection and ultimately harming Indigenous peoples. Similarly, in Canada, Pedersen et al. (2013) found that Indigenous women were more than four times

as likely to experience intimate partner violence post-separation than non-Indigenous women. They found that age and coercive control, such as restricting access to knowledge of and access to income, explained most of this disparity. In the spirit of critical theory, they concluded that action was needed to challenge sites of structural violence, including colonial policies related to prevention and intervention embedded in the criminal justice system, that contributed to perpetuating coercive control. Further, they argued that long-term solutions were required in relation to equity in the realms of education, employment, income, and housing.

Another interesting critical perspective is offered by Andersen (2009). They suggested that studies related to whiteness should be examined as part of post-secondary curricula. They argued that this would be a way of unpacking whiteness and ultimately unsettling the effects of its normalization. They concluded that this would assist students and faculty alike to better understand and promote the deep complexities of Indigenous identities. Related to decolonizing social work research, Rowe et al. (2015) argued that social justice in research should be achieved by learning from Indigenous methodologies. They suggested that praxis must be the pinnacle of research so emancipation may be realized. Furthering this position, in their critical review of transgressions by settlers, including social workers, Angell (2019) contended that researchers in collaboration with Indigenous peoples and communities must conduct themselves with honesty and integrity.

Despite the widespread integration of critical theory in examining Indigenous issues, very few, if any, published studies examine Indigenous peoples' experiences of structural violence in relation to police and courts in Canada from a critical perspective.

According to narrative theory, the hermeneutic circle is a process through which individuals temporally piece together perceptions of experiences and create a meaningful, connected, whole narratives, constructing societal discourses (Polkinghorne, 1991, 1994; Ricoeur, 1984). The hermeneutic circle also resembles the processes of “conscientization”, and praxis (Habermas, 1984, 1987; Freire, 1970). Freire (1970) described the process of conscientization as the development of a critical consciousness through praxis or action and reflection. Focusing on communication, Habermas (1984, 1987) also promoted the use of praxis. Arguably, social science without processes of reflexivity perpetuates the neocolonial status quo (Gouldner, 1970; Walter & Andersen, 2016). Through the hermeneutic circle or praxis and conscientization processes people come to “understand and describe the relationship among the events and choices” (Polkinghorne, 1991, p. 13) and both self and collective identities are constructed, deconstructed, and reconstructed (Agger, 1991; Habermas, 1984, 1987; Parton & O’Byrne, 2000; Goldstein, 1990; Roscoe & Jones, 2009). Thus, human beings possess the agency to enact change and transformation both within and external to ourselves. Regarding human agency, Habermas (1984, 1987) and Ricoeur (2005) both cautioned that narratives may be manipulated to perpetuate dominant discourses, both consciously and unconsciously. Case in point being colonization and the continuing neocolonialization of Indigenous peoples in Canada. This cautionary note reiterates the importance of the reflexive and participatory nature of constructing and interpreting narratives. As accounts of Canadian history have demonstrated and this review will demonstrate, the manipulation of narratives and identities can be dangerous or worse, deadly (Razack, 2015; TRCC, 2015).

Across cultures and societies, it is the collection of narratives that constitute and perpetuate dominant discourses. According to Foucault (1977), Western society has become increasingly disciplinary in nature. The dominant discourses, and narratives that constitute and perpetuate them, increasingly serve to regulate and control human agency. These discourses promote the dominant social, political, and economic agendas which include neoliberalism, capitalism, and neocolonialism. Power to control, or domination, is maintained through distortions, deception, self-deception, manipulation, surveillance, discipline, and coercion perpetuated by dominant discourse (Allspach, 2010; Foucault, 1977; Habermas, 1984, 1987; Sider, 1987). Manipulation, surveillance, discipline, and coercion were not present in all traditional Indigenous societies. Referring to the Anishinaabe peoples, Angell (1997) noted:

Social control was built into their value system by way of a shared conscience that was impressed on each member of the group through kinship patterning...fear of losing the necessary ingredients of the good life was so pervasive that departure from defined behavior was rare. (p. 184)

More broadly, Sinclair (1994) suggested that despite differences across Indigenous social control mechanisms, one commonality was “one’s relationship with the Creator” (p. 176). Fundamentally, this narrative creates a discourse of social control that is quite different from Western views of social control. Extending Foucault (1977) and Habermas’ (1984, 1987) positions to a sample of federally sentenced women in Canada, Allspach (2010) argued that “practices of social control are not neutral or symmetrically applied across populations but are, rather, racialized, classed and gendered body politics that form

enclaves of coercion and social control over particular women and their forms of agency”  
(p. 707).

### **Chapter 3: Methodology**

This study is premised on the assumption that a variety of research methods can coexist peacefully (Gergen, 2001) despite stemming from different epistemological paradigms and ontological positions. Each method can create different, but equally important knowledge (Gergen, 2001). Although quantitative methods are socially constructed, limited, and context dependent, they produce knowledge (Jensen-Hart & Williams, 2010). Qualitative methods are also socially constructed, limited, and context dependent, however, they too produce knowledge. In this study, the statistical analyses created generalizable and confident knowledge and thus, helped to tell a story about structural violence, including colonialism, and its effects on involuntary contacts with police and criminal courts. Additionally, the author's personal narratives, told through an evocative autoethnographic method, have provided deeper understandings of the researcher and research process as well as helped to contextualize the results of the statistical analyses.

In keeping with one of the purposes of autoethnography as method, personal narratives serve as instruments to elicit compassion, empathy, and personal and social change (Jensen-Hart & Williams, 2010). To achieve this, autoethnographic narratives were layered throughout the dissertation to provide fuller and more meaningful understandings of the research process and structural violence and its effects on involuntary contacts with the criminal justice system than would be possible without the co-existence of the two methods.

There are several other purposes for using these complementary methods. The intersections of Indigenous identity, gender, and other locations of structural violence and

the social inequalities related to these identities were exposed through statistical analysis, contextualized, and made accessible to readers through stories (Bowleg, 2008). The evocative nature of the autoethnographic method promotes meaningful, respectful connections between readers and the researcher (Ellis & Bochner, 2000; Méndez, 2013).

By fostering connections between reader and researcher, and between results of the statistical analysis and the author's personal stories and reflections, the reader may be better able to reflect and take beneficial actions for themselves and others (Ellis, 2004; Méndez, 2013).

To achieve a robust telling of the statistical story contained within this dissertation, each of the chapters were weaved together using autoethnography and challenging accepted certainties as fabrications or constructions of convenience. Approaching the dissertation this way helped me to gain a better understanding of what I am researching and writing about, but more importantly it demonstrates my appreciation of and respect for Indigenous peoples, their experiences, and their ways of knowing and being. Through explicit critical self-reflection and praxis, paired with transparency throughout the research process, I have better understood where and how our life experiences intersect and make connections as kindred human beings (Jensen-Hart & Williams, 2010). Fostering connections as part of the dissertation process was an anti-oppressive act in opposition to (neo)colonialism. As posited by Indigenous scholars Jarrett Martineau and Eric Ritskes (2014), disconnection results from colonial socialization. To this I would add, disconnection requires accepting and expressing illusory truths.



## **Autoethnography**

Autoethnography, as a methodology, is a type of narrative inquiry (Jensen-Hart & Williams, 2010). It is an intentional weaving of story and theory, with neither taking precedence over the other (Spry, 2001). It provides space for the non-Indigenous researcher to critically examine their personal values and social locations and to challenge any starting assumptions they may hold so that they can enter into respectful relationships with Indigenous peoples and communities. It also contributes to increasing space for Indigenous epistemologies, ontologies, and axiology in academia (Smithers Graeme, 2013). Further, the storytelling nature of autoethnography is consistent with Indigenous knowledge and ways of knowing (Absolon, 2011; Kovach, 2009; Monchalin, 2016; Smithers Graeme, 2013). Without engaging in cultural appropriation, this respects the value of Indigenous traditions. Naturally, autoethnography facilitates critical reflection by forcing us to think about tensions and connections between the personal, cultural, and social domains of experience (Jensen-Hart & Williams, 2010). The researcher becomes the epistemological and ontological nexus upon which the research process evolves (Spry, 2001).

Broadly, autoethnography is a qualitative, transformative (Custer, 2014), and “storytelling approach to research” (Bochner & Ellis, 2006, p. 111) that connects a self or some aspect of self to cultural and social contexts (Ellis & Bochner, 2000; Richardson, 2000; Spry, 2001) and triggers emancipatory and transformative social practices (Jensen-Hart & Williams, 2010). Autoethnographic research seeks to enrich and expand understandings and awareness as well as increase sensitivities and provide insights which have the potential to lead to pragmatic action. Thus, autoethnography promotes

exploration of an individual's unique life experiences, displaying multiple layers of consciousness (Ellis & Bochner, 2000), and connects these unique experiences to the broader sociocultural contexts and discourses (Custer, 2014; Ellis & Bochner, 2000). In autoethnographic research, "authors become "I," readers become "you," subjects become "us"" (Ellis & Bochner, 2000, p. 742).

Throughout this dissertation, autoethnography connected my lived experiences and identity to the research process and in turn, both were connected to broader cultural and social contexts. Autoethnography helped me to draw upon my own experiences to better understand involvement with Indigenous peoples and the criminal justice system and how my sense of culture intersects with and diverges from Indigenous cultures and dominant societal discourses (Méndez, 2013). Autoethnography was not just an epistemological heuristic. Rather, it became an ontology, a way of being in the world (Custer, 2014). It is a way of being that required me to live consciously, emotionally, and reflexively (Custer, 2014). It also called for living and practicing with intention. Through intentionality, my thoughts, beliefs, hopes, and desires coalesced to form an unobstructed sense of what is just. This, then, empowered me to take steps to confront injustice. Intentionality, then, was about how I constructed, reflected upon, and acted purposefully within the world to complete this work.

According to Witkin (2014) there are two major types of autoethnography, evocative and analytic. However, there should not be a rigid duality (Ellis & Bochner, 2006; Witkin, 2014). Evocative autoethnography seeks to enhance understanding through the telling of one's personal story and evoking emotionality in readers (Witkin, 2014). Conversely, analytic autoethnography emphasizes analysis of personal narratives to

improve “theoretical understandings of broader social phenomena” (Anderson, 2006, p. 375). As a research method, autoethnography “was designed to be unruly, dangerous, vulnerable, rebellious, and creative” (Ellis & Bochner, 2006, p. 443). For the purposes of this dissertation the goal of personal narratives was evocation, not analysis. However, understanding that there should not be a rigid duality, both evocative and analytic aspects of the stories emerged throughout the process.

In contrast to the pretense, value-free stance of positivist methodologies, autoethnography is value-centred (Ellis et al., 2011). In this way, autoethnography is an inherently ethical practice and political act (Bochner & Ellis, 2006). Through reflexivity, autoethnography allows for the deconstruction of dominant epistemologies and creates space for marginalized epistemologies, such as Indigenous ways of knowing (Ellis & Bochner, 2006; Smithers Graeme, 2013). Research and writing in autoethnography work toward personal and social transformation that may be viewed as acts of social justice (Ellis et al., 2011).

Rather than being preoccupied with the accuracy of narratives, the goal of evocative autoethnography is to produce narratives that are poignant and accessible and thus have the potential to change the thoughts, feelings, and behaviours of not only researchers and readers, but also contribute to positive transformation of the world in which we live (Ellis et al., 2011; Ellis & Bochner, 2006; Holman Jones, 2005; Witkin, 2014). The specific goal of this project, from the perspective of autoethnography, is to contribute to the reduction of structural violence and consequently work toward reconciliation with Indigenous peoples. Autoethnography should create space for generative dialogue (Ellis & Bochner, 2006) while encouraging compassion (Gupta,

2017), and empathy for and connection with others (Jensen-Hart & Williams, 2010) through activation of subjectivity (Ellis & Bochner, 2000). The goal is not to speak for Indigenous peoples. Rather, the goal is to challenge conventional paradigms traditionally adhered to by non-Indigenous researchers (Smithers Graeme, 2013) by sharing personal stories that focus on my assigned and acquired privileges and how the exercise of these may help and/or hinder reconciliation. Further, the stories focus on similarities, in terms of some of our empirical, actual, and causal level realities (Bhaskar, 1991, 1998) and thus foster connections as human beings as opposed to alienation and discordance. To this end, I am made vulnerable and sharing intimate parts of my identity (Ellis & Bochner, 2006) throughout the process. For this reason, examining the oppression of others is the normative stance taken by scholars and practitioners rather than considering how our own privileges contribute to and perpetuate the subjugation of others through the domination, exploitation, and injustice (Dale, 2014; Quinn, 2003). As applied social scientists, social workers must be strategic and creative in how we carry out practice, educate, conduct research, and convey our findings. We need “a combination of heart and mind” (Briskman, 2013, p. 62), art and science (Goldstein, 1990).

Autoethnographic narratives create new subjective knowledge, allow for moral inquiry and “a little humanity, a little room to live and move in and around the constraints and heartbreaks of culture and categories, identities and ideologies” (Adams & Jones, 2001, p. 109). Further, by producing texts that are more accessible than those produced through traditional methods, a wider and more diverse audience may be reached making the potential for personal and social change wider reaching (Ellis, 1991; Ellis et al., 2011). Thus, here, autoethnography serves as complementary to the traditional

(post)positivist quantitative methods employed throughout the dissertation process. The results of the statistical data analysis, filtered through critical and autoethnographic lenses, do not offer undebatable conclusions but rather, evoke further conversations (Ellis & Bochner, 2000). In sum, the purpose of autoethnography here is to provide accounts of myself, as unflattering and imperfect as they may be, to promote better conversations (Ellis & Bochner, 2000) and thus enhance opportunities for reconciliation despite the barriers and boundaries that can make these undertakings difficult.

### ***Data Collection, Meaning-Making, and Evocation***

As a method, autoethnography is a heuristic that researchers use to explore and depict subtle aspects of cultures and societies in which phenomena are being experienced (LeFrançois, 2013; Méndez, 2013). Further, it is conducive to the needs of both researchers and readers by promoting understandings and transformations of culture (Smithers Graeme, 2013). Data collection, meaning making (analysis), and evocation (interpretation and presentation) are blended and balanced throughout the dissertation process and final product (Chang, 2016).

The specific data collected and used for the autoethnographic component of this research endeavor include information derived from personal recall, self-reflection, and external sources (Chang, 2016). Personal recall information and self-reflections include ruminations related to observations made of a reflexive journal and photographs. External sources, compiled by way of journaling, are comprised of academic and practical literature, and most importantly, from interactions with Indigenous peoples and others that informed and assisted with guiding the research (Chang, 2016). When stories are shared throughout this document, permission was received from all parties involved. It

should be noted that in keeping with Goffman's (1959) dramaturgical paradigm, the personal narratives are written with the understanding that separation exists between our front- and back-stage selves. In other words, I understand and am mindful of the implications when publicly revealing personal details about myself and others.

In autoethnography, writing both as a process and product, is a method of inquiry (Colyar, 2016; Richardson, 2000). Writing and re-writing enables the researcher to explore how they understand the world, themselves, and those they engage with (Richardson, 2000). Evocative autoethnography, as opposed to analytic autoethnography, focuses on the story itself rather than focusing on abstracting meanings from the story (Denzin, 2006; Jensen-Hart & Williams, 2010; Ronai, 1995). This allows for the story to convey compassion and empathy (Denzin, 2006) and thus, promote transformation. As Ellis and Bochner (2006) eloquently stated:

If you turn a story told into a story analyzed, you sacrifice the story at the altar of traditional sociological rigor. You transform the story into another language, the language of generalization and analysis, and thus you lose the very qualities that make a story a story. (p. 440)

Allowing the story to work for itself is accomplished by way of introspection (Ellis, 1991) and reflexive critique of the researcher's positionality, with the ultimate goal of allowing readers the opportunity to connect with the feelings and experiences of the autoethnographer (Ellis & Bochner, 1996; Méndez, 2013). Moreover, through a review of the information gathered, the researcher compiled a list of questions that people who have undertaken autoethnographic work have asked or suggested. These questions are

used to guide some of the writing, reflection, and meaning making throughout the dissertation research process.

Through poignant storytelling, quantitative data and the research process were contextualized and made accessible to a wide audience of readers. Thus, elicitation of emotionality and dialogue should ensue. In some respects, this dissertation research reflects layered accounts as described by Ronai (1992, 1995, 1996). Layered accounts are deliberately structured to allow for exposure of the multiplicity of one's identities (Ronai, 1992). Interpretation and presentation of the data and research process entailed layering the autoethnographic narratives with findings of the statistical analyses, as well as with relevant literature (Ronai, 1995, 1996) throughout the dissertation.

Most often in social science research, especially studies employing statistical methods, researchers speak for the experiences of marginalized peoples and rarely articulate clearly where they, as researchers, are located in these conjoint relationships (Denzin, 2004). In a bid to mitigate this objectification of others, autoethnographic researchers place themselves in the role of the other so that they can examine their own experiences and narratives in relationship to what they are studying (Richardson, 2000; Spry, 2001). Complementing the statistical analysis, autoethnography by this researcher acknowledges and incorporates both the subjectivity and emotionality of the experiences during the process (Ellis et al., 2011). This is accomplished by examining the cultural contexts and power relations that exist between the researcher and others, and the researcher as the other (Spry, 2001). As such, autoethnography reduces barriers that naturally exist between people, while also realizing the uniqueness of individuals and their lived and life experiences.

## Secondary Data Analysis

### *Sampling and Data Collection*

The General Social Survey (GSS) was established in 1985 by Statistics Canada to gather data related to social trends (Statistics Canada, 2019). It is a periodically repeated, cross-sectional survey of Canada. It is based on a probability sample, stratified by provinces, territories, and census metropolitan areas. The probability sample was based on the principle that each person in the sample represents several other people not included in the sample. For variables which required weighting, responses were mandatory however, participants could choose to respond: “Don’t know” or “Refuse.” Statistics Canada performed imputation in rare cases where information such as gender were missing.

This study focused on data collected between January 2014 and January 2015 for the 28<sup>th</sup> cycle of the GSS, which focused on victimization. The specific purpose of this survey was to collect data on Canadians’ self-reported perceptions of crime and the criminal justice system, and individual experiences of victimization. The survey was developed by Statistics Canada in consultation with key criminal legal partners, likely including knowledge users (Statistics Canada, 2019). These also included consultations with Indigenous representatives from the North and departments such as Indigenous and Northern Affairs Canada (Statistics Canada, personal communication, March 7, 2018). This cycle of the GSS is comprised of two separate databases. The publicly available province-based database had a response rate of 53% ( $n = 33,089$ ). Of the respondents, 1,162 identified as First Nations, Inuit, or Métis and 4,556 identified as a member of any other visible minority group. The remainder of respondents identified as non-Indigenous



white ( $n = 27,371$ ). Although the publicly available data file did not disaggregate specific Indigenous peoples nor specific visible minority groups, the restricted file did.

Furthermore, the territory-based database was not publicly available, likely due to its relatively small sample size ( $n = 2,040$ ). Finally, it should be noted that this study's analytic phase was contemporaneous with the covid-19 pandemic. Therefore, it used publicly available data to analyze experiences of Indigenous people and compared them with those of white settler people. It should be noted here that comparisons of Indigenous and white settler people normally suggest a deficit approach. However, this study was unique in that white settler people were not considered to be the "gold standard." Rather, it was exposing the privileges that white settler peoples experience in comparison to the oppressions faced by Indigenous peoples as a result of (neo)colonial, racist, and unjust social and cultural structures.

### ***Research Questions and Hypotheses***

Six research questions steered the quantitative part of the study on involuntary contacts with police. They were also systematically replicated on contact with criminal courts. (1 to 4) What are the main predictive associations of ethnicity, gender, structural violence, and discrimination with involuntary contacts with police? (5) Do ethnicity and gender interact in the prediction of such contacts? (6a to 6f) Do ethnicity and or gender interact with structural violence or discrimination in the prediction of such contacts?

These corresponding hypotheses were tested: (1 to 4) Indigenous people, men, people who experienced extensive structural violence and discrimination will have had more involuntary contacts with police than other people. (5) The interaction of ethnicity and gender as well as the interaction of ethnicity and or gender with structural violence or

discrimination (6a to 6f) in the prediction of involuntary contacts with police were explored.

## **Measurement**

### ***Outcome Variables***

**Involuntary contact with police.** In the original survey, contact with police was measured with six dichotomous items (Statistics Canada, 2017). These questions asked respondents: *During the past 12 months, did you come into contact with the police (1) for a public information session, (2) for a traffic violation, (3) as a witness to a crime, (4) because of problems with your emotions, mental health or alcohol or drug use, (5) because of a family member's mental health or alcohol or drug use, and (6) for any other reasons?* A summary measure using the four items indicative of involuntary contact (traffic violation, witness to a crime, emotional, mental, alcohol or drug problems, and family member's mental health) were computed with a theoretical score range of zero to four. The computed measure variable was then dichotomized: *zero or one contact* and *two or more contacts*. The decision to dichotomize this variable was based on its previously demonstrated predictive validity (Alberton et al., 2019). Also, a similar measure of involuntary contact with police had been criterion and construct validated through observations of its associations with lack of confidence in police as well as with perceptions of their ineffectiveness in theoretically consistent ways (Cao 2011; He et al., 2018).

**Contact with criminal courts.** All respondents were asked: *Have you ever had contact with the Canadian Criminal Courts* (Statistics Canada, 2014, p. 97)? Possible responses were *yes* or *no*. *Yes* was coded as "1" and *no* was coded as "0."

### ***Predictor Variables***

**Ethnicity.** Ethnicity, operationalized as Indigenous or white settler, was based on respondents' self-identification. The literal question and corresponding instruction related to Indigenous identity was: *Are you an Aboriginal person, that is, First Nations, Metis, or Inuk (Inuit)? First Nations includes Status and Non-Status Indians.* This question was asked only of respondents who indicated that they were born in Canada, the United States, Germany, or Greenland. If respondents answered *yes* to that question, they were asked three further questions: *Are you First Nations? Are you Métis? And are you Inuk (Inuit)?* The publicly available dataset aggregated First Nations, Métis, and Inuit peoples into one category—Indigenous peoples.

Those who did not identify as being Indigenous were instructed that they “may belong to one or more racial or cultural groups on the following list” (Statistics Canada, 2014, p. 418). They were then asked: *Are you... White; South Asian (e.g., East Indian, Pakistani, Sri Lankan); Chinese; Black; Filipino; Latin American; Arab; Southeast Asian (e.g., Vietnamese, Cambodian, Malaysian, Laotian); West Asian (e.g., Iranian, Afghan); Korean; Japanese, or other.* All people who answered *yes* to any of the visible minority questions, except for *White* people, were aggregated into one category. Because that aggregation of all such diverse visible minorities would clearly confound these analyses, visible minorities were excluded.

**Gender.** The GSS dichotomized gender into self-reported categories: male and female. The question was: *Sex of respondent* (Statistics Canada, 2017).

**Structural violence summary measure.** Using ten indicators of structural violence, a structural violence cumulative measure was created, the Experiences of

Structural Violence Index (ESVI). indicators included (1) involvement in the child welfare system, (2) experiences of homelessness, (3) lack of opportunities for education, (4) inaccessibility to public transportation, experiences of discrimination in (5) banking, (6) the labour market, (7-8) the criminal justice system (by proxy of discrimination by police and discrimination by courts), (9) immigration and customs, and (10) in other situations. Each of these variables that were dichotomized are described in more detail below. A summary measure with scores ranging from zero to 10 was computed. A score of zero indicated not having experienced structural violence in any of the 10 social systems, while a score of 10 indicated having experienced structural violence in all 10 systems. The computed measure was then recoded to represent practically meaningful groups who had experienced no structural violence, or modest (one or two), or extensive amounts (three or more) of structural violence. Group criteria were determined to maximize predictive validity.

Involvement in the child welfare system is well known to be strongly associated in Canada and elsewhere with diverse adverse consequences of in other systems such as education and housing (Alberton et al., 2020; Gillum et al., 2016). Thus, it was included as an indicator of structural violence in the proposed summary measure. Respondents were asked, *as a child, were you ever under the legal responsibility of the government* (Statistics Canada, 2017)? Interviewers were instructed that, “in this case, the government assumes the rights and responsibilities of parents for the purpose of the child’s care, custody, and control” (Statistics Canada, 2017, p. 101). Possible responses are *yes* or *no*. *Yes* was coded as “1” and *no* was coded as “0.”

The indicator of structural violence in housing was measured by having ever experienced visible or hidden homelessness. The specific questions were: *Have you ever been homeless; that is, having to live in a shelter, on the street, or in an abandoned building? And have you ever had to temporarily live with family or friends, in your car or anywhere else because you had nowhere else to live* (Statistics Canada, 2017)?

Possible responses for both questions are *yes* or *no*. These two variables were computed so that anyone who answered *yes* to either question or both, was coded as “1.”

Respondents who reported no such experiences were coded as “0.” Consistent with worldwide research, a recent GSS-based study observed profound health and socioeconomic vulnerabilities associated with housing insecurity and homelessness (Alberton et al., 2020; Fitzpatrick-Lewis et al., 2011; Hodgson et al., 2013).

Indicators of structural violence in (a) banking, (b) the labour market, (c) criminal justice system, and (d) immigration and customs were measured by respondents’ experiences of discrimination in these or (e) in any other situations. Respondents were asked: *In what types of situations have you experienced discrimination in the past five years? Was it – (a) In a store, bank, or restaurant? (b) At work or when applying for a job or promotion? (c) When dealing with the police? And when dealing with courts (in any situation that the respondent perceives as a dealing with police or courts) (d) When crossing I border into Canada? (e) Any other situation* (Statistics Canada, 2017)? The possible responses for each of these questions were *yes* or *no*. These variables were each transformed so that *yes* was coded as “1.” *No* responses and valid skips were coded as “0.”

The indicator of structural violence related to transportation was measured by accessibility to transportation in one's community. Respondents were asked: *Is there public transportation in your city or local community?* Possible responses were *yes* or *no*. Because inaccessibility to resources, such as transportation, is indicative of structural violence (Galtung, 1969; Farmer et al., 2006; James et al., 2003; Milaney et al., 2019), *yes* was coded as "0" and *no* was coded as "1."

Educational attainment, having achieved a high school diploma or higher, is well known to be strongly and inversely associated with diverse adverse consequences of structural violence in education and other systems among other racialized minority groups in other countries, particularly the United States (Assari, 2018; Ferede, 2012; Fusaro et al., 2018). Yet, it seems that their impacts have only begun to be studied among Indigenous peoples in Canada (Alberton et al., 2019). This study aims to extend that knowledge. Respondents were asked: *What is the highest certificate, diploma, or degree that you have completed?* Possible responses were (1) *less than high school diploma or its equivalent*; (2) *high school diploma/high school equivalency certificate*; (3) *trade certificate or diploma*; (4) *college, CEGEP/other non-university certificate or diploma*; (5) *university certificate or diploma below the bachelor's level*; (6) *Bachelor's degree (e.g. B.A., B.Sc., LL.B)*; (7) *university certificate, diploma/degree above bachelor's* (Statistics Canada, 2017). This variable was transformed so that lack of opportunity for high school level education (response 1) was recoded as "1" and opportunity for completing high school or more (responses 2 through 7) were coded as "0."

**Experiences of discrimination summary measure.** Respondents were asked: *In the past five years, have you experienced discrimination or been treated unfairly by*

*others in Canada because of your... sex, ethnicity or culture, race or skin colour, physical appearance, religion, sexual orientation, age, physical or mental disability, language, and/or for any other reason* (Statistics Canada, 2014, pp. 427-31). Each of these variables were coded “1” for *yes* and “0” for *no*. These 10 categories of discrimination were then summed into a cumulative measure of discrimination, the Experiences of Discrimination Index (EDI). With a theoretical score range of zero to 10 it ordinarily measures the number (zero, one or two, or three or more) of these reported experiences of discrimination or unfair treatment. This measure seems to have ample predictive and construct validity as it has been observed to be strongly associated with a number of social and physical ills in predictable ways (Alberton et al., 2020; Berry & Hou, 2017; Nangia, 2013).

### ***Potential Confounds***

**Age, marital status, and household composition.** The potential confounding influence of sociodemographic variables were tested: age, marital status, and household size. Age, originally coded into ten categories, was recoded into five meaningful groups: 15 to 24, 25 to 34, 35 to 54, 55 to 64, and 65 and older. Marital status was described with six original categories: married, living common-law, widowed, separated, divorced, and single or never married. The recoded variable of married or common law versus others was tested. Originally, household size had six categories. The very rare category of households with six or more people caused power concerns, so this variable was recoded into five categories which ranged from one household member to five or more.

**Level of education, owns home, and personal income.** Socioeconomic covariates were similarly tested. Educational achievement was recoded into six life-space

meaningful groups that ranged from less than a high school diploma to education beyond a bachelor's degree. Respondents were also asked whether someone in their household owned the dwelling they were living in. Possible responses were *yes* or *no*. *Yes* was coded as "0" and *no* was coded as "1." Personal income was coded into seven categories ranging from an annual income less than \$20,000 to \$120,000 or more.

**Self-reported health statuses and alcohol, cannabis, and illicit drug consumption.** The potential confounding influence health status indicators was also tested. Consistent with numerous other national surveys, respondents were asked to assess their general and mental health statuses with these questions, "*In general, would you say your health is...*" and "*In general, would you say your mental health is...*" The response sets consisted of five categories: *Excellent*, *very good*, *good*, *fair*, and *poor*. Respondents were also asked whether they had used alcohol, cannabis, or any other non-prescribed drugs in the past month. Potential responses for the questions related to cannabis and illicit drug use were *yes* or *no*. Alcohol consumption was measured using the question: *In the past month, how often did you drink alcoholic beverages? Was it...?* Respondents were then given the option to choose one of six categories ranging from *every day* to *never drinks*.

**Childhood victimization.** Hypotheses based in practice wisdom, clinical and research, also implied that childhood victimizations could confound this study's central analyses. Childhood physical and sexual abuses were measured as follows: "*Before age 15, were you ever physically assaulted by an adult (someone who was aged 18 years or older)?*" And "*Before age 15, were you ever sexually assaulted by an adult (someone who was aged 18 years or older)?*" Potential responses were *yes* or *no*. These two variables



were also computed into a summary child abuse index: experienced none, one, or both types of abuse.

**Places and perceptions of neighbourhood crime.** Clearly a potential confound, perception of neighborhood crime was measured with the following question: *Compared to other areas in Canada, do you think your neighbourhood has a higher amount of crime, about the same, or a lower amount of crime?* The potential influence of place was also explored with two rather gross geographic variables: province and rurality. Rurality was derived from the respondents' reported province of residence and postal code (population density). Categories were large urban population centres (coded as "0") and rural areas/small population centres (coded as "1"). Prince Edward Island was coded "3."

## **Analysis**

### ***Descriptive Statistics and Bivariate Analyses***

Univariate frequency distributions were employed to describe the study samples. As the two outcome variables were binary and all of the predictor variables, centrally hypothesized and covariates, were categorical, examinations of parametric assumptions with diagnostic descriptive statistics (means, medians, standard deviations and measures of skewness, kurtosis, and their standard errors) were moot. Nonparametric chi-square tests were used to test bivariate associations between ethnicity and all other predictors and covariates; between each potential confound and predictor; and each potential confound and both outcomes before building multivariable mathematical models. Statistical significance criteria were two-tailed tests at  $\alpha$  of 0.05 ( $p < .05$ ).

### ***Multivariable Analyses***

Binary logistic regression models were used to test hypotheses across two

outcomes (Begashae, 2018; Harrell, 2015; Hosmer et al., 2013; Kleinbaum & Klein, 2010; Vittinghoff et al., 2012). Only covariates that were found to be significantly associated with a hypothesized predictor and outcome, and independently predicted the outcome were deemed confounding, and so included in final regression models. Each logistic regression model was built as follows and analyses were replicated using contact with criminal courts as the outcome:

1. Ethnicity, gender, structural violence, and discrimination were entered as lone predictors into Models 1 to 4. These models examined unadjusted effects on involuntary contact with police.
2. The same predictors were entered in Model 5, this time each predictor's independent effect on involuntary contact with police was adjusted for all of the other predictors.
3. Next, analytic confounds would have entered. However, a model with confounds was less well fitting than the model without them, and the confound-adjusted model was no more practically significant as it accounted for less than an additional 1% of outcome variability. Further details regarding this decision are presented in Chapter 4.
4. Hypothesized interactions were then tested. None were significant so they were excluded from the final model, Model 5.

**Logistic regression modeling principles and interpretations.** First, the statistical and practical significance or strength and precision of the predictor-outcome relationships was estimated with odds ratios (ORs) and their 95% CIs derived from regression statistics ( $OR = e^{\beta}$  and  $CI = e^{\beta \pm 1.96(SE)}$ ). For example, an OR of 1.80 corresponding to the structural violence and involuntary contact with police hypothesis could be interpreted as follows. The odds, chances, likelihood, or risk of having

experienced involuntary contacts with police was 80% greater among those who experienced high levels of structural violence.

Second, though parametric assumptions are not relevant with logistic regressions, multicollinearity needed to be ruled out. As there were no continuous variables in any model, multicollinearity seemed highly unlikely. Regardless, all of the categorical predictors' (i.e. ethnicity, gender, structural violence, and discrimination) associations with each other were calculated ( $\chi^2$ ) and converted to Pearson's correlation coefficient ( $r = [\chi^2 / N]^{1/2}$ , Cooper, 2017). Multicollinearity would have been diagnosed for any variance inflation factors greater than five (corresponding to  $rs > 0.90$ ). None were anywhere close to this criterion. Fourth, all analyses were undertaken using SPSS, Version 21, including its model fitting statistic: Hosmer and Lemeshow goodness-of-fit test (Hosmer et al., 2013; IBM Corporation, 2012). Fifth, a *post hoc* power analysis found this database to be highly powered to detect small associations (e.g.,  $R^2 = 0.10$ ). With a sample of nearly 28,000 participants, analytic models that could have potentially included up to 20 predictors, and otherwise fairly standard statistical criteria (2-tailed  $\alpha$  criterion of 0.05), analytic power was estimated to be 99.9% (Cohen, 1988; Faul et al., 2009; 2013; Faul et al., 2007; Fleiss et al., 2003). In other words, in addition to less than 5% chance of making a type I error there was also a very little chance of making a type II error.

### **Missing Data**

Missing data was miniscule among all predictors, outcomes, and covariates (all < 3.0%), with the exception of personal income that had 13.5% missing data. Moreover, the missing data on personal income differed significantly between Indigenous (21.6%) and non-Indigenous (13.2%) participants,  $p < .001$ . For this reason, income was not used in

any multivariable analyses. This would have not only fatally confounded but also would have overcontrolled the analyses.

Little's (1988) missing completely at random (MCAR)  $\chi^2$  tests were null. Despite this, when missing data were deleted listwise, there were 2,220 participants missing from the involuntary contact with police models and 2,251 participants missing from the contact with criminal courts models. For this reason and to generate more efficient inferences (Lall, 2016), multiple regression-based imputations were used for the multivariate analyses. This process involved five iterations of replacing each missing data cell with values based on observed responses for all of the other variables within the analytic dataset. However, logistic regression models were also run using listwise deletion and these were then compared to the analyses using multiple imputations of missing data. The statistical and practical significance of their findings were nearly identical. Models that deleted missing data listwise are presented in Appendix B.

### **Ethical Considerations**

This study was approved by the University of Windsor's Research Ethics Board (REB#: 19-190). Although the autoethnography was except from official REB approval, written approval was granted by the chair of the University of Windsor's REB. Additionally, throughout this research all processes were ethically aligned with the Tri-Council Policy Statement 2 (TCPS2) related to research involving Indigenous peoples (Government of Canada Research Ethics Panel, 2015). The TCPS2 guidelines ensure the best interests of Indigenous peoples by noting that the values of researchers and the research at hand must be aligned with Indigenous peoples and communities and research must reflect Indigenous worldviews and benefit Indigenous peoples and communities

(Government of Canada Research Ethics Panel, 2015). It is the responsibility of the researcher to follow these ethical guidelines.

More specifically, the guidelines set out by the First Nations Information Governance Centre (2014) regarding standards for conducting research on First Nations which include ownership, control, access, and possession (OCAP) were adhered to as closely as possible. The principle of ownership refers to the relationship that First Nations communities have to their cultural knowledge, data, and information. Although the data used for this dissertation were collected by Statistics Canada, they are publicly available. The control standard asserts that First Nations peoples and communities must have control over how data are collected and how they are used and disclosed. This principle was adhered to in several ways. First, I reached out to Statistics Canada to ensure that Indigenous peoples were involved in the development of the survey. A representative confirmed that they were. Second, before I proposed this research, I consulted with several people from First Nations. Although it was not possible, due to time and financial constraints, to consult with Indigenous peoples across Canada, I was sure to discuss the research with academics and non-academics who agreed it was copacetic. Related to ownership, the access principle maintains that the collected data must be accessible by First Nations individuals and communities and that they have the right to manage and decide who can access this information. Again, the Statistics Canada data are publicly available and accessible. Moreover, each individual who participated in the survey consented to their personal information being collected by the interviewer. Finally, possession is the principle that protects and asserts ownership and control. Although

Statistics Canada is in possession of the GSS data, it is the intent of this researcher that the findings be disseminated to all interested Indigenous communities and individuals.

The OCAP standards are also aligned with the “Four R’s” of Indigenous research posited by Kirkness and Barnhard (1991), which are that the work is carried out respectfully, and that it is relevant, reciprocal, and responsible. Again, in adherence to the Four R’s throughout my process, I consulted with Indigenous scholars, authors, attorneys, and community members. This not only demonstrated respect, but I consulted to ensure that the work was relevant and responsible while offering gifts, including services or offers for services, as acts of reciprocity. Further, as previously mentioned, when stories that included other people were shared throughout this dissertation, permission was received from all parties involved. I have learned that although the dissertation process and academia, overall, promote individualism, reciprocity plays an instrumental role in research with Indigenous peoples. Moreover, this work was completed with justice, love, humility, and honesty at the forefront (Angell, 2018; Carlson, 2016). Understanding that love is an elusive concept, the definitions I am employing here are feelings of deep affection for Indigenous peoples and an immense interest and perseverance in fighting injustice. Although the latter may be somewhat selfish, as it provides my life with purpose (and pleasure), it is at least somewhat altruistic.

This dissertation would not have been possible without the existence of structural violence. So, in a way I will benefit from injustice. However, from the outset I maintained that I would expose, acknowledge, and act on structural violence. As per the TRCC (2015), exposure and acknowledgement are the first steps in reconciliation. I also made efforts to earn the trust of Indigenous peoples as building reciprocal and

reconciliatory relationships are not possible without earning trust. Throughout the dissertation process, I was honoured to be invited to community events in support of Indigenous sisters and brothers. I was also provided with opportunities to build several friendships that I am sure will last a lifetime. These friendships were built on honesty, openness, and willingness to engage. I did not come up with these principles myself, they are the HOW of Alcoholics Anonymous that I believe everyone can apply to their lives, recovering or not.

## Chapter 4: Results

The research conducted as a part of this dissertation focuses on structural violence and discrimination. Indigenous peoples are integral to this work as they are proof positive of the deleterious impacts that arise from policies, programs, and practices that arise from colonialism. Indeed, Indigenous peoples are the embodiment of resilience arising in response to oppression and their commitment to resistance is undeniable in terms of resolve and effectiveness. As a settler-ally, I am doing this research so non-indigenous people will understand the part that (neo)colonial culture and society had and continues to play in the oppression and exploitation of Indigenous peoples. As noted by the TRCC, “research is vital to reconciliation” (2015, p. 242). Only when people begin to understand and accept the truth will any form of reconciliation and social and cultural change be possible.

I also involved myself in this work because I abhor oppression. It encumbers and destroys both current and potential relationships, as well as the world around us. As a woman who has interacted with many institutions and agents of social control, I have a visceral understanding of what oppression is. I also know the effects that oppression has on oneself and the impression that others have of us. However, I also know what it is like to have privilege, even if it is a “moving target” (Taiwo, 2018, p. 65). Both privilege and oppression are personal and social, experienced in different ways by different people. As a person with fair complexion, I have both assigned and assumed privilege and oppression. How I experience and express both privilege and oppression are personal but are also entrenched in sociocultural conditioning and my place within society. Along with experiencing privilege and oppression individually, I have also experienced instances



where privilege and oppression have interacted to produce far different outcomes than if privilege, and the power that comes with it, had not been part of the equation. Power does not necessarily have to be negative. The potential for power and resistance is everywhere (Foucault, 1972; Freire, 1970). One way of achieving power and resistance is through counter-narratives (Habermas 1984, 1987; Smith, 2005). Through the production and use of counter-narratives, colonized peoples across the world have tenaciously demonstrated remarkable resiliencies in the face of ubiquitous domination (Angell, 2018). Through ongoing consultations with Indigenous committee members and friends, a decolonizing and mutually agreeable narrative was developed throughout the dissertation process. This counter-narrative illuminates the ongoing devastations resulting from Indigenous women's overrepresentation across the criminal justice system. It is a narrative that deconstructs the existing dominant epistemology, ontology, and axiology that perpetuate neocolonialism in the 21<sup>st</sup> century.

There are certain societal expectations about how we should live our lives and conduct ourselves on the frontstage (Goffman, 1959). For most of my life, I pushed the boundaries of these expectations. For example, something as simple as dressing and behaving differently than what was expected or accepted allowed me to proclaim that difference, no matter how seemingly insignificant, was an act of defiance against the social framework of expectations and needed to be noticed, acknowledged, appreciated, and accepted. Actually, for a long time I did not feel as though I belonged anywhere. Sometimes the only way I felt as though I had power was by resisting. Power and resistance here are understood as Foucault (1977) conceptualizes them. Foucault sees power and resistance as being mutually related; resistance is differentiated from power in

that it is a lesser form of power (Heller, 1996). For example, resistance may be employed by people who are oppressed, such as prisoners, while power is employed by more dominant forces, such as police. Moreover, unlike the military power or threat of physical dominance of ancient Greek hegemony, much power today is maintained through dominant discourses embedded into social, cultural, political, and economic institutions (Lears, 1985). Cultural hegemony refers to this type of power embedded in culture. That is, in domains such as societal traditions, languages, and mores (West, 2019). The covert nature of this type of power makes it elusive to resist (Martinez, 1997). It is so embedded in societies via cultural norms that simply by participating in the society we were born into we are reinforcing the political status quo.

Negotiating power and resistance, I believe, is something we all experience as human beings. I resisted dominant social, economic, and cultural norms by engaging in behaviours that some would have labelled as deviant. It should be noted that deviance in itself is a social construct. It is the eyes of the beholder that sculpt the discourse if they have the ability to control the narrative regarding what is right and what is less right. Engaging in these behaviours led to feelings of acceptance and excitement, even if the acceptance was from people who were deemed to be criminals or deviants. This acceptance also led to feelings of belonging and being in control of myself. Feelings I never received, or at least found as appealing or was willing to accept, from participating in the dominant culture. In his story about being Métis, homeless, and finding his way, Thistle (2019) described similar feelings. I honour his voice by including the direct quote:

I thought about the feeling of excitement I'd had grabbing the chocolate bars off the shelf when John had turned his back, the feeling of power. Now I had a

strange and satisfying feeling of control—control I’d never had before. I liked it.  
(p. 65).

Relatedly, through this type of resistance, I provided many opportunities for some members of society with more power than me to label me as sick and criminal.

Lacassagne (as cited in Ellis, 1890) said, though, societies got the types of criminals they deserved. In other words, the inequalities, in my case especially related to class and gender, perpetuated by cultural hegemony and related dominant discourses lead to unbalanced environments in which sometimes engaging in criminal activities seems like the best and perhaps only option. For example, dimensions of drug use and relationships are criminalized. But the question many fail to ask is, why are people using drugs? Or why do people feel compelled to embed themselves within organized crime groups? And why do these “gangs” primarily evolve in situations of poverty? My experience tells me that many people are pushed into these situations because they are lacking something others have. This does not just mean material possessions. It could include a sense of belonging, and/or feelings of power and being respected. Some of the literature reviewed in this chapter has provided evidence to this point. Many Indigenous peoples have been excluded from full participation in many spheres of society, far more so than I ever was. Arguably, these cumulative experiences of exclusion push people into situations where they are likely to be deemed as criminals. Clearly John A. MacDonald was wrong. It is society that is savage, or brutal and vicious, not Indigenous peoples.

On Indigenous Peoples Day, June 21, 2019, a dear friend gifted me a beautiful, red ribbon skirt that she had sewn herself. She made it for me to wear at an event we were going to the following day to honour Missing and Murdered Indigenous Women and

Girls. Photos of the skirt and us at this and other events are included in the following section. The day I was gifted the skirt, I wrote in my journal:

I don't even think I can find the words to describe how grateful I am...I've been thinking about the ribbon skirt and why it's so important to me. I think that it connects to why I decided to, with Dr. A's guidance, jump into research with Indigenous peoples. I think more than anything, for me, it has to do with looking for a sense of belonging. I've never really felt like I belonged anywhere. But what does belonging actually mean anyways? I never felt like I fit in maybe. I'll try to work through that a bit more. But maybe part of the story I'm trying to tell is about belonging. I think we all want to belong somewhere.

My identity today has been shaped by my direct and vicarious intersection with the peoples, places, and things that make up my biopsychosocial-spiritual environment. I have assembled these experiences in ways that give meaning to my lived life. I have learned happiness and love. I have also learned anger and hate. I have learned the importance of positive relationships to everything and everyone around me, but I have also learned the impermanence of belonging and feeling connected. I have learned to appreciate the beauty of nature and the beauty in all human beings, but I have also learned the devastation that natural disasters and human beings can cause. It is "because everything is connected to everything else" (Sheridan & Longboat, 2006, p. 369) that imagination, or story, and science are woven together throughout this work. As a female who has been granted privileges, especially related to my race, it is my responsibility to expose injustice and do something about it. The following sections uncover some of these

injustices as they relate to Indigenous peoples' experiences of structural violence, discrimination, and involuntary contacts with police and criminal courts.

### **Photos from Community Events and of My Ribbon Skirt**



The first time I wore my ribbon skirt at a walk to honour missing and murdered Indigenous women and girls



Indian Tacos from the Potawatami Gathering at Bkejwanong Territory



My Ribbon Skirt



Naomi and I at a walk, in solidarity with the people of Wet'suwet'en

## **General Social Survey Sample Descriptions**

Two steps were undertaken so that the descriptions and experiences of Indigenous participants would not be overwhelmed by the much larger non-Indigenous white subsample and so, made invisible. First, parallel subsample descriptions were reported: Indigenous and non-Indigenous white. Second, unadjusted bivariate analyses compared Indigenous and non-Indigenous white participants on all study variables using chi square tests. In total, valid percentage distributions were reported for 1,161 Indigenous and 26,804 non-Indigenous white respondents.

### ***Demographic Characteristics***

Demographic characteristics are displayed in Table 1. Slightly more than half of the entire study sample was female (55.8%) and slightly less than half was male (45.2%). This gender distribution did not differ significantly by ethnic group, Indigenous or non-Indigenous white. However, the two study groups did differ significantly on age, Indigenous participants being significantly younger (Pearson's  $\chi^2$  test,  $p < .05$ ). They were nearly twice as likely as non-Indigenous white people to be represented among the youngest participants 15 to 24 years of age (14.5% versus 8.8%), but only half as likely to be among the oldest study participants who were 65 years of age or older (14.9% versus 28.0%).

Consistent with their younger age, a larger proportion of Indigenous peoples reported being single than did non-Indigenous white people (33.3% versus 22.6%). Also, the percentage of non-Indigenous white people who were widowed was almost double

**Table 1***Demographic Characteristics*

	Indigenous		Non-Indigenous White	
	<i>n</i>	%	<i>n</i>	%
Sex				
Female	642	55.3	14,692	54.8
Male	519	44.7	12,112	45.2
Age*				
15 to 24	168	14.5	2,357	8.8
25 to 34	177	15.2	2,959	11.0
35 to 54	402	34.6	8,221	30.7
55 to 64	241	20.8	5,775	21.5
65 and older	173	14.9	7,492	28.0
Marital Status*				
Married	437	37.6	12,334	46.0
Living common-law	130	11.2	2,581	9.6
Widowed	69	5.9	2,645	9.9
Separated	45	3.9	907	3.4
Divorced	96	8.3	2,261	8.4
Single, never married	383	33.0	6,059	22.6
Number of Household Members*				
One	271	23.3	7,412	27.7
Two	385	33.2	10,595	39.5
Three	219	18.9	3,720	13.9
Four	173	14.9	3,484	13.0
Five or more	113	9.7	1,593	5.9

*Note.* Missing data was 0.1% or less for all displayed variables.

\* Group differences were statistically significant, Pearson's  $\chi^2$  test,  $p < .05$ .

that of Indigenous peoples (9.9% vs. 5.9%). Again, this was not unexpected given that the significantly greater representation of non-Indigenous white respondents among those 65 or older. Finally, the numbers of people living in respondents' households differed significantly between Indigenous and non-Indigenous white people (Pearson's  $\chi^2$  test,  $p < .05$ ). Indigenous peoples more prevalently lived in households with three or more people

(43.5% and 32.8%) and they were nearly twice as likely to live in large households with five or more people (9.7% versus 5.9%).

### ***Socioeconomic Characteristics***

Indigenous peoples more prevalently reported not having finished high school than did their non-Indigenous white counterparts (27.1% versus 16.6%, Table 2). On the other hand, non-Indigenous white people were nearly twice as likely to have completed a bachelor's degree (15.7%) and nearly three times as likely to have completed an advanced degree (7.4%) than Indigenous peoples (8.9% and 2.7%, respectively). Moving down the table it can be seen that home ownership was significantly more common among non-Indigenous white people (78.2% versus 65.3%). Finally, the two study groups differed significantly on income (Pearson's  $\chi^2$  test,  $p < .05$ ).

Particularly, more than one-third (39.1%) of the Indigenous respondents reported a personal income of less than \$20,000 whereas about a quarter (26.4%) of non-Indigenous white people reported being in this extremely low-income bracket. It ought to be recalled that missing data was prevalent here, particularly among the Indigenous subsample, strongly suggesting that the relative socioeconomic vulnerability of Indigenous peoples as observed here is probably a gross underestimate of the truth.

### ***Self-Reported Health Statuses and Alcohol Consumption***

Health related characteristics are displayed in Table 3. Indigenous peoples self-reported significantly poorer general and mental health than did non-Indigenous white people (both Pearson's  $\chi^2$  tests,  $p < .05$ ). Non-Indigenous white people were more likely



to report these health statuses as excellent, while consistent with numerous other observed vulnerabilities, Indigenous peoples were twice as likely to report their

**Table 2**

*Socioeconomic Characteristics*

	Indigenous		Non-Indigenous White	
	<i>n</i>	%	<i>n</i>	%
Highest Level of Education*				
Less than high school	305	27.1	4,398	16.6
High school diploma	346	30.7	7,165	27.1
Trade certificate or diploma	86	7.6	1,924	7.3
College and or some university	259	23.0	6,850	25.9
Bachelor's degree	100	8.9	4,164	15.7
University beyond bachelor's	30	2.7	1,971	7.4
Owns Dwelling*				
Yes	745	65.3	20,822	78.2
No	396	34.7	5,797	21.8
Personal Income*				
Less than \$20,000	356	39.1	6,156	26.4
\$20,000 to \$39,999	227	24.9	6,516	28.0
\$40,000 to \$59,999	145	15.9	4,526	19.4
\$60,000 to \$79,999	73	8.0	2,665	11.4
\$80,000 to \$99,999	60	6.6	1,502	6.5
\$100,000 to \$119,999	19	2.1	730	3.1
\$120,000 or more	30	3.3	1,182	5.1

*Note.* Missing data was 1.2% or less for all displayed variables except for personal income (13.5%).

\* Group differences were statistically significant, Pearson's  $\chi^2$  test,  $p < .05$ .

general and mental health as only fair or poor. In terms of alcohol consumption,

Indigenous peoples reported drinking less than non-Indigenous white people. Nearly one-third (31.0%) of the Indigenous respondents reported never drinking and few of them drank as often as four to seven times a week. It can be seen comparatively that the white respondents reported drinking significantly more. Finally, few reported consuming drugs. And there was no significant difference between the study groups on illicit drug

consumption, but somewhat more of the Indigenous respondents reported consuming cannabis (12.6% versus 5.7%, Pearson's  $\chi^2$  test,  $p < .05$ ).

**Table 3**

*Self-Reported Health Statuses and Alcohol Consumption*

	Indigenous		Non-Indigenous White	
	<i>n</i>	%	<i>n</i>	%
<b>Self-Rated General Health*</b>				
Excellent	216	18.6	6,378	23.8
Very good	331	28.6	9,462	35.4
Good	376	32.4	7,416	27.7
Fair	139	12.0	2,547	9.5
Poor	97	8.4	944	3.5
<b>Self-Rated Mental Health*</b>				
Excellent	363	31.4	9,849	37.2
Very good	371	32.1	9,198	34.7
Good	301	26.1	6,179	23.3
Fair	94	8.1	1,229	4.6
Poor	26	2.3	53	0.2
<b>Alcohol Consumption*</b>				
Never drinks	359	31.0	6,189	23.2
Not in past month	121	10.4	2,011	7.5
1-2 times in past month	344	29.7	6,438	24.1
1-3 times per week	248	21.4	8,529	31.9
4-7 times per week	87	7.5	3,555	13.3
Cannabis Consumed in Past Month*	146	12.6	1,513	5.7
Illicit Drug(s) Consumed in Past Month	9	0.8	124	0.5

*Note.* Missing data was 0.6% or less for all displayed variables.

\* Group differences were statistically significant, Pearson's  $\chi^2$  test,  $p < .05$ .

***Childhood Victimization***

Childhood victimization descriptions are displayed in Table 4. Much larger proportions of the Indigenous respondents reported being physically abused (39.4% versus 28.2%) or sexually abused (16.6% versus 9.8%) before the age of 15. Indigenous respondents were also twice as likely to have been both physically and sexually abused as

a child (11.3% versus 5.7%). Their clearly practical significance notwithstanding, all of these between group differences were minimally statistically significant as well.

**Table 4**

*Childhood Victimization*

	Indigenous		Non-Indigenous White	
	<i>N</i>	%	<i>n</i>	%
Physically abused*	444	39.4	7,358	28.2
Sexually abused*	189	16.6	2,603	9.8
Experienced Abuse as a Child*				
No	619	55.3	17,623	67.8
Yes, one type	374	33.4	6,891	26.5
Yes, both types	123	11.3	1,482	5.7

Note. Missing data was 1.4% for sexual and 2.5% for physical abuse.

\* Group differences were statistically significant, Pearson's  $\chi^2$  test,  $p < .05$ .

***Provinces and Population Centres of Residence***

Table 5 displays geographic characteristics associated with respondents' residences. The largest proportions of Indigenous respondents reported living in either Ontario or Manitoba (16.8% and 16.5%, respectively), and nearly half of the non-Indigenous white respondents reported living in Ontario (24.0%) or Quebec (20.1%). More Indigenous peoples reported living in Saskatchewan (11.2%) and Alberta (10.2%) than non-Indigenous people (5.5% and 8.2%, respectively). The majority of respondents reported living in large urban population centres. However, significantly and substantially more Indigenous peoples reported living in smaller towns, villages and rural places (34.5% versus 21.0%, respectively). Finally related to place, Indigenous peoples were nearly twice as likely to report that crime in their neighbourhood was higher than in the rest of Canada (6.7% versus 3.5%,  $p < .05$ , data not shown).

**Table 5***Provinces and Population Centres of Residence*

	Indigenous		Non-Indigenous White	
	<i>n</i>	%	<i>n</i>	%
Province of Residence*				
Ontario	195	16.8	6,427	24.0
Manitoba	192	16.5	1,522	5.7
Nova Scotia	158	13.6	3,466	12.9
Saskatchewan	130	11.2	1,484	5.5
Alberta	119	10.2	2,203	8.2
Newfoundland and Labrador	108	9.3	1,447	5.4
British Columbia	99	8.5	2,552	9.5
Quebec	90	7.8	5,389	20.1
New Brunswick	55	4.7	1,624	6.1
Prince Edward Island	15	1.3	690	2.6
Population Centres*				
Urban	745	64.2	20,480	76.4
Rural	401	34.5	5,634	21.0
Prince Edward Island	15	1.3	690	2.6

\* Group differences were statistically significant, Pearson's  $\chi^2$  test,  $p < .05$ .

***Structural Violence Indicators***

Indicators of structural violence experienced by Indigenous and non-Indigenous white respondents are displayed in Table 6. The findings are stunning. Indigenous respondents were significantly more likely to have experienced structural violence in each of the nine social systems observed. In fact, their experiences of such oppressive social forces were six times more prevalent than were their non-Indigenous white counterparts in the criminal justice system, four times more prevalent in the child welfare system, three times more so in banking, and two times more so in education, housing, the labour market, immigration and customs, and respondent identified "other" systems. Indigenous peoples' disadvantage in public transportation was smaller, but it still existed

and was still practically and statistically significant. The summary measure displayed at the bottom of the table synthesizes this stunning story. First, what of the most privileged who have never experienced structural violence in any of Canada's social structures? Nearly half of the white respondents could claim such privilege, but only a quarter of the Indigenous respondents could.

**Table 6***Structural Violence Indicators*

	Indigenous		Non-Indigenous White	
	<i>n</i>	%	<i>n</i>	%
Was child in care of government*	92	8.0	536	2.0
Been homeless (hidden or visible)*	246	21.2	2,451	9.2
Not completed high school*	305	27.1	4,398	16.6
No public transport in community*	469	40.5	8,736	32.6
<i>In past 5 years experienced discrimination...</i>				
When dealing with courts*	22	1.9	71	0.3
When dealing with police*	40	3.5	153	0.6
In a store, bank, or restaurant*	122	10.5	902	3.4
When crossing border into Canada*	8	0.7	90	0.3
In any other situations*	74	6.5	803	3.0
At work or when applying for a job*	104	9.0	1,370	5.1
<i>Structural Violence Index*</i>				
None	292	26.7	12,124	46.5
One	427	39.0	9,876	37.9
Two	255	23.3	3,331	12.8
Three	88	8.0	567	2.2
Four	21	1.9	121	0.5
Five	8	0.7	22	0.1
Six	2	0.2	11	0.0
Seven	1	0.1	2	0.0

*Note.* Missing data was 1.3% or less for all variables except for the Structural Violence Index (2.9%).

\* Group differences were statistically significant, Pearson's  $\chi^2$  test,  $p < .05$ .

Second and more importantly, what about those who had experienced extreme levels of structural violence? Indigenous peoples were nearly four times as likely to experience structural violence by three or more key structures of Canadian society (11.0% versus 2.8%);  $\chi^2 (2, N = 27,965) = 345.25, p < .001$ .

### ***Experiences of Discrimination***

Respondents' reported experiences of discrimination are displayed in Table 7. Most profoundly, Indigenous peoples reported experiencing discrimination based on their race at a rate six times greater than non-Indigenous white people (11.5% versus 1.8%). In plain language, this means that racism is alive and well in Canada. Similarly, they were more than five times as likely to report discrimination based on their ethnicity or culture (11.4% versus 2.1%). Indigenous respondents were nearly three times as likely to report experiencing discrimination based on physical appearance, sexual orientation or for any other reason, and Indigenous peoples were more than twice as likely to report discrimination based on a disability or their gender identity. They were also nearly twice as likely to experience discrimination based on language and they did not differ significantly from white people on their experiences of age discrimination.

Like structural violence, experiences of discrimination are probably not experienced independently. Although the vast majority of Indigenous and non-Indigenous white respondents reported never experiencing discrimination (77.8% and 89.4%), overall, Indigenous respondents reported multiple intersecting experiences of various forms of discrimination in greater proportions than did non-Indigenous white respondents. For example, and perhaps most profoundly, Indigenous peoples were

approximately five times as likely to have experienced three or more types of discrimination (8.6% versus 1.8%);  $\chi^2 (2, N = 27,965) = 292.77, p < .001$ .

**Table 7**

*Discrimination Experiences*

	Indigenous		Non-Indigenous White	
	<i>n</i>	%	<i>n</i>	%
<i>Ever experienced discrimination because of...</i>				
Race*	133	11.5	485	1.8
Ethnicity or culture*	132	11.4	558	2.1
Physical appearance*	81	7.0	656	2.5
Sexual orientation*	20	1.7	166	0.6
Any other reason*	15	1.3	123	0.5
Disability*	48	4.1	452	1.7
Religion*	32	2.8	351	1.3
Sex*	70	6.0	821	3.1
Language*	35	3.0	503	1.9
Age	42	3.6	747	2.8
Discrimination Index*				
None	894	77.8	23,802	89.4
One	98	8.5	1,675	6.3
Two	58	5.0	680	2.6
Three	49	4.3	290	1.1
Four	25	2.2	106	0.4
Five	20	1.7	50	0.2
Six	3	0.3	18	0.1
Seven	2	0.2	5	0.0
Eight	0	0.0	4	0.0
Nine	0	0.0	2	0.0

*Note.* Missing data was 0.7% or less for all displayed variables.

\* Group differences were statistically significant, Pearson's  $\chi^2$  test,  $p < .05$ .

***Involuntary Contacts with Police and Criminal Courts***

Contacts with the criminal justice system are displayed in Table 8. Overall, Indigenous people were more prevalently exposed to both involuntary contacts with police and contact with criminal courts. Most respondents had no involuntary contacts with police in the past year. However, Indigenous peoples were more than three times as

likely to have had two or more such contacts in the past year (5.1% versus 1.6%).

Moreover, a third (33.8%) of Indigenous respondents reported ever having contact with Canadian's criminal courts while a fifth (21.5%) of non-Indigenous white respondents reported such contacts.

**Table 8**

*Involuntary Contacts with Police and Criminal Courts*

	Indigenous		Non-Indigenous White	
	<i>n</i>	%	<i>n</i>	%
<i>In the past 12 months, had contact with police because of...</i>				
Traffic violation	121	10.4	2,948	11.0
Witness to a crime*	108	9.3	1,296	4.8
Mental health/substance use issues*	27	2.3	188	0.7
Family member mental health*	82	7.1	647	2.4
Involuntary contact with police*				
None	891	76.9	22,154	82.8
One	209	18.0	4,161	15.6
Two	50	4.3	401	1.5
Three	8	0.7	34	0.1
Four	1	0.1	1	0.0
Contact with criminal courts*	391	33.8	5,763	21.5

*Note.* Missing data was 0.2% or less for all displayed variables

\* Group differences were statistically significant, Pearson's  $\chi^2$  test,  $p < .05$ .

**Potential Confound Assessment**

First, all of the descriptive covariates were assessed to see if they met the minimal definition of a confound, that is, that they were significantly associated with the main predictor (ethnicity) and with the main outcome, either involuntary contact with police or contact with criminal courts. Most did. Next, the final definitional criterion of an analytic confound was assessed, that is, that they independently contributed, statistically and practically, to prediction of the outcome. Models with confounds were less well fitting



than models without them, and the confound-adjusted model was no more practically significant as it accounted for less than an additional 1% of outcome variability. The imputed logistic regression models with confounds included are presented in Appendix C. Additionally, it seems that the injustices being exposed among Indigenous peoples in the criminal justice system overrode their other vulnerabilities such as childhood victimizations, relatively low socioeconomic status (SES) and even their more prevalent rural living. In other words, by “controlling,” for example by hypothetically comparing Indigenous and non-Indigenous people of equivalent SES the playing field might appear to be levelled. It is clear though, based on the two subsample descriptions, that contemporary Canada is not a level playing field. For example, Indigenous peoples were much more likely to have low incomes. Therefore, it seems that controlling any such socioeconomic factors or interrelated indicators of vulnerability would, in fact, represent overcontrol. For all these reasons, the decision was made to build logistic regression models with all four of the hypothesized predictors, but with none of the covariates.

## **Multivariate Analyses**

### ***Involuntary Contacts with Police***

The results of four main predictor hypothesis tests on the first outcome, involuntary contacts with police, are displayed in Table 9. The adjusted model 5 demonstrated that the independent predictive effects of being an Indigenous person (OR = 2.50), of having experienced violence in multiple structures of Canadian society (OR = 2.10) and of having experienced discrimination extensively (OR = 2.73) were all quite large. Additionally, males were more likely to have involuntary contacts with police (OR

= 1.31). No support was found for the interaction hypotheses as none of the interactions were significant.

**Table 9**

*Predictors of Involuntary Contacts with Police in Past 12 Months: Logistic Regression Models (n = 27,965)*

	Models 1 to 4 <sup>a</sup>		Model 5	
	OR	95% CI	OR	95% CI
Ethnicity				
Non-Indigenous white	1.00	--	1.00	--
Indigenous	3.24	(2.45, 4.28)	2.50	(1.87, 3.34)
Gender				
Female	1.00	--	1.00	--
Male	1.26	(1.06, 1.51)	1.31	(1.10, 1.57)
Experiences of Structural Violence				
None	1.00	--	1.00	--
One or two	1.52	(1.25, 1.86)	1.24	(1.00, 1.54)
Three or more	4.91	(3.64, 6.62)	2.10	(1.41, 3.11)
Experiences of Discrimination				
None	1.00	--	1.00	--
One or two	2.89	(2.31, 3.62)	2.16	(1.81, 4.11)
Three or more	4.43	(3.01, 6.52)	2.73	(1.81, 4.11)

Notes. CI, confidence interval; OR, odds ratio. An odds ratio of 1.00 is the baseline. Final model fit the data well: Hosmer and Lemeshow's goodness-of-fit test for each of the five imputation iterations  $\chi^2(4)$  ranged from 3.91 to 5.68,  $p$  ranged from 0.23 to 0.42.

<sup>a</sup> Unadjusted, single predictor models.

A few data trends exposed by comparing the unadjusted and adjusted regression models ought to be noted. First, the unadjusted ethnicity-involuntary contact with police model exposed a stunningly large association (OR = 3.24). This means that the risk of an Indigenous person having been involuntarily contacted by the police is more than three times greater than the risk among non-Indigenous white people. Though simple, this model that has not been statistically adjusted in any way, is quite telling because it seems a way of meeting these study participants "where they are." People, after all, are not

statistical constructions. Finally, though unadjusted models estimated that structural violence (OR = 4.91) and discrimination (OR = 4.43) were very strong predictors, we saw that their estimated effects diminished substantially (about half) in the ethnicity-adjusted model (respectively, ORs of 2.10 and 2.73). This strongly suggests that Indigenous peoples' much more prevalent involuntary contact with police of can be explained in part (about half) by their more prevalent and extensive experiences of structural violence and discrimination.

**Table 10**

*Predictors of Ever Having Contact with Criminal Courts: Logistic Regression Models (n = 27,965)*

	Models 1 to 4 <sup>a</sup>		Model 5	
	OR	95% CI	OR	95% CI
Ethnicity				
Non-Indigenous white	1.00	--	1.00	--
Indigenous	1.64	(1.64, 2.11)	1.65	(1.45, 1.88)
Sex				
Female	1.00	--	1.00	--
Male	1.70	(1.61, 1.80)	1.75	(1.65, 1.85)
Experiences of Structural Violence				
None	1.00	--	1.00	--
One or two	1.15	(1.08, 1.22)	1.03	(0.97, 1.10)
Three or more	2.80	(2.45, 3.21)	1.66	(1.40, 1.97)
Experiences of Discrimination				
None	1.00	--	1.00	--
One or two	1.96	(1.79, 2.14)	1.74	(1.56, 1.93)
Three or more	2.60	(2.18, 3.09)	2.04	(1.68, 2.48)

*Notes.* CI, confidence interval; OR, odds ratio. An odds ratio of one is the baseline. Final model fit the data well: Hosmer and Lemeshow's goodness-of-fit test for each of the five imputation iterations  $\chi^2$  (5) ranged from 3.28 to 6.90,  $p$  ranged from .23 to .51.

<sup>a</sup> Unadjusted, single predictor models.

*Contact with Criminal Courts*

The results of four main predictor hypothesis tests on the second outcome, contacts with criminal courts, are displayed in Table 10. The unique vulnerability of Indigenous people was again demonstrated in unadjusted (OR = 1.64) and adjusted models (OR = 1.65). All four of the main predictor hypotheses were again supported. Again, neither interaction hypothesis was supported. And again, structural violence and discrimination seem potent explanations for Indigenous peoples' more frequent contacts with criminal courts. In short, this second multivariable model systematically replicated the first, but with somewhat smaller effects.

## Chapter 5: Discussion

The current study examined the effects of structural violence, including (neo)colonialism, on involuntary contacts with police and criminal courts, while creating opportunities for dialogue related to reconciliation with Indigenous peoples. Through this work, existing understandings of Indigenous peoples' interactions with police, which tend to focus on individual or community pathologies, were challenged. The use of evocative autoethnography and statistical analysis of a national survey allowed for a poignant exposure of the impacts of intersecting sites (or systems) of structural violence which contribute to Indigenous peoples' prevalent involuntary contacts with police and criminal courts. In sum, the research was not only aimed at creating new knowledge, but it was also about working towards personal, social, and cultural understandings and transformations (Ellis, 2002; Ellis et al., 2011; Smithers Graeme, 2013).

This study was premised on the assumption that both qualitative and quantitative research methods can coexist (Gergen, 2001) despite being derived from different ways of knowing about and being in the world. As this dissertation has demonstrated, each method creates different but equally important knowledge. The statistical analyses produced generalizable and confident knowledge about the effects of structural violence, including colonialism, on peoples' contacts with police and criminal courts. The autoethnographic narratives layered throughout provided fuller and more meaningful understandings of the research process itself as well as about structural violence and the importance of human relationships in working towards social justice, or the elimination of structural violence.

Working closely with Indigenous members of the dissertation committee and other Indigenous peoples during the process of the dissertation research demonstrated respect and maintained the best interests of those engaged in and affected by the work. This, in turn, formed the foundation for trusting relationships with Indigenous peoples and communities (Graham et al., 2018; Graham et al., 2014). It is important to reiterate that the outcomes and implications of this study are directed at settlers and settler society (Dale, 2014), not Indigenous peoples or their communities. It is (neo)colonial policies and practices that must be mended, and settler discourses of domination and power that must be made explicit, examined, and transformed.

Further, the autoethnography highlighted the importance of establishing alliances between Indigenous peoples and settlers. Building these alliances throughout the process would not have been possible without trust, authenticity, humility, and reciprocity. I understand now that in some instances my power and privilege may serve to make me a gatekeeper for Indigenous peoples, however this works both ways. There will be instances, in my work as an ally, where the power and privilege of Indigenous peoples' will make them the gatekeepers in our work towards eliminating injustice. Through this work I also learned the importance of advocating for justice without being confrontational. This, again, contributes to alliance building with not only Indigenous peoples but also policymakers, academics, and the public.

This dissertation is intended to do more than just create new knowledge. New knowledge is important, but it is what we do with this knowledge that is of utmost importance. Praxis, or reflection and action, is the pinnacle of this work. Without praxis, new knowledge remains stagnant and thus becomes ineffective. Through fostering

connections between you, the reader, and me, the researcher, and between the results of the statistical analyses and personal stories, we may be better equipped to reflect and take action against social injustices (Ellis, 2004; Méndez, 2013).

It must be reiterated that the findings and implications of this project are not directed at Indigenous peoples and communities. Rather, they are directed at the individuals who have the cultural hegemony to change the narrative, Canadians and the Canadian Government and its agents. It is (neo)colonial practices and policies that must be fixed and settler discourses of domination and power that must be made explicit and examined. There is much to be learned by settlers and allies “about the painful, hesitant praxis of decolonizing the settler mind and decolonization more generally” (Dale, 2014, p. 9).

As discussed in Chapter 4, sub-sample descriptions are reported for Indigenous and white settler peoples. Bivariate analyses confirm that the differences between Indigenous and white settler peoples for many of the variables are statistically significant at  $p < .05$ . That is, there is less than a five percent chance that the differences found are a result of errors in sampling. Or, even more importantly this tells us we can confidently generalize the findings from this study to the entire population of Canada and typically to Indigenous peoples living off-reserve although it is possible some Indigenous peoples living on-reserve participated in the survey.

White settler people, overall, are far more privileged than Indigenous peoples. We much more prevalently obtain university degrees, own dwellings, and have personal incomes of \$100,000 or more. It is not because we, overall, are harder workers. We have greater access to opportunities, and thus experience structural violence and discrimination

far less prevalently, as a result of being born into and being part of the hegemonic culture. In this study, settler white people more prevalently rated both their general and mental health better than Indigenous peoples. Overall, Indigenous peoples drink alcohol less frequently. In fact, 31% of the Indigenous peoples included in this study reported never drinking alcohol at all. These results are consistent with the First Nations Information Governance Centre's (2012) findings that 35% of individuals living in First Nations communities reported not drinking alcohol at all. In the current study, 23% of settler white people reported never drinking at all. On the other hand, only 7.5% of Indigenous peoples reported drinking alcohol four to seven times per week, compared to over 13% of settler white people.

White settler people were four times less likely to be in the care of the government as a child. In other words, settler white people were removed from their families at rates four times less than Indigenous peoples. Settler white people were half as likely to have ever experienced homelessness. White people were also more likely to have access to public transportation in their communities. When ten indicators of structural violence were combined, the findings were stunning. White people were far less prevalently exposed to cumulative experiences of structural violence. Whereas only about one quarter of Indigenous people reported never experiencing structural violence, nearly half of settler white people had never experienced this type of violence. On the other end, Indigenous peoples were six times more likely than white people to have reported three or more experiences of structural violence.

Indigenous peoples were more than six times as likely as white people to report experiencing discrimination based on their "race or skin colour." Some of you may be



thinking, “Well, obviously – white people do not experience discrimination based on race or skin colour.” Therein lies the problem. No one should experience discrimination based on skin colour but for Indigenous peoples it is a different story. As noted by Sugar and Fox (1989): “We are born to it and spend our lives facing it. Racism lies at the root of our life experiences” (p. 482). This study confirms that more than thirty years later, racism certainly exists. Relatedly, Indigenous peoples were almost six times more likely to report having experienced discrimination based on their ethnicity or culture than white people. Moreover, Indigenous peoples were more than twice as likely to report experiencing discrimination based on their physical appearance than white settlers. When types of discrimination were assessed cumulatively, Indigenous peoples were five times as likely to have experienced three or more types of discrimination than white settler people. Finally, Indigenous peoples were three times as likely to have two or more involuntary contacts with police in the past year. This is consistent with existing anecdotal and scientific evidence that Indigenous peoples are being over-policed (Comack, 2012; Human Rights Watch, 2013; Huncar, 2017; Manitoba, 1991; Monchalin, 2016; Reitmanova & Henderson, 2016; Zimmerman, 1992). One-third of Indigenous peoples reported having contact with the criminal courts in their lifetime versus only one-fifth of white settlers. Although literature related to Indigenous peoples’ contacts with criminal courts is limited, this finding is consistent with existing evidence that Indigenous peoples are charged by police, and thus required to appear in court, more frequently than white settler people (Bienvenue & Latif, 1974).

Multivariate analyses were undertaken to test the 12 hypotheses. Specifically, the predictive effects of being Indigenous (as a proxy for [neo]colonialism), gender,

cumulative experiences of structural violence and discrimination, and their interactions, on involuntary contact with police and contact with the criminal courts were tested. The four main predictors were tested independently but they were also entered into the final statistical model together to determine the effects of each predictor while adjusting for the rest. For both outcomes, each of the four main predictor hypotheses were supported. None of the interaction hypotheses were supported; this means that experiences of structural violence and discrimination are harmful for everyone. However, it is important to remember that Indigenous peoples are far more prevalently exposed to these harmful experiences than white settler people.

The strongest predictors of both contact with police were experiences of structural violence and discrimination. However, the effect of being Indigenous when other factors were not accounted for was stunningly large. Indigenous peoples were more than three times as likely to have experienced involuntary contact with police in the past year than white settlers. Although structural violence and discrimination were very strong predictors in the unadjusted models, their predictive effects diminished by about half in the final models which adjusted for all predictors. This strongly suggests that Indigenous peoples' far more prevalent exposures to involuntary contact with police can be explained partially by their more frequent and wide-ranging experiences of structural violence and discrimination. The predictive effect of gender was very small, nearly inconsequential. This pattern of findings was consistent, but the predictive effects were smaller, for contacts with criminal courts. As with involuntary contacts with police, three or more experiences of structural violence and discrimination were the strongest predictors in both the unadjusted and adjusted models. However, being Indigenous also had a

statistically significant predictive effect; Indigenous peoples were nearly twice as likely as white settler people to have ever had contact with criminal courts. Finally, the insignificance of the interaction effects simply means that structural violence and discrimination are harmful to everyone. However, it is important to remember that Indigenous peoples are far more prevalently exposed to both structural violence and discrimination than settler white people.

### **Discussion of Results**

The novel findings of the secondary analysis add to the current literature related to structural violence, including colonization, and contacts with police in Canada. Fundamentally, though, these findings are not new. I was reminded of this by Senator Murray Sinclair, whom I had the privilege of speaking with during the dissertation process. When I explained my work, his response was something like, “there’s nothing new.” At first, I was discouraged by this, but when I had time to reflect, I realized he was absolutely right. This is the same story that Indigenous peoples and allies have been telling for almost a century. Similar conclusions can be drawn here as were drawn by Palmater (2016), the Royal Commission on Aboriginal Peoples (1996), the TRCC’s (2015) Final Report, the Final Report on the Inquiry into Missing and Murdered Indigenous Women and Girls (2019), to name a few.

Despite countless reports, commissions, and inquiries, and increasing media attention related to violence against Indigenous peoples by police, little, if anything, has changed. The historical process of colonization and present-day neocolonialism have created extreme conditions of structural violence for Indigenous peoples resulting in oppression and marginalization from important systems across society and this, in turn,

leads to involvement in the criminal justice system. However, more optimistically, the personal narratives throughout this document highlight the importance of connections and relationships and serve to remind us how we can work towards fostering and building both and thus working towards the elimination of structural violence. These stories also re-iterate the importance of confronting both privilege and oppression (Mullaly & Dupré, 2018).

In 2015 the TRCC concluded that to achieve truth and reconciliation the Canadian legal system, including the criminal justice system, must be transformed. As part of this process, the maleficent treatment of Indigenous peoples across the entire criminal justice system needs to be acknowledged and rectified. However, throughout the dissertation process I had the opportunity to speak with Cree author and lawyer, Harold R. Johnson about this work. Mr. Johnson started the conversation by telling me that he is enjoying time at his cabin and the trapline. He explained that he removed himself from his work with the criminal justice system because tinkering with it is for naught – too many people believe the story of the justice system. He reminded me that we need to change the way the general public thinks, not to try to change systems with systems. My hope is that this dissertation study will begin to open up these conversations. Even if one person changes the way they think after they read this work, I have succeeded.

Given recent media headlines in both Canada and the USA, the findings contained within this document are of utmost relevance and importance. The issues related to racism in policing are receiving much attention in both Canada and the United States of America (USA) as a result of police killings of Indigenous and Black people in both countries. With calls to defund police and acknowledgements of systemic racism across

the media (e.g. Lamirande, 2020; Paikin, 2020; Sinclair, 2020) and in multiple recent reports (e.g. McNeilly, 2018; National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019), it is clear that the stage for change has been set. There is clear evidence that crime rates would decrease if more money were spent on trauma, mental health, and addictions workers (Johnson, 2019). However, the stories we tell ourselves about the effectiveness of police, prosecutors, and prisons must change. The stories of punishment and deterrence are not working. As noted by Johnson (2019), we must focus instead on redemption. Thus, rather than offenders being punished, they would have to redeem themselves through apologies for harms committed and through service to the people and communities harmed by their wrongdoings.

However, as Senator Murray Sinclair warned in a recent interview related to systemic racism and defunding the RCMP, “gaining justice for Indigenous people will be a long, drawn-out process” (Sinclair, 2020). This sentiment was echoed by Kent (2019) who stated: “Doing better in a way that is not superficial will be very difficult” (p. 208). Despite the calls to defund police and re-allocate the funds to other community-based public health and social services, the Premier of Ontario, Doug Ford, recently announced the provincial government will spend an additional \$25 million to hire 200 more Ontario Provincial Police officers (Office of the Premier, 2020). Conversely, the Calgary, Alberta Police Service recently presented a proposal to city council to reallocate some of their funds to community partners (Smith, 2020). Moreover, city councillors from Edmonton, Alberta recently agreed to cut the Edmonton Police Service budget by \$11 million, from \$373 million to \$362 million starting in 2021 (Riebe, 2020).

As noted earlier in this work, much power today is maintained through dominant discourses embedded into social, cultural, political, and economic institutions (Lears, 1985). The covert nature of embedded power and domination makes them more challenging to resist (Martinez, 1997). However, power and resistance remain ubiquitous. For example, although the media has been a tool for the powerful in perpetuating dominant discourses related to policing and more broadly, crime, it has also been a powerful tool in contributing to acts of resistance, as we have seen in social media campaigns such as Blackout Tuesday (Sinanan, 2020) and news media coverage of protests against police brutality and racism across the globe. To this end, we may be reminded of McLuhan's (1964) formative work in which he discussed the dominant culture as being one that used division and control tactics to maintain power. Further, McLuhan suggested that "the 'content' of any medium is always another medium" (p. 203). So, our interpretations of news and social media, or any medium for that matter, needs to be more critical, rather than simply accepting what is written.

### **Limitations**

The lack of statistical data has contributed greatly to the dearth of research assessing the predictive association effects of neocolonial, oppressive factors and its inability to reflect the realities of Indigenous women in contact with Canada's social structures. Only in 2009 did Statistics Canada begin collecting data on respondents self-reported First Nations, Métis, and Inuit identity for the General Social Survey. This has created new opportunities for researchers interested in the experiences of diverse Indigenous peoples in the criminal justice system. However, some of the data are restricted by Statistics Canada and as a result of the COVID-19 pandemic, not accessible

until further notice. For example, the publicly available data does not disaggregate First Nations, Inuit, and Métis peoples. Thus, within group comparisons were not possible for this project.

There were several other limitations of this dataset. First, the involuntary contact with police index only comprised of contacts that had occurred in the past 12 months and the variable related to arrest was restricted and not currently accessible. Second, the four variables that made up the involuntary contact with police index were coded so that respondents could only indicate that they had or had not experienced that specific type of police contact. For example, if someone had experienced three traffic stops in the past year, this was only counted once. So, the findings should be interpreted with caution. All estimates of effect sizes are likely to be under-estimates.

It is also important to note that although Statistics Canada used a telephone sampling frame that included both landlines and cellphones, only individuals living in household dwellings were included. This means that some of the most vulnerable people living across Canada, such as those in hospitals, correctional institutions, and those living in shelters or other situations of homelessness were excluded. Thus, all of the findings reported here are likely conservative estimates. Moreover, although the sample was representative of the population of Canada, it was incredibly overpowered by the experiences of white settlers.

### **Future Research**

Future research must test the effects of being Indigenous, gender, and experiences of structural violence and discrimination on arrests using data restricted by Statistics Canada. Additionally, predictive effects of community-level factors such as average

income level of people living in neighbourhoods and proportions of Indigenous peoples in neighbourhoods must be tested. Moreover, primary research should be conducted to include a more robust sample of Indigenous peoples living both on- and off-reserve.

Academic literature related to Indigenous women involved with policing and criminal court systems in Canada is scarce and what does exist is fragmented (Huey & Ricciardelli, 2016; Palmater, 2016). The lack of literature, at least partly, is a result of insufficient and inconsistent data being collected and reported, especially by police agencies, provincial corrections, and the courts (Department of Justice, 2018a; Reitmanova & Henderson, 2016; Rudin, 2005; Sittner & Gentzler, 2016; Walter & Andersen, 2016; Zimmerman, 1992). This is especially concerning given the high rates at which Indigenous women are becoming entangled in these systems. Thus, a full systematic review of the literature related to Indigenous women's interfaces with each facet of the criminal justice system is warranted (Lithopoulos & Ruddell, 2011).

Although the current review was comprehensive in nature, time and space parameters did not allow for the literature to be reviewed fully and systematically. A full review should include causes and scope of overrepresentation and the nature of the interfaces between Indigenous women and the respective facet. Where possible, meta-analyses of the effects of different individual, community, and social variables on causes, overrepresentation, and nature and outcomes of interfaces should be explored. Without a solid knowledge base, it will be difficult to get the attention of policymakers and other decisionmakers whose discourses put them in a position of power to make change.

Dominant neocolonial narratives and discourses are perpetuating racism, discrimination, and sexism against Indigenous women in conflict with the law. If we are,



as a country, ever to achieve any hint of truth and reconciliation, we must listen to the voices of those most deeply impacted by the imposed colonial and neocolonial discourses. This is relevant for both qualitative and quantitative research undertakings. Reflexivity must also guide research. Social work, given its international assertion of a commitment to the pursuit of social justice, should be at the forefront of advocating for a decrease in representation of Indigenous women throughout the many facets of the criminal justice system.

### **Implications for Social Work**

Social work as a profession and individual social workers, given our international assertions of commitments to the pursuit of social justice, should be at the forefront of advocating for elimination of structural violence and its impacts such as the over-representation of Indigenous peoples across all facets of the criminal justice system (International Federation of Social Workers, 2018; Canadian Association of Social Work Education & Canadian Association of Social Workers, 2013). In both Canada and the United States of America, the accrediting bodies for schools of social work require social justice to be included as part of the curricula and as part of their policy agendas (Canadian Association for Social Work Education, 2014; Council on Social Work Education, 2019). This is reinforced when graduates then enter practice where various professional associations and registration/licensing bodies regulate professional practice. For example, according to two of these associations, social workers have ethical obligations to challenge inequality (National Association of Social Workers [NASW], 2017) and pursue social justice (Canadian Association of Social Workers, 2005). These

obligations differentiate social work as an applied social science from disciplines such as sociology, which are not applied disciplines within the social sciences.

Challenging the systems and individuals that uphold structural violence entails confronting both privilege and oppression. To this end, social workers must advocate for and promote accessibility of resources, equal opportunities, and meaningful societal participation for all people (NASW, 2017). Being that social injustice is structural violence (Gatlung, 1969), only through understanding the consequences and effects of structural violence can we begin to reduce and ultimately eliminate social injustice and achieve social justice. However, little social work research has been dedicated to quantitatively assessing the impacts of structural violence. Social work educators and researchers must be at the forefront of this work. The current study adds new knowledge to the social justice literature, but it also promotes social, cultural, and personal transformation. Both of these outcomes contribute to *unsettling* (Dale, 2014) the hegemonic culture and related dominant discourses. Ultimately, unsettling neocolonial acts, whether intentional or not, have bearing on how social workers and allied professions and disciplines conduct research, teach, formulate policies, and carry out practice.

Social work, as a profession, has faced constant challenges to its boundaries (Flexner, 1915; Marsh, 2005) as the missions and interests of social workers overlap with other professionals such as teachers, nurses, psychologists, religious clergy, and physicians. To maintain professional distinction, it is imperative that social work, as a profession, and social work practitioners, educators, and researchers maintain commitment to social justice, or the reduction and ultimate elimination of structural

violence in all our work (Marsh, 2005). The current study elucidates the many facets of structural violence being faced by people in Canada. This includes lack of access to housing, education, and transportation, Indigenous peoples' overrepresentation in the child welfare system and in contacts with police and criminal courts. Moreover, the findings of this study provide strong evidence of discrimination happening across many facets of society including the criminal justice system, economic system, homeland security, and in employment. The reasons for discrimination are diverse and include race, ethnicity, physical appearance, sexual orientation, disability, religion, sex, language, and age. At every level of our work, social workers must continually work towards understanding and articulating the ways we serve to preserve and promote social justice (Marsh, 2005) but also how we contribute to perpetuating dominant discourses and resulting structural violence. These actions are what will separate social work from other helping professions and ensure the boundaries and legitimacy of the profession.

In terms of education, social work educators must ensure students have robust understandings of the impacts of structural violence, including the historical acts of colonization and ongoing neocolonialism, embedded in social systems including education, transportation, healthcare, economic, media, and legal systems. As noted by Plains Cree and Salteaux scholar Margaret Kovach (2009), "Curriculum makes space like nothing else I know in education. It can be a mighty tool of social justice for the marginalized" (p. 6). Not only can curriculum change the way students are thinking but it will enhance their relationships and thus the lives of the individuals they will come into contact with as part of their work but also outside of their duties of employment.

Social workers as well as social work practitioners, educators, researchers must also practice civic engagement. In most places across Canada, there is little contact between Indigenous and non-Indigenous peoples. Where this contact exists, it is often tarnished by false narratives which have bred mistrust and racism (TRCC, 2015). We, as social work practitioners, educators, and researchers, must be at the forefront of building respectful relationships. This means we must listen to and learn from each other, as a reciprocal process. We must also be introspective while engaging in both knowledge and skill transfer in our work. Through reciprocity, respect, introspection, and sharing knowledge with each other, we may learn to better understand each other and our worldviews which shape the way we live (TRCC, 2015). We must come together to confront privilege and oppression while resisting the status quo. This means standing up against acts of structural violence, including (neo)colonialism and racism, by any means necessary. It also means listening to our Indigenous sisters and brothers. Indigenous worldviews have much to offer in terms of building a far more just society for everyone.

It is important to understand that privilege and oppression are inextricably linked (Mullaly & Dupré, 2018). Oppression maintains privilege and vice versa. Despite my struggles and the instances of oppression that I faced, I cannot even begin to fully understand what it would have been like to have my language and culture stolen directly from me, my family, and/or my community, or to have been taken away from my parents and forced into the child welfare and/or residential school system. Further, throughout this research process I came to realize the alarming rates at which Indigenous peoples become entangled by and in oppressive systems of social control. I have become consciously aware and found terms that describe my status and state as an oppressor.

Because of this newfound awareness and my past experiences, it is part of my responsibility as a human being, who is seen as part of the hegemonic culture, to expose the obstinacy and wrongdoings that are entrenched in the thoughts and behaviours of those who dominate and deceive through the exercise of power and social control. Especially because domination and deception have caused and continue to disenfranchise, diminish, and devastate Indigenous peoples and their communities. Not only have I come to believe that it is part of my responsibility to expose these thoughts and acts of oppression, it is also my duty to ensure that I am not aiding in their perpetuation through inaction or bias. I also have the responsibility to educate others and take action to reduce and ultimately eliminate harmful modes of social control. Specifically, I embrace wholeheartedly the responsibility as a woman who has been identified as “white” my entire life, to confront injustice through various acts in my role as a settler-ally. Only when the public begins to change their views, will politicians, policies, and laws follow. Echoing this sentiment, the TRCC (2015) stated, “reconciliation must happen across all sectors of Canadian society” (p. 306).

Again, although I cannot even begin to fully understand, from an experiential perspective, the impacts that colonization and continuing neocolonialism have on Indigenous peoples, as a human who has experienced my own journey of suffering and healing, I have affinity to their oppressive experiences, and support their emancipating ones. Although parts of my story may be “unflattering and imperfect” (Ellis & Bochner, 2000, p. 728), I acknowledge that they may serve as a point of connection and mutual understanding (Jensen-Hart & Williams, 2010). Through this connection and mutual understanding, I invite others to feel liberated to share their feelings and experiences so

we may join together in free and open dialogues of reconciliation leading to transformative change (Ellis, 2002).

As a human being who has also been trained as a social worker, I am not perfect, nor will I ever be. I will make mistakes in life and as I navigate through social work practice, education, and research. However, I am committed to keeping an open mind and an open heart. I will try my best to admit to and learn from my mistakes. Through all this, I will lead by example. I believe this is the best any of us can do. I believe in the power of words. I believe that I have been granted the ability to change the world with the power of words. I believe that we all have this power. As human beings, but especially those of us who are trained in social work, it is our right and duty to speak up against social injustice. Moreover, aligned with one of the fundamental principles of social work, I believe in the inherent dignity and worth of every being on our planet (Canadian Association of Social Workers, 2005). I understand that with the completion of this degree will come power. And, with power comes responsibility. I intend to use the power benevolently and with humility in all my relations. I believe my purpose, now, is to make the world a more just place for everyone, and I intend to do it

## **Conclusion**

Without public critique and measures being instituted to bring about change, the status quo of domination over Indigenous peoples and the harmful impacts of structural violence are likely to continue. It is time to move forward as a just society for all and not an unjust society that continues to oppress people, but especially Indigenous peoples, by continued indifference, ineffective policies, programs and practices, and through deliberate acts of violence, racism, sexism, hegemonic discourses, and ignorance.

Counter-narratives must be used as a form of resistance. Only through understanding and recognizing these issues can we begin to develop the urgently needed counter-narratives. Social workers have not been innocent in the perpetuation of violence and oppression against Indigenous peoples, nor have academics and applied social science researchers (Angell, 2018; Government of Canada Panel on Research Ethics, 2015; Sugar & Fox, 1989). In a 2013 press release the Canadian Association for Social Work Education stated: “We are aware of the colonial legacy that impacts the physical, emotional and spiritual wellbeing of Indigenous Peoples and of the historical contribution of social work to this legacy” (para. 2). Despite our historical and current explicit assertions of a commitment to the pursuit of social justice, social work scholars and practitioners have for the most part silently allowed abuses and violence against Indigenous peoples to continue or worse, contributed to them (Angell, 2018, Canadian Association of Social Workers, 2005; Jennissen & Lundy, 2011; Kovach et al., 2015). The time for change is now. We must all come together in harmony and speak up for justice to prevail.

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## **Appendix A: Commissions, Inquiries and Reports with Specific Foci On and/or Specific Recommendations Related to Indigenous Peoples' Interfaces with Police**

These include, but are not limited to:

- The Osnaburgh/Windigo Report (Osnaburgh-Windigo Tribal Council, 1990)
- Manitoba Aboriginal Justice Inquiry (Manitoba, 1991)
- Bridging the Cultural Divide: A Report on Aboriginal Peoples and Criminal Justice in Canada (Royal Commission on Aboriginal Peoples, 1996)
- Ipperwash Inquiry and associated final report, Aboriginal Peoples and the Criminal Justice System (Rudin, 2006)
- Forsaken: The Report of the Missing Women Commission of Inquiry (Oppal, 2012)
- Those Who Take us Away: Abusive Policing and Failures in Protection of Indigenous Women and Girls in Northern British Columbia, Canada (Human Rights Watch, 2013)
- Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada (TRCC, 2015)
- Broken Trust: Indigenous People and the Thunder Bay Police Service (McNeilly, 2018)
- Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls (National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019).

## Appendix B: Logistic Regression Models Using Listwise Deletion

### Predictors of Involuntary Contacts with Police in Past 12 Months: Logistic Regression Models (n = 25,745)

	Models 1 to 4 <sup>a</sup>		Model 5	
	OR	95% CI	OR	95% CI
Ethnicity				
Non-Indigenous white	1.00	--	1.00	--
Indigenous	2.92	(2.15, 3.97)	2.28	(1.66, 3.12)
Sex				
Female	1.00	--	1.00	--
Male	1.32	(1.10, 1.60)	1.37	(1.13, 1.65)
Experiences of Structural Violence				
None	1.00	--	1.00	--
One or two	1.52	(1.24, 1.87)	1.23	(0.98, 1.53)
Three or more	5.38	(3.87, 7.47)	2.24	(1.48, 3.38)
Experiences of Discrimination				
None	1.00	--	1.00	--
One or two	3.05	(2.40, 3.87)	2.37	(1.80, 3.13)
Three or more	4.41	(2.99, 6.52)	2.73	(1.75, 4.25)

Notes. CI, confidence interval; OR, odds ratio. An odds ratio of 1.00 is the baseline. Missing data were completely at random: Little's MCAR  $\chi^2(1) = 2.41, p = .12$  and were deleted listwise. Final model fit the data well: Hosmer and Lemeshow goodness-of-fit test  $\chi^2(3) = 1.50, p = .68$ .

<sup>a</sup> Unadjusted, single predictor model.

**Predictors of Ever Having Contact with Criminal Courts: Logistic Regression Models (n =25,714)**

	Models 1 to 4 <sup>a</sup>		Model 5	
	OR	95% CI	OR	95% CI
Ethnicity				
Non-Indigenous white	1.00	--	1.00	--
Indigenous	1.76	(1.54, 2.01)	1.57	(1.37, 1.80)
Sex				
Female	1.00	--	1.00	--
Male	1.69	(1.59, 1.79)	1.73	(1.63, 1.84)
Experiences of Structural Violence				
None	1.00	--	1.00	--
One or two	1.15	(1.08, 1.22)	1.02	(0.96, 1.09)
Three or more	3.11	(2.68, 3.61)	1.85	(1.56, 2.20)
Experiences of Discrimination				
None	1.00	--	1.00	--
One or two	2.02	(1.86, 2.22)	1.83	(1.64, 2.04)
Three or more	2.51	(2.09, 3.03)	1.96	(1.60, 2.40)

Notes. CI, confidence interval; OR, odds ratio. An odds ratio of one is the baseline. Missing data were completely at random: Little's MCAR  $\chi^2(1) = 2.41, p = .12$  and were deleted listwise. Final model fit the data well: Hosmer and Lemeshow's goodness-of-fit test  $\chi^2(4) = 3.36, p = .50$ .

<sup>a</sup> Unadjusted, single predictor models.

## Appendix C: Imputed Logistic Regression Models Displaying Results with Confounds Included

### Predictors of Involuntary Contacts with Police in Past 12 Months: Logistic Regression Models (n = 27,965)

	Models 1 to 4 <sup>a</sup>		Model 5		Model 6	
	OR	95% CI	OR	95% CI	OR	95% CI
Ethnicity						
Non-Indigenous white	1.00	--	1.00	--	1.00	--
Indigenous	3.24	(2.45, 4.28)	2.50	(1.87, 3.34)	2.11	(1.57, 2.83)
Sex						
Female	1.00	--	1.00	--	1.00	--
Male	1.26	(1.06, 1.51)	1.31	(1.10, 1.57)	1.24	(1.03, 1.48)
Experiences of Structural Violence						
None	1.00	--	1.00	--	1.00	--
One or two	1.52	(1.25, 1.86)	1.24	(1.00, 1.54)	1.57	(1.25, 1.97)
Three or more	4.91	(3.64, 6.62)	2.10	(1.41, 3.11)	2.77	(1.80, 4.27)
Experiences of Discrimination						
None	1.00	--	1.00	--	1.00	--
One or two	2.89	(2.31, 3.62)	2.16	(1.81, 4.11)	1.18	(0.88, 1.59)
Three or more	4.43	(3.01, 6.52)	2.73	(1.81, 4.11)	1.16	(0.75, 1.80)
Age						
65 and older					1.00	--
55 to 64					2.77	(1.78, 4.32)
35 to 54					5.08	(3.39, 7.61)
25 to 34					6.25	(4.04, 9.67)
15 to 24					8.18	(5.26, 12.71)



	Models 1 to 4 <sup>a</sup>		Model 5		Model 6	
	OR	95% CI	OR	95% CI	OR	95% CI
Highest Level of Education						
University degree(s)					1.00	--
College or trade school					0.91	(0.71, 1.16)
High school					1.02	(0.79, 1.31)
Less than high school					0.51	(0.35, 0.76)
Mental Health Status						
Excellent					1.00	--
Very good					1.09	(0.86, 1.37)
Good					1.19	(0.93, 1.53)
Fair or poor					1.85	(1.36, 2.52)
Abused as a Child						
No					1.00	--
Yes					1.96	(1.61, 2.37)
Neighbourhood Crime						
Lower					1.00	--
About the same					1.19	(0.95, 1.50)
Higher					2.20	(1.60, 3.03)

*Notes.* CI, confidence interval; OR, odds ratio. An odds ratio of 1.00 is the baseline. Missing data were imputed. Final model fit the data well: Hosmer and Lemeshow's goodness-of-fit test for each of the five imputation iterations  $\chi^2$  (8) ranged from 3.87 to 5.01,  $p$  ranged from 0.76 to 0.87.

<sup>a</sup> Unadjusted, single predictor model.

**Predictors of Ever Having Contact with Criminal Courts Logistic Regression Models (n =27,965)**

	Models 1 to 4 <sup>a</sup>		Model 5		Model 6	
	OR	95% CI	OR	95% CI	OR	95% CI
<b>Ethnicity</b>						
Non-Indigenous white	1.00	--	1.00	--	1.00	--
Indigenous	1.64	(1.64, 2.11)	1.65	(1.45, 1.88)	1.65	(1.44, 1.88)
<b>Sex</b>						
Female	1.00	--	1.00	--	1.00	--
Male	1.70	(1.61, 1.80)	1.75	(1.65, 1.85)	1.73	(1.64, 1.84)
<b>Experiences of Structural Violence</b>						
None	1.00	--	1.00	--	1.00	--
One or two	1.15	(1.08, 1.22)	1.03	(0.97, 1.10)	1.21	(1.13, 1.30)
Three or more	2.80	(2.45, 3.21)	1.66	(1.40, 1.97)	1.97	(1.64, 2.38)
<b>Experiences of Discrimination</b>						
None	1.00	--	1.00	--	1.00	--
One or two	1.96	(1.79, 2.14)	1.74	(1.56, 1.93)	1.28	(1.15, 1.44)
Three or more	2.60	(2.18, 3.09)	2.04	(1.68, 2.48)	1.35	(1.09, 1.67)
<b>Age</b>						
65 and older					1.00	--
55 to 64					1.51	(1.39, 1.65)
35 to 54					1.46	(1.34, 1.59)
25 to 34					1.16	(1.03, 1.29)
15 to 24					0.60	(0.51, 0.69)
<b>Household Size</b>						
One household member					1.00	--

	Models 1 to 4 <sup>a</sup>		Model 5		Model 6	
	OR	95% CI	OR	95% CI	OR	95% CI
Two or three household members					0.94	(0.88, 1.01)
Four or more household members					0.81	(0.74, 0.90)
Highest Level of Education						
University degree(s)					1.00	--
College or trade school					1.05	(0.97, 1.14)
High school					0.93	(0.85, 1.01)
Less than high school					0.67	(0.59, 0.75)
Mental Health Status						
Excellent					1.00	--
Very good					1.12	(1.04, 1.20)
Good					1.12	(1.03, 1.21)
Fair or poor					1.46	(1.29, 1.66)
Alcohol Consumption						
Never drinks/Not in past month					1.00	--
One to two times in past month					1.03	(0.94, 1.11)
One to three times per week					1.00	(0.93, 1.08)
Four to seven times per week					1.14	(1.03, 1.25)
Abused as a Child						
No					1.00	--
Yes					1.85	(1.74, 1.97)
Neighbourhood Crime						
Lower					1.00	--

	Models 1 to 4 <sup>a</sup>		Model 5		Model 6	
	OR	95% CI	OR	95% CI	OR	95% CI
About the same					1.14	(1.06, 1.22)
Higher					1.41	(1.22, 1.63)

*Notes.* CI, confidence interval; OR, odds ratio. An odds ratio of one is the baseline. Missing data were imputed. Final model did not fit the data well: Hosmer and Lemeshow's goodness-of-fit test for each of the five imputation iterations  $\chi^2$  (8) ranged from 33.94 to 41.41,  $p = .000$ .

<sup>a</sup> Unadjusted, single predictor models.

### **Vita Auctoris**

NAME: Amy M. Alberton

PLACE OF BIRTH: Thunder Bay, Ontario

YEAR OF BIRTH: 1986