

**An Indigenous Analysis of the Role of Probation Officers as Street-Level
Bureaucrats within the Reintegration and Rehabilitation Process for Saskatoon
Youth Exiting the Justice System**

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Abstract

In 2003, the *Youth Criminal Justice Act* was reformed to create extrajudicial sanctions that prevent young people from having lengthy custody sentences. This change in legislation created demands for community organizations to respond to the needs of youth who are on probation orders and required community support. With this, the structure of youth probation in Saskatchewan has shifted since 2003, which has more than doubled caseloads for youth probation officers, who are defined as street level bureaucrats in the context of this thesis.

Through a decolonial analysis of the role of probation officers as street level bureaucrats in relationship to the youth they interact with, who act as a socially constructed target population, this thesis presents an opportunity for policy makers, scholars, and community members to consider an alternative to the current colonial legal system as it pertains to youth. The thesis draws on the youth voice as an expert to their basic needs, goals, insights and experiences, in a framework that acknowledges justice as the restoration of health and well-being in a community. The methodology included interviews three with young people who were involved in the colonial legal system and with five probation officers. The findings indicate that demands within community-based sentences, along with high caseloads of probation officers, create friction within the system that ultimately fails to meet the needs of the youth. In turn, these failings reproduce a reliance on government-run programs and services associated with colonial interventions in the lives of Indigenous youth.

The alternative way to understanding justice outlined in this thesis is in response to the Indigenous population that is disproportionately affected by the inequities presented within the colonial legal system's history, current policy design and model. This analysis reveals there are several missed opportunities within the existing system for establishing pathways for the restoration of kinship.

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Rest in peace, Smiley.

Maarsi. Mahsi Cho. Kinanâskomitin.

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Introduction

The purpose of this thesis was to gain an understanding of the colonial probation system in Saskatchewan and how it intersects with the experiences of Indigenous youth in the province. It seeks to understand the social construction of the colonial probation system, systemic oppression (re)produced by this system, the disproportionate criminalization of Indigenous youth, the framing of Indigenous youth as “at risk” within official discourses, as well as how Indigenous youth are framed in the broader policy environment. The thesis further explores how discretion powers among probation officers are influenced by the policy environment in which they are situated and the effects for Indigenous youth interacting with the probation system.

This thesis locates itself in the larger youth criminal justice policy environment. More specifically, drawing on the concept of street level bureaucrats, it examines the implementation of policies, including the role of discretionary powers of probation officers in the context of youth probation. Indigenous youth are over-represented in the youth criminal legal system and are disproportionately affected by poverty in Canada, especially in prairie contexts such as Saskatoon (Monchalin, L., 2015). This thesis shows that colonialism and structural racism function within the youth criminal justice system, inevitably setting Indigenous children and youth up to fail within a system that is not only foreign but harmful to them (Monchalin, L., 2015; Dhillon, 2016; Kaiser-Derrick, E; 2019). Utilizing the concept of social construction of target populations, the research discusses the ways in which Indigenous youth are socially constructed within institutional and broader public discourses, how they are mediated through programs and services in the community, how Indigenous youth are perceived by street level bureaucrats, such as

probation officers,, and how these constructions define the parameters in which Indigenous youth are forced to navigate their lives. It also shows that Indigenous youth and youth probation officers are actively resisting the social constructions of themselves and reinterpreting their roles away from reproducing colonialism.

From a distinctly anti- and decolonial lens, it is the intention of this thesis to interrogate how racism and colonialism are foundational to the ways the concept of justice is understood, operationalized, measured, and accepted as achieved and successful in a colonial society and state. Finally, it points to potential solutions to active colonialism through state intervention and social marginalization by leveraging both the voices of those who experience and uphold the system, alongside Indigenous and critical race scholars who focus on anti-racism/anti-oppression and justice reform. It prioritizes Indigenous knowledge, law, movement, and voice as a foundation for solution building, recognizing Indigenous families, children, youth, parents, and elders as fundamental to healing.

This thesis is divided into four main chapters. Chapter One discusses the history of probation in Saskatchewan and the ways in which systematic oppression is created by design within the colonial legal system. Chapter Two discusses the role of probation officers as street level bureaucrats and how their role intersects with the social constructions of target populations with regard to marginalization and systemic oppression amongst Indigenous youth. Chapter Three discusses the ontology, epistemology, and positionality of the researcher as well as the methods that were used for the research. Chapter Four discusses the findings and analysis of the research project as well as implications the research has on the colonial legal system. The conclusion

provides a discussion of the key findings as well as the limitations of the study which are the limited voices present in the research and the lack of access to the policy manual that the probation officers must adhere to. It also includes the policy implications which are that the current state of youth probation is functioning as the beginning of a carceral continuum that is facilitated by an iatrogenic feedback loop whereas Indigenous youth are targets and the internal mechanisms that defines and assesses risk solidifies the widening net of social control.

Positionality is the responsibility of the researcher to state as it affirms their intention within a process that has been largely constructed as objective and neutral. It makes visible the voice present which has been historically oppressed under the guise of objectivity and neutrality. Research is inherently subjective as it is an activated and sustained by a human. As a qualitative researcher, it is therefore necessary to state the positionality of voice. I am an Indigenous person. I am a woman. I am an aunty. I am a teacher. I am a daughter. But I am also a scholar and you are reading my voice. That matters. When I started learning what it meant to be Indigenous, I sought guidance from elders. I have gained close relationship with a few of them and started to gain a deep appreciation for the concept of wâhkôhtôwin. I appreciate how wâhkôhtôwin, at the very basis, gives a promise of connection. What I learn from my own healing journey and through my work with young people is that we lose our sense of connection within our nations. I have surmised that this loss of connection is due to the individualistic nature of Canadian society and now I can see in this site of duality that some Indigenous worldviews and knowledge systems are so blatantly disrupted by colonialism. My identity, as I understand it, is not socially constructed by the state. My identity is formed

by the stories and teachings passed down to me by those within my nations. This is common for Indigenous people. This disregard for connection is a disregard for the human spirit and when I look at it like this, I can start to understand why addiction is so prevalent in society – Canadian societies and Indigenous societies alike. I sought to conduct this research in order to make sense of how so many people are continuing to fall through the gaps that exist in youth probation, and how so many justice related problems continue to saturate my life, my family, the communities in inner-city Saskatoon that I grew to love so much, and how these problems constitute a shared colonial experience across all of Canada – and all colonial states. I was confused as to why so many people dropped out of school, why teachers did not teach Indigenous history or give any real teachings about who we are outside of the Canadian state society, why my mom was unable to finish university, why jails were full of brilliant people, why I had to unlearn self-hatred and racism, why so many Indigenous people did not feel safe in their own bodies, and why so many people hid in drugs and alcohol.

I began to see that we as Indigenous people have internalized colonial oppression and racism, and I wanted to know if there were opportunities of intervention being missed. I remembered my own relationship with probation and how impressionable I was at the time. I wanted to be viewed as a good person in society, to be recognized and acknowledged by Indigenous people as being one of them, and I wanted to know what the real world was all about. I knew jail was not the answer, but probation felt like suffocation. As Sara Ahmed says, “when things become institutional, they recede consciousness” (2007: 21). This faceless machine is felt at the core of our humanity while it legitimizes our own dehumanization. The topic of this thesis is the probation system,

but it is rooted in an understanding that wâhkôhtôwin is fundamentally sufficient for restoring broader harmony and balance within our communities overall.

Chapter 1: Social Constructions of Indigenous Youth in a Systemically Oppressive Policy Environment and the History of Probation

It is important to explore how probation grew as a program in Saskatchewan and how it became a main pillar of the colonial legal system as it pertains to youth. The adaptations to the program over time made it increasingly harder for Indigenous youth to get out of the system once they were initially sentenced. This chapter explains the recent history of probation in Saskatchewan, how the program was designed and expanded and how it intersected with Indigenous youth then engaged them as a target population through policy design and implementation. It explains the policy tools that probation officers use, the other judicial actors they engage with in policy implementation and how the system they work within circumscribes their decision-making processes by limiting their discretion making it more likely to produce the same results amongst the clientele they serve. The probation officer represents a role in the colonial legal system that has an intended function and that has shifted over time as the “Indian problem” came into effect as the Indigenous population began migrating to the cities. The probation officer is an example of a modern-day Indian Agent as they implement policies defined by the state in an effort to control a targeted Indigenous population. This thesis is guided by settler-colonial theory and interrogates anti-Indigenous racism that is present in the colonial legal system and how that impacts the Indigenous youth’s experience with it. Patrick Wolfe states that settler colonialism is not a single event and settler colonizers are here to stay. Settler colonialism seeks to dispossess Indigenous peoples of rights through elimination – more specifically, “settler colonialism calculates the acquisition of territory according to a ‘logic of elimination,’ which aims to remove Indigenous peoples from their territories to meet requirements for the land” (Wolfe, P., 2006: 387 quoted in

Dorries, H., 2020). Wolfe argues that “elimination refers to more than the summary liquidation of Indigenous people, though it includes that. In its positive aspect, the logic of elimination marks a return whereby the native repressed continues to structure settler-colonial society” (Wolfe, P., 2006: 390), Indigenous people were pushed to reserves to make way for newcomers and then pushed back to the city for education and better opportunities. These people are perceived as problematic to mainstream Canada, something reflected in Canadian policies. By looking at the colonial landscape of Canada and the policy tools used within the colonial legal system through the lens of settler-colonialism, it is more possible to see points of entry where Indigenous organizations, advocates, and allies can step in and reroute the way we are managing risk amongst Indigenous youth.

History of Youth Probation in Saskatchewan and its Settler-Colonial Roots

The *Juvenile Delinquent Act* which was passed into law in 1908 initiated Canada’s involvement in youth intervention. At that time, youth who were “a misdirected and misguided child, and one needing aid, encouragement, help and assistance” (Statutes of Canada, 1908, C. 40. s. 31). During the introduction of the Bill, Senator Bélque stated that “the principle of probation officers, persons whose duty it will be to take care of these children, to follow them, to ascertain as to whether they attend school, whether they associate with persons of bad character or not, and adopting means of protecting them through their younger years, that a law of that kind cannot fail to have very beneficial benefits” (Juvenile Delinquents Bill, 1908: 975). The goal was to remove discretionary power from the police and redirect it to someone who had a relationship with the youth. Getting in trouble was a signal to authorities that these youths were not being cared for

properly. This system of probation was informed by the British Parliamentary system that dates back to early 19th century (Bulin, M., 1990). This Act was not aimed at Indigenous youth as Indigenous youth were exclusively a part of the residential school system at the time.

An increase in the imprisoned Indigenous population occurred through the processes of forced assimilation policies and institutional culture (Monture, P., 2006; Monture, P., 1999; Comack, E., 2018). The *Indian Act* initially formalized Indigenous people's dependency on Canada by taking away their rights to govern themselves (Monchalin, L., 2016; Monture, P., 2006). The *Indian Act* "remains a foundational legal mechanism through which Indigenous peoples' identities, mobility, rights and status have been determined and managed by the colonial state" (Hunt, S., 2015: 27). The assimilation policies included the use of residential schools, penitentiary, and child welfare systems. These laws and policies were founded in the ideology that Indigenous people needed to give up their land, language, culture, and rights to become enfranchised into Canada and become Canadian citizens.

In 1951, the *Indian Act* was amended and allowed province and territories to administer education for Indigenous students in the public system. First Nations and Metis students were integrated into mainstream Canada through way of the public school system. By the 1960s, there were more Indigenous students in public schools than there were in residential schools. It was during this time that the Indigenous population began to overpopulate the prisons and child welfare, became dependent on social welfare, and began widely underachieving in public educational institutions. Residential schools

remained in place until 1996, and both schools that stayed open the longest were within three hundred kilometers of Saskatoon.

In the early 1960s, Indigenous people only made up 1–2% of the total Canadian inmate population (Standing Committee on the Status of Women, 2017). Professor Vicki Chartrand spoke before the Standing Committee on the Status of Women (2017) and explained how “Canada’s criminal justice system works against Indigenous people at every level: police checks and arrest, bail denial and detention, sentencing miscarriages and disparities, and of course, high rates of imprisonment.” This is not uncommon in other settler states as well; the disproportionate rates of imprisoned Indigenous people continue to be a reality for all Indigenous nations in the United States, Australia, and New Zealand (Tauri, J., Cunneen, C., 2016). All of these states were and continue to be informed by the same political ideology that originates from within Euro-centric, specifically British, systems (Tauri, J., Cunneen, C., 2016). Globally, Indigenous people are still viewed as in need of colonial help, assistance, and regulation, and the marker of achieving this success continues to be assimilation. This ongoing dispossession of rights for Indigenous people is active colonialism – but such violent assimilation is masked in a country that is fed “diversity” and “inclusion” through discourses of multiculturalism as if they are our strengths.

Assimilation policies became embedded into the systems that continue to violently intervene in Indigenous families. Such policies make for a healthy public sector that relies on complex social problems to uphold their relevancy and continued use. Indigenous people were easy targets because we have been weakened by constant and ongoing genocidal techniques over the course of hundreds of years since the advent of

settler-colonialism. Forced assimilation is considered genocide (Woolford, A., 2014) because in order to achieve it, the colonizers needed to take away our land, language, culture, and connection to each other. Macro, meso, and micro factors (Woolford, A., 2014) that were present in residential school policies are still found within present day policies and maintain the same function of creating conditions for Indigenous people to be in danger, to weaken Indigenous families, and to legitimize the removal of the children and youth from the family and through the overincarceration of youth, women, and men. These are examples of state-sanctioned violence, which is central to settler colonialism (Dorries, H., 2020).

Chartrand says that these policies sustain the backdrop of colonialism that Indigenous people are woven into. Indigenous people are often criminalized for what Chartrand calls “‘crimes of survival’ that are linked to poverty, lack of educational and employment opportunities, lifestyles of substance abuse, mental health concerns, and histories of sexual abuse, violence and trauma” (Standing Committee on the Status of Women, 2017). She stresses the importance of considering how “the prison system parallels and reinforces the same realities of repression, abuse, and violence” (Standing Committee on the Status of Women, 2017). Patricia Monture (2006) describes Indigenous knowledge as being a part of an experience-based knowledge system. She explains that her wellbeing requires her to be connected to community and she found that community in prisons while she was in graduate school. These notions and understandings of wellbeing and experiential knowledge are especially important in considering how rehabilitation and reintegration can possibly be achieved for Indigenous

youth if the cycle of oppression is mirrored both in society, and within the colonial legal system.

Probation is much less expensive than incarceration and, since the 1960's, the Provincial Government of Saskatchewan has assumed power over how probation is designed and implemented (Bulin, M., 1990) for adult corrections. At this time, youth were still not being charged in Canada according to the Criminal Code; however, the category "adult" included people as young as 16. Probation services rely heavily on agencies that are created, mandated, and funded with the resources provided by the provincial Saskatchewan government. The federal government does not possess jurisdiction on how provinces implement the law. As a result, probation officers' roles are governed by provincial legislation, including how they implement mandates based on the province's tools and policies. The policy tools are designed to guide the probation officer by providing parameters in which discretion can be used when interpreting the responses the clients give them during all interactions. Probation officers are also responsible for pre-sentence reports, attending court with the youth, providing context to the judge if necessary, and supervising the clients – all of which are subject to the discretion of probation officers.

In the early 1950s, it was important for probation officers to maintain credibility of the probation program publicly and within the existing court system. It was of great importance that probation officers build relationships with the "magistrates" (Bulin, M., 1990). It became more cost effective to keep youth offenders in society than to keep them imprisoned. At the time, probation officers were sparse and overworked. They were encouraged to build relationships with social service agencies and leverage these

relationships as grounds to expand probation services. As a result, pre-sentence reports became important. This document, which was originally used to determine whether an inmate was eligible for probation during their period of incarceration, was now being used in pre-prison sentencing for everyone who was charged (Bulin, M., 1990).

As such, the probation program expanded to in the 1960's to include the use of pre-sentence report (Bulin, M., 1990). This became a site of discretion for the probation officer as they possessed the power to decide if the offender if following their conditions accordingly, or if they are a threat to society. Judges and defense lawyers welcomed this shift of power but it was met with disdain by police officers and Crown prosecutors (Bulin, M., 1990). Even though the program awarded the probation officers discretionary power to determine the classifications of the youth and recommend appropriate treatment, the judge was still limited in how to sentence the offender based on the limited sentencing options available within each of the classifications. The public support of the agencies engaged in the formal sentencing options was essential for legitimizing the probation officer's role in the wider society. Establishing relationships between the probation officer and the judge, as well as relationships between the probation officer and the agencies, would affirm the necessity of the role to the public.

This represented a significant step in the transition from the use of imprisonment to achieve justice to the use of community corrections. The 1967 Saskatchewan Corrections Act made "provisions for removing the legal restrictions governing eligibility for probation on offenses against provincial statutes" based on the premise that "crime is closely associated with the more general problems of poverty, unemployment, lack of educational opportunity and social advantages... crime and criminals develop in the

community and the ultimate solution to a criminal's problem will be found in community" (Bulin, M., 1990: 92-93). It is peculiar that the program sought to establish itself in more places within community and heighten community surveillance rather than hiring more probation officers. Not only did the expansion of the program work to increase probation officers' discretionary power and place onus for surveillance on the community itself, it also became more cost effective to the province, gave decision-making capacity to the province, and created an where the expansion of probation services can continue to weave itself even deeper into the fabric of the existing system. Michelle Phelps calls this process "net-widening" saying that "despite the confident tone of this emerging policy consensus, the socio-legal literature on probation suggests that while probation is often framed or intended as a prison alternative, in practice probation expands the "net" of formal social control" (2013:1). This probation program has since expanded to include youth.

An iatrogenic feedback loop occurs when a modern social control system has no other choice but to expand (Cohen, S., 1985; Ilich, I., 1976; Bainbridge, W. S., 1992). In the early 1970s, challenges began to arise with the expansion of the program. Soon, communication gaps were acknowledged as a limitation between "themselves and the correctional centres, between the probation officer and other agencies – particularly with Education, Mental Health, and Manpower, and between themselves and the community" (Bulin, M., 1990: 111). Furthermore, Judges began to hesitate on what sentencing options to use because the probation officers' caseloads were too high to make full and adequate pre-sentence reports.

In 1971, probation services in Saskatchewan expanded their program to include youth. Sentencing options were increased to include “alternative measures” so that the use of training programs and youth hostels/open custody could be utilized. During this time, there was a call out to community organizations to become part of community corrections. “Soft services” such as public education, preventative programs, and diversion programs were all a part of the probation officer’s network. In 1975, restitution projects, mediation projects, plea-bargaining, bail supervision, victim-oriented programs, and diversion were all introduced to the probation officers’ sentencing options (Bulin, M., 1990). The probation officer, at this time, became the main representative for the justice system in Saskatchewan. It is important to note that just because there was a call out for programs to contribute to community corrections did not mean they were necessarily included in sentencing options for judges. The sentencing options available to the judge only included programs and agencies that were funded and mandated by the colonial legal system – programs like school, anger management, addiction support, and counselling.

In order for the pre-sentence report to genuinely represent the youth, the youth needs to open up to the individual writing the report. In the context of youth-probation officer relations, this is a hard sell because probation officers have always been limited with time due to high caseloads, restricted to asking particular questions so that they can classify the youth based on the pre-existing classification system they are mandated to use, the power dynamics that function between the youth and the probation officer, as well as the fear that the youth could end up in more trouble if they tell the truth. Youth are conscious of how they must act and engage in unfamiliar environments and if this

space is deemed unsafe, they, just like anyone else, would act accordingly (Dhillon, J., 2017). Often times, however, youth who come into the system have complex needs based on trauma and could not possibly be responsible for the conditions that led them to commit the “crime” (Monchalin, L., 2016). Through the risk assessment, Indigenous youth are made responsible on an individual level for the circumstances they inherited structurally. Complex needs translate to mobility issues, education challenges, and family ties (Mackay, G, 2005). They translate to higher chance of being introduced to and recruited into a gang; being the victim of or being exposed to violence, feeling a sense of shame due to poverty; and lacking a sense of belonging (Mackay, G., 2005).

These complex needs are translated into and understood as risk factors, which are then utilized to classify the youth (Lockwood, I., Peterson-Badali, M., & Schmidt, F., 2018). This is deeply problematic when considering that what enables and upholds the effectiveness of the probation system is that if a youth fails at any level, they are breached and pulled deeper back into the system (Bulin, M., 1990: 144). This is one of the ways the colonial legal system targets Indigenous youth and criminalizes them.

The colonial legal system frames the problems, which Indigenous youth face as a result of colonialism (Clark, N., 2016), as complex needs that justify the use of a classification system established as a tool for social control. This is especially evident in the transition from the Juvenile Delinquents Act to the Young Offenders Act (YOA) in 1984. At this time, half of the youth charged in Saskatchewan were Indigenous (Bulin, M., 1990: 145). The goal for the YOA was to “encourage respect for the law, protect the public, and provide due process rights for young people” (Wardell, W. J., 1987: 53). This remains true today. Provinces are not required to report to the federal government about

their judicial processes (Bulin, M., 1990). The YOA made it possible for youth to be charged according to the *Criminal Code* and made it possible for youth to have a criminal record that they would carry forward with them. Significantly, the police were given discretion at this time. Moreover, alternative measures were formally introduced into the YOA under the idea that not all youth charged need to be further prosecuted. With the use of the pre-sentence report, the youth could be provided a sentence to serve in the community on the grounds that they comply with their set conditions. The YOA supported the use of provincial programming as acceptable sanctions for the youth so long as they complied with the YOA. The policy drafters were “so imbued with the need to bring back due process and fairness to the administration of juvenile justice that they went beyond some of the rights granted to adults” (Wardell, W. J., 1987: 45).

In youth justice, the advent of the YOA led to a shift from the *patriae parens model* (Bulin, M., 1990), which gave public policy power to the state in the event that a child was being neglected or abused by their parents or guardians, to the *responsibility and accountability model*, where the youth became positioned as responsible for their crime and accountable to make amends with the public. This was recognized as “society’s unwillingness to redistribute resources and to admit major responsibility for youth” (Wardell, W. J., 1987: 66). With the introduction of the YOA in 1984, youth courts in Saskatchewan went from once a week with ten dockets to four times a week with 20 – 30 dockets (Bulin, M., 1990). Due to the use of alternative measures and having a new mandate allowing for conviction within the criminal code, the youth who would have not been convicted under old policy and legislation can now be charged with a criminal offense. Additionally, because the charges now carry forward with the youth on their

criminal record, and Indigenous youth who are living in poverty are largely criminalized, this created new grounds for police surveillance in catchment areas where there exists a large Indigenous presence or population. Police having discretion to pull a youth over, run their name, let them go with warning or charge the youth made their role “the most critical point in the criminal justice process” (Wardell, J., 1987: 45). Within two months of the YOA being formally legislated, the youth detention centre was at capacity and two more had to open around Saskatchewan (Bulin, M., 1990). It is important to keep in mind that the alternative measures clause does not threaten the system of jails or penitentiaries but rather reinforces their stability (Bulin, M., 1990). The new model that assumes accountability and responsibility, shared with the widening of the net for what is decidedly a crime, the overhaul of policy implementation from the province, and a burgeoning and unwelcomed Indigenous population in the city, made for the perfect conditions for a target population and an issue network to become formalized. This law was in effect for 25 years. It was during this time that the RNR model was introduced as an instrument to be used to determine the level of risk an offender would be to the public, and the level of service they would require. The first RNR model was introduced in 1990 and it featured three core principles: risk, need and responsivity. Risk is attributed to their likelihood to reoffend; need refers to the programs and services they need for ‘correctional treatment’; and responsivity refers to how the state will go about delivering services (Andrews, D. A., Bonta, J., & Hoge, R. D., 1990; Polaschek, D., 2012). Since its inception, the RNR model has gone through some major revisions that have broadened the risk factors and aligned them with broader criminogenic needs (Polaschek, D., 2012).

The YCJA came into effect in 2003 and its Declaration of Principle reads: “the purpose of the youth criminal justice system is to prevent crime by addressing the circumstances underlying a young person’s offending behaviour, rehabilitate young peoples who commit offenses and reintegrate them back into society, and to ensure that a young person is subject to meaningful consequences for his or her actions, in order to promote long-term protection to the public” (Youth Criminal Justice Act, 2003). The YCJA includes the political ideology called the free will model, which deems youth responsible for the crime and requires them to take accountability for their actions. The colonial legal system headed by white settler ideology that has regulated the lives of Indigenous youth from the beginning has also regulated the lives of several of their ancestors. This is an example of what settler-colonialism is: the goals of the state remain the same and the mechanisms used to eradicate Indigenous autonomy is still a part of the Canadian agenda. And yet, we continue to utilize this system because Canadians perceive it as being fair, neutral and universal in application and it is now further legitimized and upheld through the free will model (Cunneen, C., Tauri, J., 2016).

I understand probation as part of the “carceral continuum” wherein probation is “functionally equivalent” to incarceration (Peck, J., 2003). The system is dependent on the discretion of the parents/guardian of the youth to help them follow through with their conditions and be an upstanding citizen. When a youth is released on conditions they are released to an adult with authority. This authority means that surety should have the capacity to help the youth comply with their probation order. The problem here is that for many youth and families, this is not a reality and it is the home that the youth is often trying to escape from in the first place. The surety that the youth is released to may lack

resources such as money, access to transportation, addictions, or parenting skills. They may have a turbulent relationship with the youth. Even in typical teenage behaviour, the parent becomes a villain for some period of time. Considering the history of colonialism and trauma amongst Indigenous people is a by-product of it (Million, D., 2013), it cannot be expected that Indigenous families to be equipped with the resources to help their child navigate the ongoing violence of it. In this instance, the onus is still on the youth according to the free will model and this is in line with neoliberalism. The surety, though frowned upon, is not liable for the youth's decisions and the youth must take accountability for their actions and responsibility for the crime. Therefore, it is not a priority of the system to ensure the families have sufficient support to care for their child. This lack of engagement amongst the family due to restricted resources is an example of how colonialism is actively being reproduced through social control. The youth is wholly marginalized within this scenario.

The “normative foundation” of Indigenous youth violence and poverty is a function of colonialism that hinders the ability for Indigenous communities to achieve the restoration of health and wellbeing. Probation is not something people talk about because its not something the youth are proud of so unless someone asks then there is no reason to talk about. Often times, it is programs in Saskatoon like CNYC that help the youth navigate their court dates and probation orders but their capacity is limited due to staffing. An alternative normative foundation needs to be sought and operate within the community in a way that is funded by the government but mandated in a way that is responsible to the community at large. The challenge with interrogating youth probation lays in its pervasiveness. This is because youth probation is off the radar of most

Canadians. I see it operating as a “slow leak” and if one does not have lived experience of being in the system, or love someone who is, it becomes increasingly difficult to understand how the youth probation system can be detrimental to a vulnerable youth’s growth. It hinders a youth’s ability to function normally in society. The youth then becomes more and more ostracized and has more of an abnormal experience in society. This is what R.L Nichols calls *socio-spatial isolation*. He says that it is not that the state punishes more - it does so differently (2014: 443). At a time when a young person is most impressionable and seeks to belong, for a youth on probation, they become limited to how they are able to engage with their peers, school and community. A young Indigenous person who is portrayed as “criminal” may react in ways that enable them to feel a sense of agency and belonging. However, placing orders on vulnerable youth that reduce their ability to gain pro-social skills does not reduce crime and, in fact, it is “actively counter-productive” (Nichols, R. L., 2014: 442).

It is also not surprising that the sureties who sign off when a youth is released from detention lack the capacity to ensure the youth meets the requirements in their probation orders or undertakings. The surety in most cases is the youth’s mother, which relates to settle colonialism. This is the case because Indigenous women’s vulnerability is structured by settler-colonialism because their sovereignty would be a threat to the state. In fact, the Indigenous women’s ability to “reproduce Indigenous peoples and political orders has meant that the imposition sexist and heteropatriarchal logics is central to settler colonialism” (Dorries, H., 2020). The Indigenous mother is not expected to have the capacity to keep a home, maintain an income, and care for their children. As previously noted, poverty is a major contributing factor to why youth commit crimes in

the first place. This is why it is important to look at the continuum of colonial violence as a source of influence when deciding alternatives to youth justice. The correlations between “carcerality, state formation and territorialized sovereignty” (Nichols, R. L., 2014: 444) are fundamental to understanding how the colonial legal system is a function of colonialism.

Natalie Clark (2016) discusses how government policies are central to the colonization of Indigenous people, and how this functions through systems that legitimize intervention into individual lives, families, communities, and entire nations. It is only through withdrawing the power of the state to decide how resources are to be shared that the iatrogenic feedback loop of the overuse of probation amongst Indigenous youth will dissipate. Working within a system that relies on individual assessments of risk, as a fundamental component to justifying invasive surveillance, is wasteful for Canadians and detrimental to all vulnerable people – in this case, especially Indigenous youth. As a result, the public sector that is sought in the sentencing options would no longer be needed in the same capacity. The people who are currently working within the youth probation system are only operating in the way that they are because of the policies that are outlined for them and that are mandated to adhere to. This could change.

The biggest threat to Canada is for Canadians and Indigenous people to be well – to be sovereign. This means for people to have a sense of belonging and having access to things they need to take care of themselves. Analyzing youth on a case-by-case basis enables Canada to maintain a system of intervention and refrain from addressing the overarching problems of patriarchy, misogyny, racism and colonial violence (Clark, N., 2016; Monture, P., 2006). We, as taxpayers, are paying for a system does not work to

keep our communities safer. It is functioning through institutionalized racism and oppression and we are all a part of it because we benefit from it because it is the only choice we have right now. What we gain from oppression is not a question most Canadians are willing to answer. As a result, genocide in Canada continues through state policies, practices, and programs. The climate of Indigenous-Canadian state and Indigenous-Saskatchewan relationships are important when understanding how and why decisions are made when it comes to youth probation. The social constructions, of Indigenous people as discussed further below, are applied within government categorically and communicated to the Canadian public through headlines and statistics. This creates a misunderstanding of Indigenous youth as individuals – as humans – with hopes and desires and something to offer the world.

Risk-Need-Responsivity Model: Tools & Assessments

The probation officer is responsible for implementing the mandate of the YCJA based on the Risk-Need Responsivity (RNR) model, which is used to classify the youth's need for reintegration and rehabilitation and the likelihood of recidivism. The RNR model is a multiple-choice form used by the probation officers in determining the level of service that is required for a youth who has been charged with a crime and is used during the intake process of youth probation. It was created by Andrews, Bonta and Hoge in 1990. "The *risk principle* states that as risk to reoffend increases, so should intensity of intervention. The *need principle* asserts that interventions should target individual-level characteristics that are related to offending. The *responsivity principle* came in the second generation of the RNR model and holds that, in order to optimize effectiveness of

services directed at criminogenic needs, interventions should be evidence-based (general responsibility principle) and tailored to individual traits and circumstances” (specific responsibility principle; Bonta, 1995; Lockwood, I; Peterson-Badali, M., Schmidt, F., 2018: 5). The RNR risk assessment tool is used in pre-sentence reports, probation, and in secondary assessments. The RNR form is used to determine a case plan for the youth. It is widely viewed by policy makers and colonial judicial actors as objective on the grounds that it reduces recidivism (Comack, E., 2018).

The net of the tool’s reach widens as new generations of the tool are released, making it malleable and adaptable for individual purposes while still being seen as objective (Bonta, A. & Andrews, D.A., 2007). It is important to interrogate this model and its claims to objectivity because it is applied in ways that result in “Indigenous people [being] commonly classified as higher risk and more likely to reoffend” (Nichols, R.L, 2014: 436). The RNR form includes eight key factors that highlight risk and need. The eight areas risk-need area are: 1) criminal history; 2) education and employment; 3) family circumstances and parenting; 4) leisure and recreation; 5) companions; 6) pro-criminal attitude and orientation; 7) substance use and abuse; and 8) antisocial patterns.

This tool is owned by Multi-Health Systems and is leased to the Canadian governments who are then tasked with providing feedback back to the company so they can make this assessment tool more effective. Bonta and Andrew, the creators of the RNR model, sought to make this new tool “user friendly” and to make it “easier for the assessor to locate relevant interpretations of items when administering the tool” (Government of Canada, 2015). The job of those designing the policy in Saskatchewan was to establish “consistent and clear instructions on how to interpret the criteria

contained in the revised LSI-OR. As a result, a *documentation scoring form* accompanies the tool” (Government of Canada, 2015). This documentation scoring form shows the results of the assessment and is tallied up to show the intake officer the areas of risk for the youth and the targeted areas of risk that will be focused on in the case plan. Every time they pick up a new charge, the youth is responsible for going back to the youth probation office to be assessed again. This is how the probation officer creates the report due for court hearings.

However, reoffending can be as simple as picking up a new breach for circumstantial reasons. For example, a youth may be staying with a friend who they trust and who they feel safe with but who are perceived as “co-accusers” in the eyes of the colonial legal system. These youth are being put into situations where they are analyzed for their behaviours; this consumes their time because they are now forced to abide by more prescribed ways of operating, and consequently they are forced to internalize trauma responses, which often leads to self-destruction (Hannah-Moffatt, K., 2004). Most youth who are charged with a crime are charged alongside a co-accused suggesting that peer pressure, typically recognized as a normal adolescent reality, is criminalized further which reinforces the net and further dismantles kinship ties. Not only are the youth marginalized by and in society, they are also internalizing inferiority because they are being shown they cannot participate in society “normally,” – premised by the universalized normative subject of white male followed by white female – thus requiring these prescribed conditions and instructions on how to operate. Entryways into rehabilitating and reintegrating are facilitated by the state under these attitudes, and the state needs the youth to have complex needs that justify extreme surveillance in order to

maintain order and control over processes of rehabilitation and reintegration into the normative state – this is assimilation. These processes are extremely isolating for Indigenous youth and makes them an easy target for the system and predators. The circumstances that cause vulnerability for Indigenous youth are seen as risk factors within the colonial legal system.

‘Risk’ Discourse and ‘Institutional Racism’

“Aboriginal people in this country are imprisoned at a rate far greater than non-Aboriginal Canadians. The reasons are complex, and understanding those reasons— and their relationship to the residential school experience—is essential to moving towards reconciliation.” (TRC, 2015: 218)

Indigenous people are easy targets in a new and growing country. Canadians benefit economically from this public sector because it provides jobs and Canada benefits from the dispossession of rights and title amongst Indigenous people so it can have access to more land. The environmental risk caused by colonialism is multidimensional and predicts or expects the following: a hazard (a source of danger), uncertainty of occurrence and outcomes (expressed by the probability or chance of occurrence); adverse consequences (the possible outcome); a timeframe for evaluation; the perspectives of those affected about what is important to them (Leiss, Hrudehy 2005: 3 in White, R., 2013).

White suggests that there are three key factors that cause environmental risk: obtaining resources – either extracting non-renewable minerals and energy or harvesting and managing ‘renewable’ resources such as fish or forest timbers; transforming or using these resources – constructing buildings, bridges and other infrastructure, manufacturing

products, or burning fossil fuels; disposing of unusable ‘by-products’ – managing, reusing, recycling or disposing of waste materials from obtaining and transforming resources (White, R., 2008: 57). Within the context of the colonial legal system, they define risk through the RNR risk assessment, whereas the client imposes the risks. However, in the context of environmental risk, it is the state-sanctioned interventions that cause environmental risk facing the youth.

With a focus on community-based sentencing provisions during the transition from the JDA to the YOA and from the to the YCJA, this allowed for the system to still responsabilize the youth and make them accountable for their actions if they came into contact with the law but the state withdrew housing support for vulnerable youth in a time of crisis and failed to offer any additional support to respond to the environmental risks that were clearly present. The criminalization, homogenization and silencing of Indigenous people is a tactic of settler colonialism. Indigenous youth are criminalized for normal teenage experiences because they are targeted by police. The carceral continuum starts off with petty crimes and work their way up to dangerous offenses. Dangerous offenses often saturate mainstream discourse and skew the mainstream understanding of the barriers that are in place for most Indigenous youth. The entry point into the colonial legal system is so pervasive for some Indigenous youth – especially in inner city Saskatoon.

The classifications that enable the system to remain in place are seen as an objective process based on the RNR model. There is a “centrality of colonialism to the origins, scope, scale, and legitimation techniques of carceral power in North America and, as a result, it has by and large deprived itself of the energy and force of Indigenous

critique” (Nichols, R.L., 2014: 437). This carceral power lies within the iatrogenic feedback loop that stabilizes the probation program as a core function of the colonial legal system. “Political elites push ‘law and order’ ideologies and carceral expansion because they recognize that these work to solidify hierarchal chains of authority and control over the state apparatus” (Nichols, R. L., 2014: 442). The risk elements of the RNR model depict the relationship between risk, need, and responsivity as ‘public safety’ as the main priority of the colonial legal system. Those defined as ‘public’ are white middle-class voters – people who are socially constructed as advantaged, or contenders, and who both benefit from Canadian policies and are viewed positively, or without question, by most Canadians.

Discourse positioning Indigenous youth as presenting high risk (Friedel, T. L., 2013) in Canada is a huge industry that provides many jobs to Canadians. It is not far from the discourse that rationalized residential schools under the notion that Indigenous people were primitive and needed to be civilized (Bird-Naytowhow, K., 2017) or the discourse that made Indian Agents a suitable choice for Canada at one time. The white saviour approach works as a guise for intervention and social control, and subsequently legitimizes risk discourse (Clark, N., 2016). The intersections of risk and risky are important to consider in this section. Standardized actuarial risk assessments are problematic for Indigenous people (Harris, J. R. A., Cousineau, C., Pagé, C. A., Sonnichsen, P., 2011) but according to Bonta and Andrew, the creators of the RNR model, the criminal history of all offenders, independent of race and culture, is the most accurate predictor (Bonta, A., Andrew, D. A., 1994; 2006; Harris, J. R. A., Cousineau, C., Pagé, C. A., Sonnichsen, P., 2011). Analyzing criminal history through “the big four”

– anti social history, anti-social personality, anti-social attitudes and anti-social peers – is how the current RNR model is designed. The purpose of this inquiry is to assess skill deficits, learned behaviours, coping mechanisms, and personal predilections that can be changed through correctional programming” (Harris, J. R. A., Cousineau, C., Pagé, C. A., Sonnichsen, P., 2011).

However, the intersections of risk and risky are important to consider. Neoliberalism produces a hegemonic discourse that prioritize a nation-state economy whereas public institutions base their political-economic practices on the idea that “there is goodness in the market [and], individual pursuits of self-interest will promote the public good” (Million, D., 2013:17) and therefore the, “nation-states had ‘aimed at mobilizing [their] capacities to support national economic development in the name – if not always in the interest – of the national citizenry’” (Million, D., 2013:17). This motivation of the government to “bring all life to the sphere of capital” (Million, D., 2013:18) is a site of risk for Indigenous people as it creates harmful conditions for Indigenous people who are seeking equity, healing, and sovereignty from genocide and ongoing structural violence. Neoliberalism allowed the government to double-down on Indigenous people by medicalizing poverty, drug addiction, alcoholism, and social dissolution and framing it as colonial trauma (Million, D., 2013). This gives public institutions power and will to offer “aid” through government mandated programs.

Indigenous youth are at risk of addiction because they are predisposed to trauma. Gabor Mate, physician and author, says that “hurt is at the centre of all addictive behaviours” (2008: 36). The Indigenous youth’s predisposition to trauma shared with their predisposition to exposure to collective trauma forces the Indigenous youth to learn

how to cope. This, shared with exposure to drugs and alcohol at a young age, makes addiction a likelihood amongst many Indigenous youth. Not going to school, getting into trouble, and addiction are all symptoms of pain.

It is not enough to have a culturally sensitive risk assessment tool or version of the RNR model, because the system is fundamentally created and established to participate in the market through government mandated services. If anything, Indigenous youth are at risk of the state and it is through these processes of intervention where Indigenous people are most vulnerable. This includes child welfare and the education system. Indigenous youth are at risk of social marginalization and this is perceived within the RNR tool as “skill deficits”; Indigenous youth are exposed to only what is shown to them from their birth and this is held against them as “learned behaviours”; the youth develop coping mechanisms based on what they are exposed to and what is demonstrated to them and this is held against them; and, their personal predilection for having a desire to be around family or people who are familiar are all a result of the Indigenous youth’s natural upbringing. All of this is taken into consideration in the RNR assessment and it is wholly detrimental to the youth. The state imposed “correctional programming” is insufficient in that it undermines the youth’s humanity as an Indigenous person by prescribing them agency support rather than creating programs that serve the youth’s basic needs. This priority of correctional programming reproduces a dependency of Indigenous people on the state and through the feedback loop created by their internal policies and the RNR model are able to keep them there for a long time. “This is not to deny that the pursuit of civil rights within the nation-states that claim authority over Indigenous peoples is important and often vitally necessary, but simply to encourage

ideas of social change and social justice that do not only look to the models of governance and community that settler nation-states are founded on” (Arvin, M., Morrill, A., Tuck., E., 2013: 14). The state-imposed surveillance and the social marginalization in education and employment leaves a vulnerable youth who is most likely in poverty to their only devices and left to cope on their own. Indigenous youth are asked to heal with the help of the government whilst they are simultaneously living with the ongoing damages that are wreaked by racism, gender violence, political powerlessness, and the continuing breakdown of affective networks, [their] communities, and [their] families (Million, D., 2013). The goal to develop programs for the complex needs of Indigenous youth supersedes the need to get the youth the help they need for autonomy because of their market-based model. This might be acceptable to Canadians on a case-by-case basis but it is a social phenomenon that is structurally racist and worthy of critique.

The YCJA has been in effect since 2003. No major reforms have taken place since. In 2004, nearly 25% of Indigenous youth, aged 12 – 17, living on reserve were charged with a crime (Government of Canada Statistical Snapshot, 2010).

Crimes youth are committing are different between girls and boys. For girls, they were most often charged with theft under \$5000.00, common assault, administration of justice violations (breach), mischief, or “other Criminal Code violations”. For boys, they were most often charged with theft under \$5000.00, mischief, drug offenses, administration of justice violations, and common assault (Government of Canada Statistical Snapshot, 2010). Police reported incidents have gone down since the YCJA as well as police recommendations for a charge. However, Indigenous people are still 33% more likely to be charged by the police (Eisler, D., 2017) Youth commit the most crime

during school hours or after school. Violent crimes amongst youth typically happen during lunch hour or after school and crime amongst youth typically happens with more than one person involved in instigation (Statistics Canada, Canadian Centre for Justice Statistics, Incident-Based Crime Reporting Survey, 2014). In 2015, it was reported that crime rates in Saskatchewan were higher than anywhere else in the country.

The residential school policy was only one component of an overarching forced assimilation agenda and discourse. The assertion of European superiority through dominance historically operated blatantly within colonial laws, and the current system of punishment legitimized within contemporary Canadian discourse continues to facilitate the ongoing ascendancy of white superiority (Monture, P., 2006). This includes the present-day use of prisons and jails as a tactic of forced physical confinement, isolation and assimilation (Monture, P., 2006). Today marginalization amongst Indigenous people is recognized as collateral violence and maintains an ominous presence in society. These effects are felt within families, internalized within Indigenous people, and include “poverty, addiction, abuse, racism, family violence, mental health, child welfare involvement, loss of culture, and an absence of parenting skills” (TRC, 2015: 190). The conditions of the reserves, additionally, are not suitable for a rapidly growing population, and in a globalized world, the opportunity is often in the city. Indigenous people migrating to the city for opportunities is an example of how “settler colonialism operates through internal/external colonial modes simultaneously because there is no spatial separation between metropole and colony.” (Tuck, E., Yang, W.K., 2012: 5). Settler colonialism is multidimensional and cannot be isolated from other social processes of racism, sexism, patriarchy, misogyny, and gendered violence. This is particularly

important when observing the environmental factors that produce the vulnerability amongst those who tasked with raising the next generation.

As the TRC reported, “in 1998-99, Aboriginal youth were 24% of sentenced admissions, but by 2011-12 they constituted 39% of sentenced admissions” (TRC, 2015: 219). This pushed the TRC to call for “significant reform of the Canadian justice system” as “necessary to halt the legacy of residential schools” (TRC, 2015: 186). Don Morgan, Minister of Justice for Saskatchewan was quoted in Tasha Hubbard’s film, *nîpawistamâsowin: We Will Stand Up*, stating: “We have, you know, a 100-year-old judicial system, it’s got some, some great things in it, but it’s also got some huge shortcomings, especially when we deal with First Nations” (Hubbard, T., 2018, Retrieved: January 3, 2020). It is clear that the urgency to make the conditions for Indigenous people is on the backs of Indigenous people and our allies. The colonial legal system, as it stands in Saskatchewan, will not change on its own.

The following section discusses the role discretion amongst probation officers has in youth probation and how this contributes to the recidivism rates of Indigenous youth.

Discretion

Discretion means “the power of a public official or employee to act and make decisions based on his or her judgment or conscience within the bounds of reason and the law” (Webster Dictionary in Zacka, B., 2017: 34). Throughout the research process, it became clear that the function of discretion amongst probation officers is quite limited, the practice of discretion is exercised through the interpretation of answers and the relationship the officers have with the youth.

A job posting by the Government of Saskatchewan, states that the “Ministry of Corrections and Policing provides a fair justice system that promotes safe and secure communities, provides supervision and rehabilitative services for adult and young offenders, and ensures that effective policing programs uphold the rule of law and protect society and the rights of individuals” and that the duties of a Probation Officer/Community Youth Worker includes: work closely with adolescents/adults in an environment with varying diverse needs, gender differences, cultural and spiritual belief systems; collaborate with community agencies, other organizations, and government personnel; compose and complete court and violation reports, community collateral, and curfew checks; perform home/community assessments; conduct/complete risk assessments; develop and implement case management plans; develop and initiate programming and interventions; develop and maintain accurate and updated client files/records; and work with victims of criminal offence. (Government of Saskatchewan, 2020)

Probation officers execute the will of the state by implementing their policies through administrative processes. Probation officers are not supposed to interpret law; they are supposed to comply with existing policies (Corrado, R. R., Gronsahl, K., MacAlister, D., Cohen, I. M., 2010). Their use of discretion is therefore limited to the use of these policies. Discretion comes into play when probations officers are interpreting what the youth is sharing with them and then they use that information to classify the youth based on the options that available to them. They must be able to justify their choices to their superior if necessary. Their responsibility is to classify the youth based on the RNR risk assessment tool and provide a strategy that they have discretion over

structuring, which is then presented to the judge in court. However, when youth get breached and go through the court process, discretion is transferred to other actors within the colonial legal system, including the police officer and the judge. The police officer has discretion in pulling youth over, running their name through the system if they perceive a 'reasonable cause,' and could either give the youth a warning, charge the youth, or let the youth go. The judge has discretion in ruling their case based on the sentencing options available.

The probation officers work in tandem with other agencies to “collaborate” on case plans. The probation officer is responsible for making contact with the agency and providing the youth – or client – enough information to go to the meeting. These agencies include mental health and addictions, anger management, school programs, counselling, community service programs, treatment centres, doctors, teachers, schools, and school boards, and the local police. A youth may be at a low risk on the scale and they may be tasked with doing community service, have a curfew and may have to go to school. At that point the probation officer would have legitimate reason to make contact with the school to observe the student’s files, they would be sent to John Howard Society to oversee their community service and the police would be notified that this youth is at this address and the police would then have grounds to go to that address to look for this youth. When the risk level gets higher, the level of surveillance and “service” increases too. Each agency has their own policies, standard and culture and this limits the potential for relationship with the youth as well as limits discretion for the probation officer. If a youth does not show up to their community service then this is reported and if a youth does not show up for class then this is reported and if a youth does not make it home for

curfew and the police check then this is reported. All of these are grounds for breach. A breach in community service and a breach in school absence are both to be reported by the probation officer. A breach in curfew is the responsibility of the police and once the police notify the probation officer then they notify the youth and they may facilitate the arrest. The probation officer must comply with all agency protocol as well as report on all case details for their clients. This is how they standardize their process and how it all seems kosher. Once the youth goes back to the probation officer after the arrest then a new RNR assessment is done in order to create a pre-sentence report before the youth's court hearing. The youth is very likely to be promoted to risk level two at this point, widening the net of services available to them.

Social Constructions of Target Populations

The social constructions of target populations framework put forward by Ingram and Schneider (1993) explains why some groups in society have an advantage through policy design, through the distribution of political power through political power, and is legitimized by policy decisions. This theory is important to the research as it helps identify how Indigenous youth are socially constructed within mainstream Canadian discourse, how the application of the social construction of Deviant makes Indigenous youth vulnerable, and it exposes how structural racism exists within the system as well as how this impacts the trajectory of Indigenous youth, families, communities and nations. The framework is best understood when broken down into four quadrants.

Types of Target Populations

		Constructions	
		Positive	Negative
Power	Strong	<i>Advantaged</i>	<i>Contenders</i>
	Weak	<i>Dependents</i>	<i>Deviants</i>

(Schneider, Ingram, 1993)

The first quadrant represents the Advantaged; these are people who are positively reflected in public discourse, policy and media. The second quadrant represents the Contenders; these people are organizations and people who have power but who are reflected poorly in public discourse. The third quadrant represents the Dependents; these people are viewed and spoken of as “deserving” in public discourse and they have voting power. The fourth quadrant represents the Deviants; these people are recognized as having little political power and are represented poorly in public discourse, policy design and in media. (Ingram, H., Schneider, A. L., Deleon, P., 2007) Characteristics that define deviants include: irresponsible, disrespectful, and abusive to power, uninvolved, irreverent and criminal. These characteristics are disproportionately assigned to people who are powerless and at the same time, disproportionately punished through law (Ingram, H., Schneider, A., Deleon, P., 2007).

Policy design is influenced by social constructions of Indigenous people, and this informs “how the distribution of benefits and burdens reflect and perpetuate these constructions” (Ingram, H., Schneider, A., Deleon P., 2007: 93). It is important to engage the theory of social construction of target populations in understanding how policy is designed and implemented because the main tenet of this theory queries “who gets what,

when and how?” (Lasswell, H. D., 1936: 1). This can and should be asked of policy, since it is what underpins the societal behaviours, norms, and determines acquiescence through management of the status quo. Politicians and policy makers are therefore instrumental in establishing social constructions that are then upheld by the wider public, and in order to identify the “target,” they must know the goals of the policy, the means available to achieve it, the interests the policy serves and the political climate.

Indigenous people are socially constructed through a deficit lens. For example, “because Indigenous people are framed as on the edge of death, bodies, weakened by ill health, addiction and disease as a result of colonialism, it is all too easy for a racist settler public to imagine them only as sitting on street corners, slumped in jail cells and lying in hospital beds” (Razack, S., 2015: 9). In *The Colonial Problem: An Indigenous Perspective on Crime and Injustice in Canada*, Lisa Monchalin (2016) underscores the value of looking at the Indigenous youth experience in this colonial state. From this perspective, for Indigenous youth, risk factors:

include, but are not limited to, high levels of unemployment; low incomes; poverty; overcrowded, disorganized, and substandard living conditions; social exclusion and marginalization; racism and discrimination; lack of cultural identity and pride; alcohol and drug addictions or misuse; low education and poor school access and involvement; and poor child rearing and supervision and, as well as dysfunctional, disorganized and disconnected families. (Monchalin, 2016: 146)

DiAlto argues that “policy, the media, and the courts each has particular strength in creating social constructions of group identity, but that their power is especially magnified in areas where their functions overlap” (2005: 81). This is significant as these

processes are all rooted in, and perpetuated by, discourses of who can be criminalized in our society. Michel Foucault describes discourse as a “way of seeing that is produced and reproduced by various rules, systems and procedures—forming an entire conceptual territory on which knowledge is produced and shaped” (Foucault, M., 1980: 3 quoted in Clark, N., 2016). Discourse refers to statements that provide a language for talking about the world and, more specifically, for framing a specific issue at a particular historical moment (Hall, S., 2001: 72). Discourse also influences and legitimizes the ways in which ideas are put into practice. It regulates social systems, produces subjects or identities, and is directly related to power relations (Gillies, C., 2018).

In my own experience, I have found that people are unaware of how their contributions to discourse are so important to the vitality of it. The epitome of privilege, in this context, is to live without having to question a system while still benefiting from it. If you benefit from a system then there is no need to question how that same system could not be benefiting everyone as long as they are working hard and obeying the law. I learned about structural determinism from Carmen Gillies in an undergraduate course. She explained how we as Indigenous teachers have the power to reproduce discourses through our positions in the classrooms. Teachers, like probation officers, and police officers are street level bureaucrats who are tasked with complying with a standard.

This process of structural determinism is integral to the criminalization of Indigenous youth, which is normalized in our society. Those with discretionary power within the colonial legal system are not immune to racist attitudes, behaviours and ideologies; rather, the policies are designed within a range of what is socially acceptable at a particular time according to public discourse and for responsible policy design. This

leads to perpetual power imbalances within political and legal systems, as beneficial policy is awarded to advantaged Canadians who can believe that the colonial legal system is achieving the ambiguous goal of community safety. There would be no reason to look to the margins when you live within the status quo. Social constructions can be changed, but who changes them, and on what grounds, is dependent on policy objectives and arguably requires new target populations to take the place of the old. Indigenous voices need to be at the forefront of designing and mandating aid for marginalized Indigenous youth.

Indigenous people are not only targets of the colonial legal system, but under attack by the colonial state more broadly (Dhillon, J., 2017). They need our land. For example, the use of violence by the RCMP against the Wet'suwet'en Traditional Territory, where youth are on the front lines (Pashagumskun, J., 2020), sends a message to Indigenous youth across their nations that the police do not protect Indigenous youth but rather, youth are endangered because of them (Bird-Naytowhow, K., Hatala, A. R., Pearl, T., Judge, A., Sjoblom, E., 2017; Dhillon, J., 2017; Monchalin, L., 2016). The Starlight Tours (Green, J., 2006; Razack, S., 2015), Missing and Murdered Indigenous Women (Henzi, S., 2020; Toll, S., 2020; Twenter, B. L., De Vos, L., 2020), the Gerald Stanley trial (Hubbard, T., 2018; Roach, K., 2019) the unjust outcome of the Tina Fontaine case (Marchinko, E., 2018; Dangerfield, K., 2018; Balkissoon, D., 2018), and the killing of Eishia Hudson by the Winnipeg police (Grabish, A., 2020) are recent realities within Indigenous families and communities that constitute sites of harm, which are largely mediated by agents of colonial oppression.

Indigenous perspectives of justice have been included in the colonial legal system through restorative justice models, trauma informed justice, sentencing circles and through the use of Indigenous rehabilitation programs. The next section discusses how Indigenous perspectives of restorative justice have been included and suggests it is not enough to prevent recidivism amongst Indigenous youth. Rather, a formal commitment to Indigenous control of youth probation is necessary to prevent the reproduction of colonial violence present in the current methods of justice in the colonial legal system.

The Problem with Restorative Justice

Restorative Justice is a form of justice that is based on respect and holds true to the principles of “repairing harm, healing, restoring relationships, accountability, community involvement and community ownership” (Hansen, J. G, 2014). Restorative justice, though rooted in Indigenous knowledge, will never be the solution as long as it remains as merely a sentencing option within the colonial legal system. Restorative Justice typically functions through practices that include, “victim-offender mediations, victim-offender reconciliation programs, family group conferences, sentencing circles, and community accountability panels” (Woolford, A., 2003: 179). Another problem with the colonial legal system’s use of restorative justice is that Indigenous people are largely informed about who they are by the state. Andrew Woolford (2003) warns that restorative justice works in favour of the colonial legal system as the values that inform restorative justice stand apart from the colonial legal system and therefore are subject to criticism. This is especially helpful in times of debate between political parties under the guise of public safety.

Duncan Campbell Scott was at the helm of the residential school system and was explicit when he said, “I want to get rid of the Indian problem. I do not think as a matter of fact, that the country ought to continuously protect a class of people who are able to stand alone . . . Our objective is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic and there is no Indian question, and no Indian Department, that is the whole object of this Bill” (National Archives of Canada, Record Group 10, vol. 6810, file 470-2-3. Vol.7, 55 (L-3) and 63 (N-3)) The body politic he speaks of is exemplified today by the public sector, and the goal of absorbing Indigenous people into it continues to function under the guise of colonial systems of child welfare, justice, and education. Restorative justice, as it fits within the overarching colonial framework of justice designed and delivered by the colonial state within a colonial legal system, will only continue to sustain the overarching project and goals of colonialism. As a result of historical and active processes of assimilation, Indigenous youth live with the implications of the social constructions of being Indigenous and continue acting in the likeness of these social constructions.

In the Reconciliation Manifesto, Arthur Manuel wrote:

“While we have watched the rise of Indigenous movements devoted to taking back our land and sovereignty, there remain a small number of powerful Indigenous individuals who still seem to have faith in Canada. Many of these Indigenous people who are actually paid big salaries to have faith in Canada, or at least pretend they do. The small group of elites have built careers in government-funded boards and organizations, and in these cases colonialism doesn’t have to be overtly coercive. It can also be co-opt an elite, which then brings the rest of the colonized society to the surrender table. This is what is often referred to as neo-colonialism” (Manuel, A. & Derrickson, R., 2017: 132).

Neo-colonialism functions through “the internalization of the racial identities created by the state onto the daily lives of individuals and social systems,” amplifying the

impact that colonialism continues to have on restorative justice in Canada (Bailey, 2012 found in Young, D., 2019: 89-90). Restorative justice would be better suited under the rules and regulations of an Indigenous organization and outside the net of colonialism where they are currently being used as a sentencing option within the carceral continuum. The idea of restorative justice sounds good to those who live with the privilege of not having to experience it. However, the restorative justice system acts as another arm of the colonial legal system in that it continues to actively work to prevent people from exiting the system fully. This works in opposition to the call made by the TRC (2015) to substantially and meaningfully reform the Canadian justice system by reducing the number of Indigenous people involved in all stages of the system overall.

No Way Out But IN

It seems that they make the mistake of believing that Indigenous people are who we say they are and then approach them through this monolithic understanding that is central to colonialism. Even the term “Indigenous” is problematic, as it contributes to the erasure of nationhood. Entry points to learn about the depths of our land and culture is hard to find from the city but it is through opportunities where we can foster kinship and embrace the contemporary nature of our indigeneity that we find a sense of belonging. It is not through the colonial legal system, or any colonial system, where we will find pathways for sovereignty. It has been made clear that no amount of tinkering with or in the colonial legal system will achieve justice for Indigenous people (Monture, P., 2007: 29).

Probation Officers are limited in their ability to make any real impact on the youth’s trajectory as they are unable to prevent the youth from being exposed to high-risk environments. These environments are described as being part of the “Indian Problem”

(Milloy, J., 1999) and contribute to what is commonly describe in government rhetoric as “Indigenous Issues”. Instead of living on reserves, several Indigenous youths who come into contact with the colonial legal system in urban centres are living in poverty and the nuances of intergenerational trauma. However, it is important to state that without capacity, these individuals, families, communities, and nations will never be able to reach their potential. With resources, space, and consistency, community members have proven to take an interest in generating solutions to the problems they face. Just because people live in poverty does not mean that they lack intellect or wisdom in how to make their communities better for everyone. With a monopoly on the adoption of programs and services for vulnerable youth in contact with the colonial legal system, the provincial government is well positioned to share these resources with Indigenous-run community organizations who foster a supportive space for Indigenous youth. The settler-colonial nation state of Canada has never been good for Indigenous people – in fact, it actively works to poison and kill our land and bodies while delegitimizing our worth (Simpson, A., 2016). In order for Canada to exist, in order for Saskatchewan to exist, Indigenous people needed to move out of the way or be absorbed fully into the body politic.

Colonialism continues to actively function through the use of “ongoing occupation, usurpation, dispossession and ecological devastation, no level of representation in one of the central apparatuses of state control and formalized violence would be proportionate” (Nichols, R., L., 2014: 445). The justice system and judicial sanctions along with their processes, procedures, and laws have all been constructed, justified and dominated by white people (Denney, D., Ellis, T., Bam, R., 2006). The displacement of Indigenous people from their land was justified because Indigenous

people were not considered civil or even human (Monchalin, L., 2016). Indigenous parents were deemed unfit so that residential school policies were palatable and justifiable, even with the outright objective of these schools being to *kill the Indian in the child* (TRC, 2015). And, today, even though Indigenous people account for only 5% of Canada's population, we represent 27% of the prison population. This is 8% more than the previous decade (Coletta, A., 2018). Indigenous youth make up 8% of Canada's youth population but represent 46% of youth in custody. This is far higher than the 21% that was reported in 2006 – 2007 (Malone, K. G., 2018). As an Indigenous person, knowing these statistics, it becomes clear that we are the target population – the process of gathering the statistics is both exhaustive and exhausting. Worse, this system that disproportionately and violently affects Indigenous people is justifiable through mainstream Canadian discourse under the guise of public safety. Who are we keeping safe from whom?

The ascendancy of the current colonial legal system will only further disenfranchise us from our own communities, will continue to strip us of our ways of knowing, and will continue to tear our families apart. I am convinced that we not only have the answers, but that we *are* the answer. Practices and access to tools for healing and wellness are paramount in generating a sense of belonging – something that would be comparable to reintegration; and, a sense of self-love – which could be comparable to rehabilitation. The fundamental problem with prioritizing reintegration and rehabilitation is that these concepts are inherently assimilative in nature, and will therefore only yield measurable results in the context of assigning the youth to the various programs within the probation order. These are active processes of colonialism. The colonial legal system,

in its entirety, actually exacerbates community dysfunction, family dysfunction, and marginalization by perpetuating grief and loss (Monture, P., 2006).

The fact that we are still here and we still have our own political, economic, ecological and spiritual systems mean that, collectively, as Indigenous people, we still have enough of ourselves to assume radical sovereignty. To create an effective justice system in a place like Saskatoon, the community needs to be respected as having knowledge, will, and relevance. Relationality, inherent in the perspective that views research as ceremony, is wâhkôhtôwin in short. “This process is like a nest, or a spider’s web, and is to be nested, created and recreated within the context of relationships with other living beings...each value represents a strand in a web that is integrated and interdependent with the other strands” (Kovach, M., 2015: 47).

What is wâhkôhtôwin?

I learned that nisitohtamowin is how you understand yourself in relation to the world. That, miyo-wicehtowin, means to have good relations with the world (Lewis, J. E., Arista, N., Pechawis, A., Kite, S., 2018). And, that wâhkôhtôwin means to have a sense of belonging. All three are essential for a human to have a sense of purpose. Maria Campbell states that, “for everything, there is a reason, a purpose, and a teaching” (in Flaminio, A., 2013: 23) and this is what inspires me most about engaging Indigenous knowledge with colonial problems.

Maria Campbell suggests that wâhkôhtôwin,

“today it is translated to mean kinship, relationship and family as in human family. But at one time, from our place it meant the whole of creation. And our teachings taught us all that all of creation is related and interconnected to all things within it. wâhkôhtôwin meant honouring and respecting those relationships. It was our stories, songs, ceremonies and dances that taught us from birth to death our responsibilities and our reciprocal obligations to

each other. Human to human, human to plants, human to animals, to the water and especially the earth. And in turn all of creation had responsibilities and reciprocal obligations to us” (Campbell, M., 2007)

Daniel Heath Justice claims that wâhkôhtôwin is “this model [that] places the people into the web of familial rights and responsibilities that define that particular tribal community, while acknowledging the realities of changing historical experiences and their impact on the various threads of that relational web” (Heath Justice, D., 2006: 212). Harold Cardinal “compares the doctrine of wâhkôhtôwin to that of common doctrine of ‘responsibility to your neighbour,’ as one in which a legal doctrine can inform a vast body of law” (Cardinal, H., 2007, pg. 65). Willie Ermine adds “wâhkôhtôwin, cree word meaning kinship or the state of being related, is a fundamental concept for understanding Indigenous culture and traditional beliefs because it highlights the importance of community” (Flaminio, A., 2013: 7). Finally, Anna Louisa Flaminio, a researcher who studied Gladue and wâhkôhtôwin at the University of Saskatchewan, describes “wâhkôhtôwin as a way of life and as an intricate web of relationships within creation holds an important role in the healing, decolonization, and integration process for our relatives” (Flaminio, A., 2013: 7). How I understand it, is that everyone should have a chance at reaching their potential in society without sacrificing their humanity. It refers to a sense of belonging and a sense of connection.

Brenda McDougall, a Metis scholar and student of Maria Campbell, shares her perspectives of wâhkôhtôwin in *Land, Family and Identity: Contextualizing Metis Health and Wellbeing*, describing an “emphasis on extended family was fostered through the creation of physical and spiritual relationships between people (living, ancestral, those to come), land, the spirit world, the creatures with whom they shared the physical space”

(McDougall, B., :10). She says that wâhkôhtôwin is a way of knowing that guided people's behaviours even with the presence of outside institutions. Wâhkôhtôwin means being a good relative, with an emphasis on the wellbeing and health of communities as a shared responsibility (McDougall, B., 2009: 10). This is an important perspective for this thesis, as it shows how even though "Canada is constructed on a series of legal principles that define who is (or is not) Indigenous that reflect a preoccupation with racial purity as a sole determinant of peoples Indigenusness" (McDougall, B., 2009: 15) that the teachings we have held onto are what keeps the web of kinship maintained.

Indigenous Traditional Knowledge is helpful in understanding how justice can be achieved, but within the contemporary colonial legal system it is diluted and packaged to fit and sustain colonial institutions and structures, like schools and urban planning. The fundamentals of the colonial justice system are informed by and built on Eurocentric ideologies that precede the creation of Canada as a country (Monchalin, L., 2016). Indigenous people have been enduring genocide (Missing and Murdered Indigenous Women and Girls Final Report, 2019: 3) over several generations. Colonial violence is a reality for all Indigenous people and it has been since Canada's inception. Today, the justice system functions as a continuing site of colonialism wherein Indigenous youth are disproportionately affected. Our nations are still healing from generations of colonial violence and harm. For this purpose, I want to share how the idea of trauma informed justice intersects with the philosophy of wâhkôhtôwin.

Trauma Informed Justice

Here, I introduce the model of trauma informed justice into this research to acknowledge how the intersections of two worldviews can merge to respond to community needs.

Judah Oudshoorn (2015: 125, 1), author of *Trauma Informed Justice*, stresses that the current justice system is “trauma inducing” and that “the current state of youth justice in Canada serves a powerful, white, male, majority all over the world.” This is problematic in that Eurocentric and patriarchal values do not represent all the people that the laws, practices, and policies are meant to serve and protect. He describes trauma as a state when a person’s system of coping becomes overwhelmed, and states that this can also be a collective experience (Oudshoorn, J., 2015: 125). This trauma is capitalized on within the colonial legal system and this framing of problems awards power to the state to intervene in the matter (Clark, N., 2016). Therefore, individual matters of trauma will continue to happen if all the makings of the colonial state continue.

The framing of problems amongst Indigenous people as in need of colonial state intervention and help is detrimental to the safety and wellbeing of Indigenous youth. Such framings, often touted as “Indigenous issues,” often legitimize outsiders to come into Indigenous lives, families, communities and nations to “fix” the issues or problems with their western tools. In the context of youth involved in the justice system, this approach “reinforces a sense of powerlessness” (Nadeau and Young, 2006: 89 in Clark, N., 2016). Shame is a common feeling amongst Indigenous people for as long as Canada has been here (Million, D., 2013) The process of the justice system is hyper-masculinized and individualized, and its successes are measured by perceptions of “community safety.” Oudshoorn (2015: 131) argues that “once the justice system gets involved in a young

person's life, they are more likely to come into conflict with the law again than they have been if nothing had been done." He claims that the justice system is doing more harm than good because the concept of justice is not focused on healing, but rather on punishment (Oudshoorn, 2015: 133). It also undermines the experiences of racism, violence, and oppression that Indigenous youth face in our society, and reduces the likelihood that a youth would find adults in the system who are accessible to them, especially those who they can trust to share the root or cause of their trauma with. The youth has less of a chance to be able to heal from trauma because the interventions of the system operationalize their stories and divvy out their narratives into programs.

A trauma informed approach is rooted in the core values of critical thinking, human dignity, participation, peace, a holistic approach to addressing crime, and social change; it is built on the following key principles: 1) from ineffective punishments, toward meaningful accountability; 2) from powerlessness, toward choice and autonomy; 3) from isolation, toward connection and belonging; 4) from disorientation, toward meaning and hope; and 5) from fear, toward safety and healing. This conceptualization of justice that seeks to "shape interventions on principles of trauma-healing and restorative justice rather than on punishment" (Oudshoorn, J., 2015: 3) also acknowledges that youth are not the sole shapers of their lives and circumstances. Rather, Oudshoorn (2015: 9) argues that "youth don't only have to be accountable for their choices but society has to be accountable to them. It calls into question the circumstances that led to the poor behaviour." Oudshoorn (2015: 130) says that the current justice system is especially ineffective because it does not make our communities safer and instead contributes further to a cycle of violence that young people are already familiar with. Collective

trauma is political in nature; “it’s about having one group controlling, or having power, over another” (Oudshoorn, 2015: 124). Symptoms of this contemporary reality are evident in statistics, news media reports and coverage, government and politician press conferences addressing “Indigenous issues,” and the lived experiences of Indigenous people themselves.

Chapter 2: Intersections of Street Level Bureaucrats, Social Constructions and the Casualties of Indigenous Youth in a Growing Public Sector

This research situates Indigenous youth as being socially constructed within mainstream Canadian discourse, and critiques how these social constructions inform and normalize the recidivism rates of Indigenous youth. Particularly, as neoliberalism shaped the colonial legal system, operationalization became important for ensuring agencies and services are publicly funded and mandated by the provincial government. The operationalization of the risk assessment tool has a devastating impact on Indigenous youth, as the tool interprets ‘risk’ as requiring further intervention by government sanctioned services. This increases colonial interference and surveillance in the lives of Indigenous youth, leading to increased potential recidivism. This cycle of colonial intervention and recidivism exacerbates the complexities often already inherent to the lives of Indigenous youth, which may have involved them with the colonial legal system in the first place. This chapter discusses how the role of the probation officer as a street level bureaucrat functions within the broader colonial legal system and how they become agents in managing an “issue network,” how target populations are socially created and positioned into “target networks,” and how the system utilizes an iatrogenic feedback loop to maintain and grow a healthy public sector. I will discuss the role of discretion amongst the probation officers as street level bureaucrats specifically and how this impacts recidivism rates amongst Indigenous youth; the social constructions of probation officers and how these constructions intersect with the social constructions of Indigenous youth and how this impacts recidivism rates; as well as how indigenous youth experience their environment whilst socially constructed as Deviant. Finally, this chapter will end

with an analysis of how Indigenous youth come into contact with the state via the colonial legal system.

The Role of the Street Level Bureaucrat in Youth Probation

The theory of street-level bureaucrats (SLB) provided by Lipsky (1980) characterizes probation officers as street level bureaucrats. Street-Level Bureaucrats are described as

“a public employee whose work is characterized by the following three conditions: 1. He is called upon to interact constantly with citizens in the regular course of his job. 2. Although he works within a bureaucratic structure, his independence in his job is fairly extensive. One component of his independence is discretion in making decisions; but independence in job performance is not limited to discretion. The attitude and general approach to a SLB toward his client may affect his client significantly. These considerations are broader than the term discretion suggests. The potential impact on citizens with whom he deals with is fairly extensive” (Lipsky, M., 1969: 2).

The probation officer, as stated earlier is responsible for complying with their mandating by conducting and completing risk assessments, keeping accurate files up to date for caseloads, implement case management plans, writing violation reports and develop and maintain programming and interventions. The role of the probation officer is largely administration with limited face-to-face time with the client. The probation officer may have an impact in how they manage caseloads – for example, if a youth wants to take the lead in getting involved in their community or going to school then they can use the probation officer’s resources to help them. However, this is unlikely due to the high caseloads, the limited time, and the lack of community connection that the probation officer has. This makes community corrections very hard for the probation officer to see through.

Structurally, the street level bureaucrat is an administrative role and it is not expected of them to make an exaggerated change in the youth’s life. The probation

officer is not in the position to help the youth but rather see that they complete their probation. This is a problem because most Indigenous youth on caseloads are deemed higher risk and therefore have more clauses to comply with on their probation order, giving more work to the probation officer and the agencies and more chances for the youth to fail. This failing to comply with probation orders may be prevented by more sufficient guidance with someone the youth can gain trust in.

Social Constructions of the Youth Probation Officer

Historically, probation officers have had a positive image within the eyes of the Canadian public (Bulin, M., 1990). Due to the nature of the probation officer's position as a street level bureaucrat, there is no reason for a Canadian to have direct contact with the probation officer unless that person is needed. The public views probation officers positively because they act as a buffer between the public and the colonial legal system, and probation officers benefit from government policies as they live in the status quo. In order to become a probation officer, you must first gain accreditation through a system that was designed to condition people for this role within this particular context (Nichols, R., 2015). The probation officer makes contact with the youth or the youth is ordered to make contact with the probation officer. The probation officer has contact with the agencies in their network and with the court system. This makes their position a largely administrative one, and they have no reason to make their presence known in the general public. The mandate of the job makes it so the probation officer acts upon each case seemingly objectively through policy tools and reporting tools provided to them. This supersedes social construction only regarding the probation officer – youth relationship. A probation officer always has more power than the Indigenous youth. This still might be

oppressive to the probation officer if they themselves are black or Indigenous, as these two populations are the primary target network for the colonial legal system.

For example, a black woman, Tawnie Grayer-Walker, who became a probation officer experienced racism personally through claims that she was a diversity hire and indifference with case management (Aziz, T., 2020). She went on to establish a local diversity committee and engage in education initiatives to improve her workplace culture and the services it offers. “That includes speaking up and holding other colleagues accountable and treating her clients with respect and compassion” (Aziz, T., 2020). She believes that everyone has value and she is able to have influence in her team because she is a supervisor. The social constructions of her as an individual affected the way she operated within her position as a street level bureaucrat. However, she endured the workplace culture she inherited and that a major problem.

Social Constructions of Indigenous Youth

Indigenous youth in Saskatoon age 12 to 17 who are at risk of participating in the colonial legal system are socially constructed as deviant because they are viewed negatively by society and do not benefit from Canadian policies. They represent a population that has been defined by the colonial state as “Indian,” then “Aboriginal” and finally “Indigenous” but their humanity is rarely sought to be understood by those who design or implement laws, practices, and policies. To understand the landscape in which Indigenous youth are positioned on then it is important to first describe whiteness.

Whiteness “is constituted as the epistemology of the west” (Mortenson-Robinson, A., 2006: 75) and “establishes the limits of what can be known about the other through itself, disappearing beyond or behind the limits of this knowledge it creates the others name”

(Morteson-Robinson, A., 2006: 75). Whiteness is universalized (Morteson-Robinson, A., 2006), like colonialism, and is synonymous of “civilized”, in contrast with the decidedly savage imagery popularly applied to Indigenous people. The concept of whiteness involves no measurement of racial purity and has evolved as a hegemonic cultural institution that defines the West (Morteson-Robinson, A., 2006). Whiteness is not only practiced by white people, it is “not just about bodies and skin colour; instead, it is ‘more about the discursive practices that, because of colonialism and neocolonialism, privilege and sustain global dominance of white imperial subjects’” (Shome, 1999: 107 in Morteson-Robinson, A., 2006).

In Canada, where whiteness is the norm, Indigenous people are often socially constructed as voiceless (LaRoque, E., 2015) and yet there are thousands of Indigenous visionaries, leaders, speakers, scholars, teachers, doulas, aunties, therapists, elders, advocates, and experts working to bring wellness to their people while standing on the backs of their ancestors and blowing wind beneath the wings of those to come. Indigenous people who defy whiteness as the norm are seen as biased or “militant” (LaRocque., 2015: 53) and face the consequences of their resistance or rebellion in a way that is relative. Indigenous youth are at great risk due to the fact that they are targeted by the colonial legal system and viewed negatively by society.

Apathy amongst Canadians when it comes to challenges faced by Indigenous people makes for a grim future when we consider how fast the Indigenous share of the Canadian population is growing and the conditions under which many Indigenous people are forced to live and raise their families in. In a 2015 election survey, 33% of Canadian respondents said they disliked or were indifferent to Indigenous people (Canadian

Election Survey, 2015). This becomes more troubling when the demographic of Indigenous people is so young representing a median age of 24.3 according to the 2016 census (Saskatchewan Aboriginal Population Profile, 2016 Census, 2016). Utilizing this theory, we can see that Indigenous youth are framed within the categories of Dependant or Deviant. Dependent would suggest that the youth is living at home with their family and are dependent on them. If a youth is not living at home or they are unable to depend on their home, then they are forced to live on the margins of society. Indigenous mothers are socially constructed as Dependent and are not expected to maintain the home, sustain a flow of resources, and take care of their children. The living conditions that they are able to provide are often weaponized against them in the risk assessment. When the youth depict an attitude, demeanour or character that is not one of the normative white male or white female, they become (re)constructed as Deviant.

Social constructions of Indigenous youth as Deviant fits within the discourses of risk and racism discussed above. The way a youth grows up in our society shows to them where they belong, who they fit in with and what their opportunities are. The reality many Indigenous youth inherit is one of hardship, exposure to drugs and alcohol, dysfunction, maladaptive coping mechanisms and this causes a fertile ground for the reproduction of behaviours that are deemed “criminal” even if they are behaviours that came from trauma and even if the trauma came from colonialism. These challenges that Indigenous youth inherit are something they have to gain skills to navigate through often times before they have an opportunity to choose something else. The youth, at the end of it all, is criminalized for this upbringing. These learned behaviours, in society, are “criminal” and when a youth commits what has been decided to be a crime and they are

processed through the system, they are assessed for their deficits. Not only do their actions get deemed criminal but the youth themselves are deemed criminal. It is easy to internalize this label. The internalization of this word makes it easy to become an enemy of the state emotionally and this sense of powerlessness can be exhausting. On the external, this youth will be prescribed Deviant when they interact with society whether its through their probation programs, their teachers and school, or in their community – they are powerless and socially constructed as problematic. Racism functions in our society through personally mediated dialogue, decision making circles, policies, laws, and is pervasive within educational institutions, communities, stores, grocery stores, the comment section and in the housing market to name a few. Racism impacts the trajectory of how an Indigenous youth operates while they are in school and in community and how they internalize their identity through the collection of their experiences. Rebecca Moore, an I’nu woman and a member of the National Family Advisory Circle to the Missing and Murdered Indigenous Women and Girls (MMIWG) Inquiry, said that “Being an Indigenous woman means living under a society and ‘civilization’ that benefits from your voicelessness, invisibility, disappearance, non-existence, and erasure” (Coburn, 2019). Marion Buller, Chief Commissioner of the National Inquiry said that “the type of Genocide that we have in common is death by a million papercuts for generations” (Coburn, V., 2019).

This structural violence, described in the form of papercuts, exist within the Indigenous experience through all Canadian institutions for example, engagement with schools, community, civic engagement, provincial legislation, child welfare, and opportunities or there lack of.

An example of engaging with this structural violence in the school setting can be found in youth interactions with School Resource Officers (SRO). SRO's are "peace officers" working within community policing programs in schools that often have high Indigenous and Black populations (Hudson, S., 2020). The role of the SRO is to enforce the law and the discretion of how they do so is up to them – the police officer always has to assert their authority whilst protecting their jobs. These police in school programs are an example of a lenient approach to the Canadian public, but they are a threat to youth who live in poverty, are black and brown, and are viewed as irreverent or uncooperative. This is how the carceral continuum is growing and widening the net. These youth would constitute the targeted population in schools. For example, a Secondary School in Toronto with this police presence was tasked with the duty of building relationships with youth (Cole, D., 2019). However, one day the police officer was in the school hallway and a 16-years old boy said "bacon" out loud. The police officer then interrogated the youth and demanded his ID. At this school, all youth had to wear name badges so the youth had no obligation to provide ID above and beyond that. The kid flashed his name badge to prove he had it but did not hold it up for the cop to see. Nonetheless, the police officer attempted to handcuff the youth and the youth perceived no cause for that. The police then arrested the youth and charged them with resisting arrest and assault of a police officer. The police officer reported that he believed the youth was a trespasser at the school and was simply doing their job to enforce the rules. At the end of this altercation, the youth is reminded that they are not viewed positively in their school setting where most Canadians go to learn. All of the youth watching would likely be

reaffirmed in their attitude that police presence is not safe for black students – just because of the skin they are in (Cole, D., 2019: 181).

Another example of the violence that Indigenous youth face across multiple structural systems is the investigation into the Thunder Bay police department for anti-Indigenous racism and how it functioned through complacency of the system (Sinclair, M., 2018). The police have the ability to interpret the evidence and to report on crime. This is how they operate as Contenders. Police in Thunder Bay saw “no evidence” in missing cases of Indigenous youth even when the Indigenous public was pleading for an investigation (Sinclair, M., 2018). During this time, it was widely reported that ‘racist attitudes’ were present in the Thunder Bay Police and that evident in their “inadequate investigations and premature conclusions” (Prokopchuk, M., 2018) when it came to Indigenous victims. Due to the multiple occurrences of youth deaths in Thunder Bay, a Coroner’s report was finally ordered. In this report, it was found that the police breached the trust of Indigenous people by: not interviewing or following up with witnesses of persons of interest, poor collection and management of evidence, lack of communication with coroners and pathologists, and not investigating thoroughly enough to see whether someone else was responsible for victims ending up in the water or becoming incapacitated as a result of drowning or exposure (McNeilly, G., 2018; Sinclair, M., 2018).

This report speaks to similar conditions of the story about the boy at school and his interaction with the SRO. Indigenous youth are often sent to Thunder Bay from surrounding communities for school but contending with a lack of opportunities to connect to each other, the reality of being displaced from family, and the common reality

of intergenerational trauma that breeds maladaptive coping mechanisms, these young people are situated in an environment wherein they believe they need to take full accountability for their actions and responsibility for their behaviour (Sinclair, M., 2018). The perception that there is “no evidence” to investigate speaks loudly to how police socially construct Indigenous people – particularly, Indigenous youth.

In order to change the way Indigenous and Black youth are targeted, social constructions of them must change. This is challenging when so many Canadians have faith in the justice system, believe in an inclusive and diverse Canadian identity, and believe that the police are doing a good job. For example, Saskatoon residents who had the most trust in the police were white women with a high level of education and a high income (Huebner, B. M., 2004; Frank, J., Smith, B. W., Novak, K. J., 2005; Cheng, H., 2015). This is not surprising for Indigenous and Black youth. Colloquially, these white women are known as “Karen” because they are hyper-vigilant at reporting their fear of crime, which is often rooted in racist beliefs (Scarborough, B. K., 2010; Gill, C., Weisburd, D., Telep, C. W., Vitter, Z., Bennett, T., 2014; Cheng, H., 2015). This is the danger of social constructions wherein the police are the Contenders and the Indigenous or Black youth are the Deviants (Nichols, R., 2015). In this instance, the perceived threat of the youth speaks to how they were framed and constructed by Karen(s). More recently, instances of these encounters are being filmed and shared on social media platforms, and the discourse is only beginning to change in part because of these intimate exposures. The state of community policing wherein white people are calling the police on black and brown people more often is heightening tension in an already “defund the police” era. Black and brown youth are therefore targeted not only in systemic interventions by

police, but further in the community where white people justify fear as a reason for calling the police on racialized youth.

Police are also socially constructed as Contenders within the SCTP theory, possessing voting power as well as discretion into how they uphold the law. It is common knowledge that Indigenous people and Black people are disproportionately arrested and charged by police (Cole, D., 2019; Comack, E., 2012) and murdered by police (Hudson, S., 2020 in Warzecha, M., 2020; Monchalin, L., 2016; Mercer, G., Ross, J and Flatt, J. F., 2020; Flanagan, R., 2020). With the introduction of the YOA, the police now also possess the discretion to let a youth go, give a youth a warning, or charge the youth. This is a critical moment within the colonial legal system, as it serves to determine the level of involvement the youth has with the system. In an instance where a police officer decides to charge the youth with a breach then the case is handed directly to the court and the probation officer is made aware of the breach. A probation officer has no discretion in whether a youth could be charged with a breach, if they are first charged by the police.

In addition to police and probation officers, other judicial actors, such as judges reinforce this social construction of Indigenous youth. Notably, the notion of ‘healing’ saturates judicial discourses upheld by this system when it comes to cases involving Indigenous youth – this is particularly evident with the introduction of the Gladue factors (Kaiser-Derrick, E., 2019). Elspeth Kaiser-Derrick (2019) discusses how Gladue reports are used in judicial sentencing for Indigenous ‘offenders.’ The Gladue report is meant to work in conjunction with the pre-sentence report and is to be written by someone who has training on Gladue factors. Gladue reports are meant to position the offender in a holistic way by providing additional information on factors – known commonly as

Gladue factors – in an individual’s life against the backdrop of colonialism (Kaiser-Derrick, E., 2019). The problem is that the Gladue factors, which are supposed to be mitigating in nature, can be perceived as risk factors when considered outside of the context of colonialism, and discretion lays with the judge in interpreting such factors as Gladue factors, or translating them into risk factors (Kaiser-Derrick, E., 2019). Gladue report writers, like probation officers, are overburdened with caseloads and are therefore often limited in their ability to provide a full, in-depth, holistic analysis on each case. As a result, Gladue factors are often merely included into regular pre-sentence reports made by intake workers or probation officers (Kaiser-Derrick, E., 2019).

Gladue factors and reports, like other alternative measures, are not helping in creating the radical change needed in a colonial legal system that fundamentally works against sovereignty of Indigenous people – particularly, with meeting the basic needs of Indigenous youth that lead them to marginalization and state intervention in the first place. Indigenous youth most often experience the implications of being an Indigenous youth before they understand what nation they are from, who their ancestors were, or the land that they come from. The Gladue factors reproduce the discourse of colonial trauma and the need for healing amongst Indigenous people but do not fundamentally change the way in which states interact with Indigenous people – rather, it reproduces colonialism through widening the net based on the “need” for additional services, similar to how probation functions in the first place. It does not ask if the youth want services from the state rather it tells the youth what services they need from the state. This is a violent affair and can contribute to trauma amongst the youth that they will have to deal with in addition to removing themselves from the grip of the system.

Creating Feedback for a Growing Public Sector

This section discusses how neoliberalism is making real impacts with how the colonial legal system maintains its function within the market-based economy. Positioned as an “objective” model that operationalizes how complex needs can be used to fuel the iatrogenic feedback loop that continues to grow the public sector, the RNR model was ideal in a time when people vocalized their need for public safety (Bulin, M., 1990). This coincided with the election of a conservative political party who sought to assert power through the discourse of law and order (Comack, E., 2014). These neoliberal tactics ensured that the probation officer could process more people at a faster pace, because the benign nature of their position is protected by an “objective model.”

Structuring a bureaucracy within new public management is an act of neoliberalism and that is what the Canadian justice system has been shifting towards. The Indian Act serves as “much more than a body of laws that for over a century have controlled every aspect of Indian life. As regulatory regime, the Indian Act provides ways of understanding Native identity organizing a conceptual framework that has shaped contemporary Native life in ways that are now so familiar as to almost seem natural (Lawrence, B., 2003:4) It is with this conceptualization that the normative violence present within the colonial legal system. By assessing risk with the goal of providing services, the colonial legal system is continuing to maintain regulatory power over the new generation of Indigenous youth. “The poverty and suffering of Indians allows the system to keep leveraging money out of the public pocket, and justifies the existence of bloated bureaucracy. This system owes its continued life to ensuring the continued suffering of the most helpless and voiceless – without end” (Allard, J., 2002: 151). It is

no doubt that Canadians benefit from Indigenous oppression to this day, evident within the thriving public sector. Penitentiaries, correctional facilities, remand centres, halfway house, youth jails, youth open custody, youth group homes, child welfare, low achievement rates, poverty, welfare, and food-insecurity programs are all publicly funded institutions (Tewelde, Y., 2018; Monchalin, L., 2015) that have benefited from Indigenous oppression (Battiste, M., 2013). These agencies that are mandated to support rehabilitation and reintegration could be sharing resources and data to better support their target populations. However, most of these agencies are government run and mandated programs. So, “until there is an expression of political will, nothing will happen. The challenge is multi-layered and requires the participation, resources and commitment of federal, provincial, Indigenous, municipal, police, educators and community-based groups” (Eisler, D., 2017).

The current colonial legal system, when it comes to criminalizing youth, is actively working to sustain the overarching system of colonial oppression through the monopoly of service delivery. Good intentioned Canadians who want to make a difference are met with moral dilemmas in the pursuit of complying with their administrative policies (Zacka, B., 2017) and these are often the people who are bloating the bureaucracy and trying to change things from within.

Youth Perceptions of Justice and Community

It is important to state that the reason I am able to share this research is because I have lived experience as a youth in the system. I still stay in contact with my school support coordinator from when I was on probation. She is now my mentor. I called her and I told her how I was feeling about what I have learned so far in this research project. I

explained that I was frustrated at how hard it is to be an Indigenous youth in Saskatoon. I talked about how guilty I felt for being in the position I am in. She replied with, “it’s not enough to get out of the system when you can’t get the system out of you”. For many Indigenous youth, the system is all we know. There is no alternative experience where we can see that we are not targets and until youth know they are bigger than the system that feeds off of them, they will continue to be vulnerable. How it feels to be an Indigenous teenager in Saskatoon is important to understand so we know how to help if that is what we are here for. The common threads of violence, addiction, abuse and grief saturate the Indigenous youth experience to this day (Dhillon, J., 2016; Monchalin, L., 2015) but it is not who they are as people. Indigenous youth, like all youth, are diverse human beings who are multifaceted and worth knowing.

Learning from youth themselves helps to understand how the role of discretion amongst probation officers impact recidivism rates, reintegration and rehabilitation amongst Indigenous youth. How Indigenous youth feel about the colonial legal system matters. How Indigenous youth experience recidivism matters. The cycle of recidivism leads to increased institutionalization and for many Indigenous youth. The colonial legal system is not the only systemic intervention they experience. Indigenous children and youth are overrepresented in the Child Welfare system and it is argued that Indigenous children continue to be at risk because Indigenous governments, organizations and support networks are not provided with equitable or sufficient resources to keep their children safe (Blackstock, C., Bennett, M., Brown, I., 2007). Systemic intervention through the child welfare system and colonial legal system in Indigenous peoples’ lives is normalized within Canada and this as a foundation sets this generation of Indigenous

youth up for a rocky start with the likelihood of the next generation having to inherit the next wave of Indigenous issues. The way this is experienced by Indigenous children and youth is internalizing feelings of inferiority (Monchalin, 2016). This discourse that normalizes state intervention today is due to the impacts of ongoing colonialism that also enabled residential schools and the 60s Scoop. It is about how things being done today are much different from these previous methods of assimilation.

This type of intervention in a person's life reproduces internalized oppression and can have damaging impacts on their life and their descendants. It is not enough to advocate for youth. Professionals who advocate for youth justice run the risk of speaking in the wrong direction when they speak for the youth. Indigenous youth, aged 12 to 17, are rarely represented in decision making circles themselves. The decisions that are made are done so based on evidence the system gains through their probation officer's reports and statistical data present at the time. This data contributes to the discourse of Indigenous issues and ultimately fails Indigenous youth. Without real engagement with the young people and the environment they live in, "the over-representation of law enforcement and academic institutions, along with the under-representation of youth-focused community and social services representatives, highlight a continuing blind spot about the roots of youth involvement with guns, gangs, violence and criminality more generally" (Tewelde, Y., 2018). The language that is used within academic discourses as they pertain to youth are also inaccessible and dry. Adults largely contribute to the creation of such discourses, and this is problematic because Indigenous youth are socially constructed by others who possess power within these circles, and these social

constructions consequently determine and define the parameters of their youth experiences.

Saskatoon was home to the “Young Indigenous Women’s Utopia,” a group of young women who came together to learn about self-care and colonial violence so that they would be better equipped to navigate through life in a healthy way. This program was started by Kari-Dawn Wuttunee and Jennifer Altenberg. In an interview with CBC Saskatoon, Wuttunee said "we are really arming our young women with the tools and education to be able to say, 'I can recognize racism, I can recognize sexism,' and really taking that leadership role" (Smoke, P., CBC News, 2019: Retrieved July 2, 2020). They also released a book that features these young women’s voices. One of the girls wrote about how she was broken hearted because her mom left her, and she did not have a good relationship with her dad. She wrote about how she was hurt, about how she did not want to get attached to other kids that come and go from the group home. and how she does not have hope that she will get out of the system before she is 21. She wrote about how it is common for Indigenous girls to witness violence. Another girl wrote about how she wears her ribbon skirt so people know that she is sacred, because she knows that people like her often go missing or get murdered. She wears red as a symbol to stop the violence. Another girl wrote about how she spent a lot of her childhood sad and angry because so many things happened to her, and how she feels like she has no home even when she is home. She wrote about how she has stress about bills and how she struggles to eat but that she does not want to cause more stress to her family. Another girl wrote about how she is growing up in an area that she was raised to think is scary. It is also scary to her

when she watches street-workers and police go up and down the street all night. She is scared in her neighbourhood during the day, and happy to be home during the day.

In this group, these girls learn about miyo-pimatsiwin and learn ways to take care of themselves and each other. It is through these stories in *Young Indigenous Women's Utopia* that we can start to see how these girls may be misunderstood in the context of colonial legal processes. Their oppression can be further exacerbated through the interpretation and actions of the police, the probation officers, the judge, and the Crown prosecutor, all of whom act as street level bureaucrats (Wolfe, D., Wuttunee, K; 2019).

Who Is Inheriting 'Indigenous Issues'?

The colonial legal system is one that enables conditions of violence, hunger, sleep-deprivation, lack of safety, poverty, and addictions because the system does not address the roots of many of these social problems. These girls are normal, whole, perfect, beings that are simply trying to live their lives as Indigenous women, something that the system does not recognize through its colonial processes.

As a young person growing up in these circles, I found that Indigenous youth often got opportunities later in life. By this point in time, many of the youth who were most vulnerable may not make it to these opportunities. This is why it is so necessary to provide sanction for children and youth growing up in the chaotic, violent and toxic environments that they inherit. When youth are engaged, issues are framed as being "Indigenous issues." Youth are confronted with the entirety of the discourse of "Indigenous issues," the list of which is long and then made responsible for the environment they inherit and their place in it. Carrying the burdens of the past is damaging to the Indigenous youth's mental health and wellbeing especially when they

live with the ongoing violence of colonialism within their families and community as well. Indigenous youth in poverty are predisposed to alcohol consumption, alcoholism, drug consumption, and drug addiction at an earlier age (Mackay, G., 2005). This situation increases their likelihood of ongoing feelings of isolation and decreases their likelihood of graduating or getting a job, which is expected from them in Canadian society. If youth make it out of their adolescence sober and in school, then they are labeled as “resilient.”

This construction of Indigenous problems or issues is informed by a positivist ideology that serves to protect neoliberalism. The problems are massive because they are systemic, structural, and institutional – they include racism, lack of drinking water, lack of access to healthy food, exposure to maladaptive coping mechanisms, addictions, poverty, mental health problems, and low education rates (Million, D., 2013; Monchalin, L., 2015; Dhillon, J., 2016; Castellano, M. B., 2008; Battiste, M., 2013). These “Indigenous issues” may not reflect the nature of their current life or reflect the nature of their heart. Indigenous youth are at risk of forming their identity based on the deficits that are prescribed to them through programs and services that are geared towards Indigenous youth. In this way, there is a silencing of Indigenous youth within the discourse because the discourse itself rarely reaches beyond the wider society’s social construction of Indigenous issues (Nichols, R., 2005; Kaiser-Derrick, E., 2017).

This really hinders the potential for excellence amongst Indigenous youth. This affirms the social constructions of these youth and as Dependents. They can never be Contenders because they do not possess power; they can never be Advantaged because they do not have power (Lipsky, 1980). I hypothesize that the Government of Saskatchewan benefits from the clause that the media is not allowed to report on

Indigenous youth who are perpetrators or victims of crimes, making the complexities of Indigenous youth experiences inaccessible and unavailable to the public. Indigenous youths' voices in my own life are found in their most organic form within art. Within this form, youth voices are not diluted by the interpretations of adults. They are raw. I wanted to learn from my practice as an Indigenous arts-based educator to inform how I could create an environment where youth can provide insight into how to create better conditions for themselves, so they do not have to enter and proceed through the colonial legal system in the first place. Since Indigenous youth will never have power to decide how resources are distributed in the context of the colonial youth justice system, it is the responsibility of the Contenders to advocate for the youth against the Advantaged, so that the system can begin to take responsibility for causing marginalization and be held accountable for the political ideology that is oppressive, racist and destructive to Indigenous kinship ties.

It is through the sharing of stories that we uncover our connection to each other, the land, our teachings, our language, our culture, and to ourselves. It is my hypothesis that through the withdrawal of state control over justice amongst Indigenous people, Indigenous communities can be mobilized to develop sustainable programs and institutions that are focused on holistic cultural revitalization. The colonial legal system has only infringed on Indigenous kinship through the abovementioned processes that actively invisibilize Indigenous laws, making sovereignty less likely over time, thus continuing to benefit from our oppression as long as the state continues to intervene in our healing journeys.

Chapter 3: Methodology

This section discusses the inspiration for this research, the ontology, epistemology, study, and approach as well as details about the recruitment and why the spider web (Appendix A) was chosen as a guide for the thematic analysis.

The thesis specifically addresses the following research questions: in the context of the *Youth Criminal Justice Act (YCJA)* as it pertains to Saskatchewan in the case of Indigenous youth aged 12-17 in Saskatoon, how do the reintegration and rehabilitation strategies operate to prevent marginalization of young people exiting the youth criminal justice system? More specifically, how do probation officers on the ground design, implement, and perceive these strategies? How do marginalized young people perceive these strategies? Finally, how could these strategies be improved?

Ontology

My ontology is rooted in the reality of my need to heal. My lived reality is that I am from the north and I was raised in inner cities within Saskatchewan. My parents, who, like most parents, loved me but also had maladaptive coping mechanisms, largely guided my life experience as a child. My dad was committed to being my dad; my mom was committed to being my mom. I knew I was loved. They knew that sending me to school was important, and they wanted me to do well with what they were able to offer. I was socialized in the public school system and I learned what it meant to be Indigenous in these spaces. I learned a lot from my older brother and sisters. I grew up too fast. My ability to “make it” was born out of a trauma response – I knew that the system was not there to protect me. I was exploited by the system – like all Indigenous youth are. I knew

that in order to become successful, I had to “play the game” and I knew that a settler society valued higher education. I saw that through processes of learning, I could make sense of problems that muddled the connection between my mind and my heart. I suffered from self-hatred for a long time, and I began to see that this self-hatred was a common experience for Indigenous people living in a settler-colonial society. Through my own experience, I learned that the Canadian colonial legal system thrived on Indigenous self-hatred. Part of the motivation for this research is my desire for Indigenous youth to know they are not the problem; rather, it is the colonial legal system that is the problem. As a young girl, I developed relationships in Saskatoon that helped form and frame my identity; it was imprinted on me to pursue what indigeneity meant to me and I felt inclined to perform and express my identity. I use this lens as a blueprint for how I see the world and my place in it. I am now an Indigenous scholar in a PhD program far removed from the ins and outs of the Saskatoon core. I am still an Indigenous woman from Saskatoon but no longer in a direct threat of intervention by the state or at the risk of poverty. For these reasons, I hold both insider and outsider status (Innes, R., 2009). I had insider access when gaining the interviews with the young people at CNYC because I had an existing relationship with the organization from long-term engagement. I had the experience of an outsider when gaining access to interviews with probation officers. When it comes to this research and being able to convey findings, it was important to practice reflexivity mindfully – for example, to recognize the disposition rights that I have gained by being in university. The language that I use in academia makes me less relevant to those I need to maintain connection with. An insider also means it is who I am, where I call home, and who I call kin. I am also an outsider of the colonial legal

system and have never been considered an insider due to the nature of my relationship with the system. This dual insider-outsider status is central to this thesis as it is through settler-colonialism that Indigenous women are reproduced as vulnerable contemporarily by way of the colonial legal system of which I am a survivor.

Epistemology

My epistemology in approaching this research is informed by helpers in Saskatoon whom I have had the privilege to work with, be mentored by, mentor, collaborate with, learn from, learn with, listen to, do ceremony with, laugh with, cry with, build with, and grow with. There is a network of support that is present in Saskatoon, but many of the organizations comprising this network have precarious funding models that are dependent on government agendas. The lack of stability within the organizations that serve the community is detrimental to creating the ongoing support that is necessary for our communities to heal and begin to thrive. My epistemology is further informed by my belief that the community holds solutions to community problems, but that it will take a lot more than youth programming to do that.

Due to the nature of intergenerational trauma and the ever-presence of family pain present in stories from youth, there is no need for state intervention to replace a facilitated experience where kinship relations can be re-directed in a way where they can express their love in authentic ways. I also understand that in order to heal, there must exist strategies that include the self, the family, the community, and the nation. This is because we are all interconnected. This ontology and epistemology inform my methodology. It is holistic in nature and it guides me to believe that justice is the restoration of health and wellbeing in a given community. Through this decolonial understanding it has become

clear that the colonial legal system itself is detrimental to justice and contributes to the destruction of Indigenous people, families, communities and nations. A challenge for Indigenous people is that they depend on the same colonial legal system to protect them when they need help. Inquiries like the MMIWG, the Thunder Bay Coroner's Report and the TRC Report all explicitly state that ongoing colonial violence exists within contemporary colonial institutions, including the colonial legal system, policing, child welfare, education and therefore the colonial legacy is alive and well. How this is experienced by Indigenous people is being more likely to be the victim of a crime, be exposed to traumatic events, be socially marginalized, find themselves unable to garner equitable employment, be dehumanized by the media, and face racism throughout their life. The likelihood of being a victim of violence are increased when you are an Indigenous woman or girl. This perspective is important.

A Decolonial Approach to a Phenomenological Study

My approach is decolonial in nature; it is sovereignty seeking and it involves conversations with young people with experience in the colonial legal system and with probation officers, who act as street level bureaucrats, to expose gaps within the system. Storytelling offers a space to make meaning of who is benefiting from the colonial legal system, how they are benefiting, who is being burdened by it, and what they are losing. This phenomenological study sought to understand the philosophical underpinnings of the colonial legal system (Swaminathan, R., Mulivall, T. M., 2017) and gain clarity into how this was experienced by Indigenous youth. The questions enabled me to gather answers that provided a basic understanding of the conditions people operated under within this context, as well as to ask clarifying follow-up questions in pursuit of making

meaning of the phenomena. The practice of reflexivity in my research is guided by the responsibility I have to contribute something authentic and meaningful so it can be used by Indigenous people, organizations, and allies. This meant challenging my own internalized oppression, colonialism, and misogyny, and approaching my analysis with strategies for reasoning (Nilson, C; 2016). My own life experience and memories of engaging in the system undoubtedly contributed to the motivation for this research but it was the wisdom I gained from that experience that I hoped to leverage. By practicing reflexivity with the understanding that we are collectively moving forward, it was imperative to focus on the task at hand with a disciplined lens (Nilson, C; 2016). By doing so, I was able to find an understanding that is far deeper than I could have imagined. As the understanding of the research grew, my position in the research changed. I became free to pick up the system when I wanted and I became free to put it down if I wanted and this has been a fundamental shift in how I see myself as an Indigenous woman and as a researcher.

The decolonial approach is what informed me in seeking to understand how youth experienced marginalization and the ideology, attitude, limitations and discretion of the probation officers. According to Kovach (2009: 130), “qualitative research methods involve both interpretive and analytical approaches to finding meaning from the insights of an inquiry.” Interpretation allows a researcher to make meaning through a subjective account of a social phenomenon as a way to establish an understanding of what is occurring. The analysis allows a researcher to take apart the variables and components within a social phenomenon and explain them in evidentiary terms. “Research analysis within the majority of qualitative approaches requires the organizational grouping of data

for the purpose of showing patterns that build a theory” (Kovach, 2009: 130). Though description, analysis, and interpretation are three entities (Wolcott, H. F., 1994), they work together to inform the researcher “throughout the research process” (Kovach, M., 2009: 130). The researcher needs to have a clear understanding of who is benefiting from the research and own responsibility of how they construct knowledge throughout their research (Kovach, M., 2009). In terms of responsibility, “Indigenous communities demand a decolonizing outcome from research” (Kovach, M., 2009: 86). For that reason, I have interpreted my findings through a decolonizing lens, which informs my thematic analysis. This research understands and utilizes analysis as a way of “observing patterns and behaviours and make sense of the observations” (Kovach, 2009: 130-1).

Analysis of the data was conducted against a backdrop of understanding how the colonial legal system operates as a strategy of ongoing colonialism (Monture, P., 2006). This included organizing the themes into the spider web, allowing for the research process to visually reveal gaps and problem areas that need to be addressed. The spider web is a touchstone for understanding how nehiyaw perspectives of justice can weave together to produce and further develop new mechanisms that are rooted in Indigenous ways of knowing, and pertinent to the context of Indigenous youth in Saskatoon. The theory of social constructions of target populations was important to framing the positioning of Indigenous youth within the equation by exploring how Indigenous youth come to be socially constructed as a group. Such constructions are a colonial problem that actively work against the discourse of Indigenous issues. Additionally, when combined with the theory of street level bureaucrats, the role of the probation officer as administrative in nature and the highlighting of the ways in which this role – alongside

other judicial actors – contributes to the marginalization of Indigenous youth becomes clear. Exemplifying how the probation officer acts as a so-called neutral buffer between the public and the state, situating them as street level bureaucrats is important in exposing what function they ultimately serve.

Data was analyzed and coded through a process of thematic analysis of the transcripts of interviews. I coded the transcripts by including key and significant themes that were repeated throughout the interviews as they triangulated with the research, labeling relevant phrases, key and significant themes, concepts, and words that were repeated across various transcripts in order to identify patterns, and then categorized and grouped these codes. Coding how the probation officer interpreted the youth and their social conditions, environment, and how they defined and interpreted their problems was essential to understanding what influenced their discretion. I determined which codes were important based on their repetition, if they were stated as important by any of the informants, and if the information presented was perplexing in its relation to the theory and literature. The categories and connections established in the research produced this study's results (Joffe, H., Yardley, L., 2004). Through the stories told by the probation officers and the stories told by the youth who have experience with the colonial legal system, this research sought to establish connections through both interpretation and thematic analysis. "For Indigenous researchers, there is a propensity to present findings in story form. Thus, the stories are introduced, often condensed. As with most qualitative research, they go through a member check. The stories stand, with the researcher reflecting on the stories" (Kovach, M., 2009: 131). This process of interpretation is also informed by my worldview and is not presented in a linear fashion. I have worked to

honour the life experience of the voices heard throughout the research by offering the research in a contextualized format.

Gaining an understanding of how youth perceive the way they are constructed, how they experience the colonial legal system, and how they experience their Indigenous identity was essential in understanding ways to support them and seeking ways to provide a safer community for them to grow up in. The data that was collected for both probation officers and the youth were treated the same, however the stories shared by youth were kept in context of their voice.

Methods

The methods that I used to conduct my research was one-on-one semi-structured interviews with probation officers and youth who had experience in the colonial legal system. The purpose of the interviews was to situate the context of the phenomena of over-incarceration and recidivism of Indigenous youth in Saskatoon, to understand the ways in which probation officers communicated with youth, how youth experienced the colonial legal system, and how this affected their perceptions of their place in society. I interviewed five probation officers and three youth in total. I conducted interviews with the probation officers at their workplace where they were permitted to use their work time. The youth volunteered their time. I did not feel confident that I would be able to create equity amongst these participants, as an incentive for youth was not recommended. It seems as though this is a common practice in research and it caused moral dilemmas for me as a researcher. The interviews took place between March 2019 and May 2019.

Recruitment

I initially sought contact with the probation officers through the Ministry of Justice's office that is responsible for Research and Evidence-Based Excellence. After nine months of waiting for the go-ahead from the Ministry of Justice Research and Evidence-Based Excellence, I scheduled an open meeting with the probation officers in the Saskatoon office. I introduced myself, my research, asked if they had any questions and then invited them to schedule an interview with me. For the interviews with the youth, I had prepared the Executive Director of the Core Neighbourhood Youth Coop (CNYC) for the project when I initially started doing my research. When it was time to interview youth, I scheduled an initial meet and greet with the youth at CNYC so they could get to know me and my research and make them feel comfortable in asking me any questions they had about the process. I shared a list of potential questions with them ahead of the interviews, and then went through the consent forms with them. It is important to note that I spent a lot of time at CNYC for various programming and community events, and as a result I was familiar to many of the youth I spoke with in this formal meeting. This helped in establishing rapport with the youth. The youth that were selected to participate in the study volunteered after the initial meet and greet. This process was approved by the Ethics Committee prior to me reaching out to the youth and the probation officers.

Interviews

The interviews were essential in gaining an understanding of street level bureaucrats in the context of the colonial legal system and its relationships with Indigenous youth in Saskatoon. It was important to seek breadth and depth of how probation officers operated on a day-to-day basis. I did this through a semi-structured style of interviewing so I could

extrapolate on areas that created more questions. The semi-structured approach to the interview provided both space and time for the probation officer to delve into concerns and issues that they perceived to be important, as well as share their thoughts on and what they believed was working positively. For the youth, three participant interviews took place. This location was selected because it was a space the youth were familiar with and already accessed. Due to restrictions in time with participants, I only conducted one interview per participant. All interviewees were given pseudonyms to ensure and protect anonymity. Interviews with all participants lasted for approximately one hour. The role of the answers from the interviewees was to gain an understanding of how reintegration and rehabilitation was understood, how the probation officers and youth interacted, and insights into how they think things can be done better or differently.

Thematic Analysis

Informed by my ontology and epistemology, the analysis of data was grounded in the belief that justice is the restoration of health and wellbeing in the community, and the belief that the colonial legal system infringes on Indigenous kinship ties and wellbeing by intervening in violent ways that cause harm. Through the lens of the settler-colonial theory, I sought to understand how Indigenous youth get into colonial legal system, what functions are at play that enables them to stay there for a long time, and what are the environmental factors that are causing them to be at risk. Though Indigenous youth in Saskatoon age 12 to 17 are at the centre of my research, their voices are not central. The main point of analysis is to understand how the environment that is created by the colonial legal system in conjunction with the social constructions of Indigenous youth make it so Indigenous youth inherit risk just based on who they are and where they were

born. While I understand the subjectivity inherent in the processes of asking questions and making meaning, it was essential for me to disengage emotionally from the familiarity of the colonial legal system and become present as an Indigenous researcher. The major themes that emerged from the interviews are: home environment, mental health, physical wellbeing, agency support, social influences, holistic connections, school community, and mastery and autonomy. Many of these areas are also targeted as sites for intervention by the colonial legal system.

My analysis was further guided by the spider web (Appendix A) discussed in Margaret Kovach's book, *Indigenous Methodologies* (2009). I initially learned the significance of the spider web in my own cultural teachings, and it was affirmed by Kovach (2009) who describes the spider web as a socio-ecological space in which everything is interconnected in a dynamic balance. This became significant in my perception of justice as I learned that communities themselves are much like spider webs in that they are interconnected. I adopted a conceptual framework that is in the likeness of a spider web in that it is exploratory in nature. In order to use the spider web, I had to understand for myself why it was so important. I discovered its importance lay in illustrating where gaps in youth probation exist and situates the interconnected context of the youth's stories and realities.

I watched a spider web grow and change in an intimate space for one month. There is one main matriarchal spider in the web. They are responsible for ensuring the web maintains its foundation through its main connections with each of the surrounding pillars. This spider is the keeper of the web and designs it in a way that, between the pillars, there are "bridges" so that wherever a smaller spider is on the web, they have the

ability to cross over. The spider web is not linear in nature, and the main matriarchal spider is not the only one who is contributing to building the web. The smaller spiders also contribute to the web by tying and retying small pieces of the web that fray from natural elements. This is important to note because if the spider web has big gaps in it, the smaller spiders will not be able to eat regularly. Their livelihood depends on the strength and bridges of the spider web.

Within the context of the restoration of health and wellbeing of the community, I see the spider web as representing the interconnected nature of people in community. This is miyo-pimâtsiwin. The main pillars of the spider web that I chose for this research are all important when looking to understand the current state of the spider web – what part of our web is frayed. One of the most fundamental pieces to restoring the health and wellbeing of our communities is regaining sovereignty through establishing our own institutions, which are funded and mandated by our own people, in order for us to begin rebuilding our web. This perspective is in contrast with the settler-colonial state, whereas Indigenous youth are socially constructed as Deviant, their mothers constructed as Dependent, where Indigenous youth are targets based on this assumption, and where state-sanctioned colonial violence through the colonial legal system is perpetuated as an ongoing process.

Chapter 4: The Net of Colonialism Breaks the Webs of Kinship

In this section, the findings are represented in the following themes: home environment, mental health, physical wellbeing, agency support, social influences, holistic connections, school community, and mastery and autonomy. This chapter presents the commonalities, narratives, and connections that were found through analyzing the interviews in correlation with the literature. Throughout this section, I will share the perceptions of the young people and their realities, as well as discuss how these exist in relation with the perceptions and realities shared by the youth probation officers. My intention is to unearth the influences of the probation officers' decisions as a way to understand how their use of discretion functions. At the forefront of this research is understanding how youth probation officers may contribute to or prevent marginalization amongst Indigenous youth, how this marginalization facilitates structural racism and some recommendations of where to go from here. The web shows the areas in which the net of the colonial legal system that reaches into mental health and addictions, anger management, schools, community service, policing, and counselling are impeding, on a meso level, on Indigenous people, families, communities and nations with a specific focus on how this phenomenon is functioning in Saskatoon. This approach to service delivery is not responsive to roots of the problem or environmental factors, on a macro level, of poverty, social exclusion, racism, ongoing colonial violence, trauma, abuse, or the need for collective healing. It is through the stories where I found the nuance of how these environmental factors and court decisions affect the way in which probation

officers make decisions for case management or how youth navigate their lives on a micro level.

Home Environment

The youth each spoke about their childhood, how they grew up, what their home environment was like and whom they lived with. They spoke about their current situations and big moments in their life where their home environment was the site of or became affected by an occurrence. One youth said, “growing up it was kind of like any other life like a native aboriginal girl would growing up in the system” (Y1). This person said that at home they were exposed to “gang members that didn’t really have that much support or guidance in their life” (Y1). They lived at home with their mom and dad until they were seven and then went into the child welfare system until they were 14. They said, “I remember being taken away from my family in a van full of social workers” (Y1). When I asked them what they learned from this experience, they said “[it] showed me how to live on my own and become independent. It wasn’t the greatest life living with people like in and out of homes and people you don’t know. That was hard” (Y1). This youth said that they left home because their dad died and their mom was too into drugs. They went between 15 group homes and said that today “I like to be at home though because it’s like a big change for me in my life, moving back in with my mother that I really haven’t seen over the years (Y1).

Another youth talked about how they grew up around drug dealers but they didn’t know that at the time. They “were spoiled,” had a lot of toys and they spent a lot of time at the park. This youth spoke about how they looked up to their older brothers and sisters who also lived at home and learned about gang life from their siblings. This youth spoke

about how they started having problems at school when a teacher questioned the way the youth was being taken care of at home. This same youth spoke about being sexually abused in her families' home by someone in their family and how that was terrifying to live in a community where this person is still present. The youth charged this person and they were convicted for the crime. This youth talked about how drugs, gangs, jail, and dysfunction obstructed the family unit and how home life is lonely. They live with their dad, but that their dad is often distracted by technology (Y2). This youth talked about their experience of the police questioning them while they were in their home. In this instance, someone had pulled the fire alarm in the middle of the night. The youth went into the hallway and got into a confrontation with someone who was drunk. When the police arrived, they spoke to the youth. The youth recollected how the police were "just kind of acting like I was the one who did it. And like, I was in the fault of it all and he wasn't giving me a chance to talk about what happened. He just like, pretty much just trying to get me to say that I did it. But it wasn't me" (Y2).

Another youth talked about how growing up was a "pretty rough situation" and described it as "a lot of substance abuse and just physical abuse, emotional abuse, all of that" (Y3). This youth remembers being a child and witnessing their father beat their mother, "being yelled at for eating food because we were hungry" (Y3), and seeing "needles everywhere" (Y3). When they were four or five years old, they were apprehended by social services and they moved in with their grandma in another province until they were 14, after which they moved to Saskatoon. This youth's home situation now is "going really well" (Y3). They are now a parent and live at home with their kids,

they have a license, a vehicle, and they just started working the day of the interview. They are currently also attending high school.

Probation Officer's perception of Home Environment

The probation officers reported that the home environments are the most challenging for them to understand and manage. They report a lack of family support and brokenness in the family. They recognize the inter-generational challenges and trauma that the family faces with an increased likelihood of internalized oppression and a lack of trust in the system. However, in order for the youth to stay committed to their probation orders, the family needs to be a part of the conversation, making the home environment a challenging dynamic where balance is difficult to find (PO3). The challenge, in line with what the youths themselves expressed, is that often the family may be part of the problem, making it difficult for the home environment and family to function as the solution that the probation officers hope they will be (PO3). The youth want to be accepted, loved and feel like they belong, and they will therefore be loyal to their family first and foremost. If the youth is to live in a potentially unhealthy home environment, then the likelihood of recidivism is drastically increased. In this circumstance, the probation officer recognizes that, “we’re setting them up to fail” (PO4). Residence conditions for this very reason are challenging, as youth have no power in the home environment (PO3). This seems to be a common occurrence – the youth lacking stability in their home environment – and there are not enough beds in Saskatoon for the number of youth who are at a higher risk of recidivism and addictions within their home environments (PO3).

For example, one probation officer discussed that a youth told them they had to “race through the grocery store to grab some food as she went out because there was no food at home and she gave her younger siblings that were hungry and she was hungry” (PO5). The probation officer talked about stopping by the mom’s house “so I just rebuild trust with mom and remind mom the child’s to come and see us, because I know that if I didn’t get that relationship with mom I wasn’t going to get anywhere with the child” (PO5). The probation officers were also asked if they ever had an experience where a policy they had to follow conflicted with their understanding of a youth’s circumstance. One said “yes. Not policy. Policy is not geared for everyone. Indigenous youth – each youth is raised different. We’re all raised different in different homes. And when it comes to policy, you have to follow that policy. So, not every youth is going to – or be able to follow that because its different from the way they were raised. It’s difficult. When you come from a home with no rules or boundaries and you come into society and you have rules and boundaries now – like, that’s a big challenge” (PO8).

I asked this same probation officer about the challenges the youth face, they said, “the biggest challenge is getting here. They don’t have bus passes. They don’t have the support they need when they leave here. Meaning family support. Like I said, some of their conditions are not suited to what they can actually do” (PO8). They said, “I would like to see family support more. More of door knocking. More actually going to their homes and engaging with their families. A lot of families... they’re broken and don’t have ways of getting out and meet us. Like I said, I’m talking to a lot of families over the phone. There are parents that will come in but they don’t always have the time. So, maybe if we were more family focused rather than just focused on the youth. Not saying

that we don't focus on the family but we need more. We need more outside influence to come and let's engage more with this family" (PO8). This probation officer said, "I mean, we're all trying to help these kids but like as far as they want to be helped is what they want to do. It's up to them with how much they want to engage with that" (PO8). I asked this probation officer why they think Indigenous people are utilizing the colonial legal system more than non-Indigenous kids and they said it was because "families are broken. There's a lot of brokenness there. Maybe because of residential schools. Maybe not" (PO8). "It became normal to be dysfunctional and it's like now the kids don't have that support of their family. A lot of their family are suffering with addictions. Addictions is like the number one in why these kids are where they are. 90% of what we deal with is kids who used drugs or alcohol and now they've committed these offenses...the kids are suffering with the healing of their parents their ancestors, it's like they don't even know about residential school but yet they're still living through it (PO8).

Mental Health

Talking about mental health issues with the youth was challenging and each conversation was very unique. One youth said that they did not want to talk about it (Y1). This youth spoke about how they practice healthy coping mechanisms like walking and listening to music. They said, "I practice singing and I practice at violin" (Y1). This youth has a lot of supportive people in their life and living at home with their mom and sister is comforting for them. This youth sets goals for themselves. They said, "I need to stop going out late at night to better myself, like, for the future, cuz when I go out at night that's me being tired during the day and that's talking away from what I could do" (Y1). They said, "I hope to make it where I want to be. I hope to make a better future than the past," (Interview #1).

When I asked this youth what they want for their family, they said, “just a little bit of happiness and joy” (Y1).

Another youth spoke about how they feel inundated by stereotypes and how they feel the pressure to “break the cycle” (Y2). They expressed sites of trauma and that they had no intervention for their mental health. They expressed that they did not know this trauma happened until later in their life and how they had to navigate it alone (Y2). They said, “I didn’t know I was supposed to reach out to anybody. Because, like, I don’t know. Well, like every time I talked about it, I just cry and cry. So, like, I learned not to talk about it” (Y2). They explained their understanding of why they wanted to get help: “If you’re bleeding on someone, you’re going to bleed on somebody else and it’s not going to lead them. It’s going to hurt them” (Y2).

Another youth talked about childhood trauma and how alcohol use led them to recidivism. They talked about how they have impulsive behaviour and how they want to be good at self-control. This youth talked about how he became hopeful when he was assigned a probation officer who “seemed super genuine and like he actually cared about trying to help” (Y3). Things started to turn around for this youth when they took the lead away from drugs and alcohol. They first went to treatment because they were up against a sentence, and then later returned to treatment on their own because it was helpful.

Another significant moment for this youth is when they were introduced to CNYC. Before this, they were “just falling through the cracks” (Y3). They said, “after going to CNYC and being with all the staff there, it really gave me a better outlook on life and the world and the way that I had seen things for myself as a young child, they just helped me

win” (Y3). This youth now has role models and feels they have options about where to go in life.

Probation Officer’s Perceptions of Mental Health

Probation officers are given tools designed by the colonial legal system and are responsible for supervising youth as they navigate the services. These services include mental health and addictions. This agency is in communication with the youth probation office daily regarding different youth. The basic human needs of love and affection for youths have rarely been met, and when they enter the colonial legal system, they are in their formative years of adolescence. Several of these youth have ‘zero trust’ and that impedes on the probation officers’ ability to engage in what they consider meaningful dialogue. Youth who do respond often fair better in treatment programs over custody sentences. This allows them to better address the core emotional and mental challenges that they are facing (PO3). Most of the youth currently in one of the probation officer’s caseload are considered high risk (PO5). This would lead one to assume that their emotional state is unwell. Most of them are males, and most of them are 16 or 17 years old.

Physical Wellbeing

Child poverty, lack of food security, and addictions all had a negative impact on each of the youth’s physical development. However, each of the youth felt that they were healthy at this point in their lives. One of the youth spoke about how they were introduced to powwow dancing in elementary school. This youth excelled by going to “every performance, every practice” (Y2). Another youth spoke about how they enjoy playing sports when they can. They said “I actually played every sport growing up. Well, my

favourite sport would be volleyball because I helped my elementary school. We got into the championship because of me and my cousins so that's one thing I'm really good at" (Y1). This youth said that they have open gyms around the city that they feel are accessible.

Probation Officer's Perception of Physical Wellbeing

The probation officer agreed that the basic physical needs of most of the youth they work with are not met. The probation officers identify poverty as the driving force for a lot of issues, and that the need to address immediate issues is often the cause for criminal behaviours. Access to food, clothing and personal hygiene is limited amongst the youth who are at higher risk. Adults in their lives influence their perceptions that money is the key to solving the issues they face (PO1). Leisure and recreation are one of the targeted areas in the LSI-SK risk assessment tool, evidencing that many of the youth deemed high risk would likely have a need for recreation and leisure. This is not surprising, as sustained programs are typically in schools or municipal-run extra-curricular activities and therefore, unless the young person had a family member who signed them up, got them equipment and took them to games and practice, they may not develop a relationship with sport.

Agency Support

The agency supports experienced by each of the youth vary. One of the youth expressed how social workers intervened through a teacher at their school. This youth stated "they always try to like talk me into saying bad things about my family. Because, like, I don't know they believe my family were bad people but we were raised right" (Y2). This youth thought about quitting school at this time. They were in grade one. They said that "the

teacher stopped bothering me. But she wasn't talking. She stopped talking to me and started talking to social workers" (Y2). It was at this time that the youth said, "social workers started getting a hold of me. They were bringing me into the office maybe every couple weeks, two weeks in third grade, one to maybe grade six" (Y2). This youth said that their relationship with the probation officer started after getting into a fight at school. They were charged with assault: "That was my very first fight, my very first time getting in trouble at school, my very first time getting in trouble with the law, so, like, it was like a three-combination skew" (Y2). This youth was sentenced to "twelve months probation, anger management, no contact order and meet with my probation officer" (Y2). The probation officer said to the youth, "I don't think you need anger management" (Y2).

When I asked this youth where they go for support, they said they go to the Boys and Girls club. I asked what kind of support the youth needed to reach their goals, they said, "I'd rather start earning money. I'd rather start pulling my life together. I guess my goal is to start adulthood. Adulthood, where I'm like, get myself on a path to living on my own and gain my own income and I need a car" (Y2). They feel as though their charge would make it so people don't want to hire them, so they want to wait until they turn 18 so that the charges can be dropped (Y2). They feel as if the system is either a "hit or a miss. You're either going to fall through with your probation or you're going to finish all that you have to do or you're going to mess it up and you're going to fall deeper into the criminal justice whatever. You're going to start doing more bad things. You're going to start giving up on life because you failed this one little thing that you thought you could pass but you didn't – just a trap for many youth, I'd say" (Y2).

Another youth spoke about how they had a youth worker they enjoyed when they were in a group home. As the youth described, “She was a mentor that I looked up to. She helped me with anything and everything, how to get to school and stuff. She’s someone I look up to” (Y1). The youth met people at the group home who were engaged in criminalized behaviours and that they looked up to, which led them to becoming charged with a crime themselves. They said, “I was young. I didn’t know any better, knowing right from wrong yet. So I did whatever I thought they thought was good like in their eyes, so the follower, but they weren’t really good influences at all” (Y1).

When I asked the youth about the relationship they had with their probation officer, they said, “right now it’s pretty good. She’s awesome. It just that she doesn’t try to keep in contact with me. That’s it. She tries but she really doesn’t. It’s just her job to but she doesn’t. She’ll call me once a week and say how you doing? What are you doing? And I’m like ‘chillin’. And she’ll just tell me to do this and that and like... she’s the one whose suppose to help me out with it” (Y1). The youth expressed confusion as to what the expectations were based on all the different places they had to go at what time and that when they screwed up then they would get in trouble for not showing up (Interview #2). This youth is 18 now and still has their worker along with active charges. I asked them about their goals and they said, “I’m gonna finish... I’m gonna graduate and I plan on getting back into school for management and business and find a job” (Y1). They need support in “just knowing how to get there. Just knowing how I would be able to get into that spot where I want to be” (Y1) and that is not the job of anybody on this youth’s sentencing order.

Another youth lived with their grandma, “until I became a teenager and started lashing out and being crazy” (Y3). I asked what caused them to lash out. They said “all the trauma resurfacing that I experienced as a small child” (Y3). They started going to CNYC day school “because I was kicked out of all other schools. No school would let me in and I would go apply or go to register and they would say that you can’t come here because of an incident at another school” (Y3). They said, “it made me feel not wanted or not accepted – not even given an opportunity” (Y3).

As the youth continued to go to CNYC they found lots of opportunities there, like “woodworking at CNYC or being able to go out and do programs and stuff like with the Boys and Girls club they have there. I wouldn’t have been able to do a bunch of stuff and see things and have programs if it wasn’t for that place” (Y3). This youth’s probation officer was really effective in inspiring the youth. They remember a lesson from the probation officer: “he was telling me he’s got this motorbike and a car and his house and all the things that he has and nobody can take them away. So the cops can’t take them away. Nobody can take them away. Somebody takes them away, I can get it back and it’s rightfully mine and that’s one thing, yeah, it really struck me” (Y3). This teaching gave this youth something to dream for. When they were done telling me the story, I asked: “did you see yourself wanting to be in his situation” (Y3) and the youth said, “yeah, absolutely” (Y3). Another person this youth looked up to was at CNYC and this person mentored the youth. When the youth was talking about the mentor, they said. “he’s a great role model – he’s first hand. He taught me how to network, how to do meetings, how to... he brought me to Toronto for my first time” (Y3). This person acted as a mentor for the youth. As a result the youth felt “I have more knowledge so that’s a big

piece to it. I know much more people who do more positive things and so versus when I didn't know very many people who do these types of things. I mostly knew people who were in criminal activities, people who do criminal activities" (Y3).

This youth talked about how they were not certain about a probation officer who came to visit them when they were in Kilburn, and how they felt betrayed by their deception. "The first [probation officer] I had, I was in Kilburn, yeah. I was in [...] unit. I actually hated her after we talked because she didn't tell me who she was. I thought she was like somebody there to help me with what I was going through. Like, a counsellor is what I thought she was and that she just had questions to ask me and then we're going to go over some other things, cause she was asking me lots and lots of questions. So I was just telling her, going off and talking to her. Then I found out who she actually was and so I was really, really mad at her after I found out because she straight up lied to me" (Y3). His next probation officer was "really engaged – engaged in conversation as well as engaged in what your situation is like, where you're living and like if you're going to school and what not, or if you're working, and you're trying to accommodate you and coming to meet you at your level rather than saying 'these are the standards and you need to meet them'" (Y3). Missing the bus and coming to an appointment late was one of this youth's challenges and with this probation officer they felt comfortable saying, "life happens" (Y3). I asked this youth what kind of support they needed in their life now. They said, "just people to talk to, people we connect with. Some people who can like be understanding of you and the struggles that you go through and have gone through. Yeah. Just a person who is really understanding. That's what I need anyways, personally. It helps. It helps me when I have somebody to talk to about my situation whether it's a good

thing about it or a negative thing about it... and just someone that you can talk to, somebody who has an understanding and who is not judgmental” (Y3). I asked this youth what advice they have for agencies in the colonial legal system, they said, “be more compassionate about the people that you work with – especially with high-risk individuals or high risk populations. There needs to be more empathy” (Y3). They added, “when a kid knows that they’re loved, cared for, they’re not gonna want to go out and break somebody’s stuff” (Y3).

One of the most notable findings that arose from this portion of the research is how the youth identified agency support as instrumental in their personal development, but not in the way that it is implemented by the youth probation officers. Throughout the interviews, all of these organizations were identified as helpful by the youth probation officers. Because all of the youth were recruited at the CNYC, it is not surprising that they all identified CNYC as their pinnacle of support and central meeting place for community engagement.

Court ordered agency support is seen and experienced very differently by youth. Below is a list of government run organizations and agencies within Saskatoon who specialize in key areas relating to youth probation, and who were mentioned by the youth or probation officer. It is important to note that the probation officers do not use all of these resources. The probation officer’s job is to implement the mandate of the YCJA by seeing that the youth meet the requirements in their probation order. Therefore, they only use the ones that are funded, mandated and resourced by the provincial government Ministry of Justice. In fact, the probation officers only access organizations that are necessary for the youth to attend based on their risk assessment results and only adhere to

the sentencing provisions given to the youth. They do not have a mandate or requirement to help the youth gain access to programs or organizations that respond to a youths individual interests or goals. This would be considered above and beyond their mandated responsibility under the YCJA.

One or more probation officers through the duration of the study have identified these programs as part of their “issue network”:

- **Quint Housing** who offers a male youth lodge for up to 30 male youth between the ages of 16 and 21. Social services and youth justice refers these youth.
- **Choices** offers an employment readiness program. This organization primarily served adults but now offers a range of services that work towards equitable employment for youth 16 and over.
- **The Restorative Action Prevention (RAP) Workers** operate a restorative justice program in select schools throughout Saskatoon, and these allow for opportunities of mediation and restorative justice for students and their families.
- **The White Buffalo Youth Lodge** offers an open gym that is accessed by several youth who are involved in the youth justice system. This organization is also administered by the Saskatoon Tribal Council and tied in with the Saskatoon Health Region. They offer various other programs that were identified as helpful by both probation officers and youth.
- **New Horizons** is a program that has operated since April 2018, and is a pilot project in Saskatoon. Restorative Circles Initiative administers this program and they help youth navigate the criminal justice system from their court appearance until sentencing. This is particularly helpful for youth who require extra support

- with housing, transportation, school support, emotional support, and access to positive influences. It is a mentorship model that has space for 15 youth at any given time. They are proud to be instrumental in lowering the likelihood of breaching for youth on bail.
- **The Saskatoon Tribal Council Reintegration Program** offers a range of programs and services with a family-centred case management model. The programs are designed to help reduce the likelihood of recidivism and help to eliminate barriers young people have with accessing consistent support within the community. This has been identified multiple times as helpful by the probation officer although it was not mentioned by the youth.
 - **Mental Health and Addictions** in Saskatchewan, and they offer counselling sessions that focus on addictions when youth are court-ordered to attend mental health and addictions appointments. The youth who had struggled with drugs and alcohol in this research have identified this organization as helpful to their recovery.
 - **The Boys and Girls Club** offers a range of activities and programming for youth. They also offer a technology centre where youth can learn computer skills. The Boys and Girls Club was recognized as very influential at helping the youth maintain positive connections in the community and is a safe place for youth to go when they just want to be around positive relationships. The youth have reported that they feel that they can confide in the staff at the Boys and Girls Club.
 - **The John Howard Society** is an organization that offers support with community service hours and fine options. They also have a range of housing programs, but

this research could not confirm whether the youth who are accepted into their housing options through justice referrals.

Many of these organizations offer programs that eliminate barriers for the youth. However, while there continues to be more and more youth who are becoming a part of the criminal justice system, there is not more support being allocated to these programs to increase their capacities. In this way, the agencies cannot be expected to meet the increasing demand they are faced with. It was reported by the probation officers that adult halfway houses provide much more support than that which is provided to youth when exiting custody or the system (PO4) Adult Corrections offers programming internally, and the youth that the Youth Corrections loses between scheduling and attending appointments could be better managed if they allocated the same supports to youth as they do to adults, so their basic needs can be met at a 'high-risk' time in their life (PO4).

Social Influences

Each youth had very different social experiences but were all exposed to the same social ailments found in the margins of colonial society. One of the youth said, "personally, I've always looked up to my sisters, not looked up to them because they've always led themselves in a bad direction. No, I didn't want to go down that path. Yes. I didn't want to be gang involved. I didn't want to be involved in gangs. I didn't want to be involved in drugs and alcohol. I just want to stay in my traditions and that's what I did" (Y2). This youth was always sent by their parents to go with their older siblings because their parents didn't trust the older siblings. Their siblings "were doing bad stuff that I didn't quite have an interest in so I didn't really care about that" (Y2). The youth spoke about

how they were an influence on their older siblings lives and spoke proudly about how “the cycle stopped at me” (Y2).

This youth spoke about how they were egged on through social media and at school before they finally got into a fight. They felt pressured by their friends to fight. In this situation, someone was “talking shit about me and all my friends, [pronoun] like giving us dirty looks for three or four weeks and we’re like trying to be friends with [pronoun] at first. Like, we’ve been told that we look intimidating because we all have like running bodies but like we’re really nice” (Y2). “Eventually my friends started getting mad, and they’re like, ‘maybe we should just get into a fight. We should just beat them up. We should do this, we should just catch them off grounds’” (Y2). They said they were prompted to fight, with their friend saying, “well, why don’t you just fight? You don’t have no criminal record, you don’t have no record in the school or nothing. And I’m like, ‘if I do not then I’m going to get in trouble. Who’s going to take the blame? You guys aren’t going to stick up for me’” (Y2). “It’d be this whole week that they’re pushing me to do it. And Friday came around and they’re like, ‘oh, we’re going to go meet them after school. Are you going to fight or not?’” (Y2).

They talked about how they now go to CNYC for support for school. “I mean like CNYC, it’s probably been the most help I’ve gotten, most guidance I’ve gotten from program. I’ve never really been involved in programs because I never really had been a trouble child through my whole life. But, now that I am, they’ve helped me realize it and like see that it’s pretty much just a trap. Like, once you’re here and you fuck up then you’re going to ODP. ODP (Open Door Society School Program) is just like a school where kids have to go to school. Like, they’re not really given any work and it doesn’t

really add up to much. Just a trap going into a bad dream. When kids get tired of ODP, where are they going to go... home?" (Y2).

Another youth talked about how they consistently breached their no contact orders at the same time they would breach for drinking and curfew. They talked about how they had good friends at a school they were not allowed into, and that they felt left out from that. This thesis addressed the importance of affirming a sense of belonging amongst youth and what it means to be left out earlier, but it is important to state it again in this context. These influences of belonging were people in public education, and because this youth was not allowed in public education that means their social circle was largely cut off from them as well.

This same youth expressed that they did not have access to influential and positive relationships that can guide them on a path where they would have more options. It was through going to a school that had support people with time that things started to turn around for this youth. At the time of the interview, this youth was 21 and their life path is very different from it was as a youth. This is because of the support and options where this young person learned to take the lead, which was provided from CNYC.

Another youth spoke about how they were introduced to the negative social influences in the group home. They talked about how "I did go to jail at 11... 11 years old sitting there. We're all around older people looking at them, their gang life. Sitting there just looking at that, I didn't want to live like that. I didn't want to grow up like that. But then I did at age 15 or 16. I was gonna be their squad member but then I didn't want to anymore because, like my cousins and them, having them run around the city in that life is just horrible. Watching their lives go from way up here to way down there is just

sad. So I grew up out of that...like I'm trying my best to help other kids in the community too. But that part is not really open because when you're young you don't want to listen to anybody else" (Y1). They spoke about how they saw things "that I just didn't want to be exposed to growing up" (Y1).

From the interviews with the youth, this is what I found: When youth need to protect themselves, it is a survival strategy to gain social clout. Drugs are seen as normal in these circles. When a youth is exposed to other ways of living or opportunities, they are at a crossroads where they decide how to spend their time – one day at a time. In this research, youth reported finding positive relationships in school and then making plans with those friends instead of going to their other friends. The challenge in this scenario is not having anywhere to go especially if all the families in the friend group are struggling, making the home environment one that may not be safe or positive. Online relationships influence youth also, and situations that begin at school may continue into the evening and be taken off campus. These conversations, when unmanaged and coupled with idle time amongst teenagers, can turn into tempered scenarios where youth plan to fight. These fights are filmed and the youth involved may be most peer-pressured but, again, are looking for validation through social clout.

Gangs in Saskatoon also pose a challenge to young and impressionable youth. This is a recognized problem amongst probation officers. This reality is met with the probation officers' acquiescence that "this just is the way it is" (PO2). One probation officer said, "the high-risk youth, they're either in the system the ministry or are low income and they don't go to school, they're involved in gangs" (PO4). Another one talked about how the youth "just spend their time with their friends and they sleep in and

you know, just get up in the afternoon and go hang out with their friends and so we try to address that” (PO4).

School Community

Each of the youth that were sent to go to school at CNYC and they all receive extra support through the connections that CNYC has established and maintains. One of the youths spoke about how “the school has helped me out a lot” (Y1). This youth has plans on finishing their credits this year and then go on to business management school (Y1). Another youth spoke about how CNYC is “going better than any other year of high school I have been through” (Y2). The students at this school “weren’t accepted into public schools or Catholic schools” (Y2) and it was frustrating to them seeing other people in the program who were not doing well. They feared that “they’re not going to be able to get accepted to public schools, catholic schools, nothing, because they didn’t finish the program they were given” (Y2). Another youth spoke about how the school community at CNYC was most beneficial. This youth is now working for the mentor who they met through CNYC and has since been able to travel around all over Canada learning how to facilitate and making positive connections (Y3).

Probation Officers Perceptions of School Community

Probation officers are connected to both public and catholic school boards and schools who are part of case management when applicable. One of the probation officers expressed disdain for the government’s decisions to close a school down, because this would have an impact on at-risk youth. “Our community doesn’t really care about our kids. They’re disposable for many people and we’ve got a government who has shown that they cut program after program for our kids who are in need and they continued to

do. As we heard about the Regina school being shut down in the news yesterday or the day before, they realized they didn't consult enough. No you didn't realize that, you realized that you've got some political pressure. So they shut down all kinds of really good programs because it didn't meet their mandate" (PO5). They said, "the people I admire (probation officers) are the people who can form really solid bonds with the kids' school. All our research says its about the relationships" (PO5). This probation officer said that if a kid wasn't going to school then they were considered a high priority (PO5). Another probation officer said when a youth isn't going to school, "that has to do with their behaviour – their pro-criminal behaviour" (PO6). Probation officers are allowed to get the information from the school to know if the youth is attending regularly.

Holistic Connections

One of the youths spoke about how keeping focused on Indigenous traditions helped them stay away from negative influences in the community. More specifically, learning how to dance pow wow and teach pow wow in the community was very motivating for them. However, they spoke about how their family is "the most broken" and why they seen it this way. Their older sister is "into heroin and all that stuff" (Y2). They said, "I don't want my sister to be like that and I know that they don't want to be like that. Seeing how far of a downfall my sister is in" (Y2).

Another youth spoke about how they "would like to own a building that's a church and I'd be a pastor. That's something that I really want to do" (Y1). This youth spoke about how they feel as though they have been let down emotionally and did not want to talk about.

Another youth spoke about how they feel connected to people and that makes them feel like they a part of something that motivates them. This youth has hope in their life and it did not seem that was the reality for them when they were stuck in the cycle of addiction and involved in the colonial legal system (Y3).

Probation Officer Perceptions of Holistic Connections

One of the probation officers said they use Saskatoon Tribal Council (STC) a lot for connecting the youth to get involved in the community. “They do a lot, they do a lot with the youth, they’re able to spend time with them and the community as opposed to use where we can’t now. We are too busy with paperwork. I asked another probation officer what the true nature of their position was and they said, “It’s social control, that’s the true nature of it is. Doesn’t mean we have to stick to it but that’s what the true nature of it is” (PO7). They went on to say that “the system we work in really doesn’t care about the kids, it cares about the image in the community of a safe community” (PO7). This probation officer said that it was hard to connect with the youth because they simply had to go through the risk assessment as a guide and do their job due to the fact that they had a high case load. They spoke about wanting to go for a walk with the youth to a bench somewhere nearby and how that was a challenge because they would have to be back at their office too early (PO7). Another probation officer spoke about how they spent most of their time connecting the different youth to different agencies and answering emails so they are not able to connect to the youth themselves (PO8). The probation system relies on STC Reintegration Program to design and implement cultural programming for the youth.

Mastery and Autonomy

Mastery and autonomy are necessary in navigating a life through the colonial legal system, education system, and child welfare system. The youth that participated in this research had to navigate all three systems, often on their own, all before they were 18. They are all still vulnerable as young adults. They need mentorship and therapy. They need to be able to build trust in people and in community who can help them navigate their lives moving forward. They do not want hand-outs. They want respect and an opportunity to realize what they can do with their life. They have had questions building up over time and because there are so many gaps in the system and they have been so busy trying to navigate the system, mentally, physically, emotionally, spiritually and socially, it is a lot to expect a youth to have pro-social skills and attitudes whilst also navigating poverty and personal adversities that are typical for teenagers. The mastery and autonomy of these youth is present in their ability to ask for help, for them to ask their questions, and for them to try new things.

Probation Officers Perceptions of Mastery and Autonomy

Probation officers decipher mastery and autonomy as pro-social attitudes. Most of the Indigenous youth on their caseloads were considered high risk, meaning they lacked pro-social attitude. The youth are able to share their interests, but this might not be relevant to where they are presently with their current situation. Poverty, trauma, addictions, probation, and typical teenage behaviours are all overwhelming elements. The probation officers revealed that the complexities of youth's problems are not easy to solve. "You know, the YCJA was originally there to protect the youth but sometimes in circumstances, it could work against the youth. Not against their rights, obviously; it's

always made to protect their rights but it could be very difficult to assist a youth who doesn't want help when the YCJA is involved because of the barriers" (PO7). The Freedom of Information and Privacy Act protects the privacy of youth and has very strict guidelines that the probation officers are typically afraid of (PO6).

Analysis

This research sought to understand how social constructions of Indigenous people and the role of probation officers contribute to marginalization amongst Indigenous youth in Saskatoon. This section discusses the role of the probation officer in the marginalization of Indigenous youth in Saskatoon, the social constructions of Indigenous people, and the normalization of youth in the colonial legal system.

Racism in Saskatchewan has played an extensive role in allowing structurally violent policies to be touted as an effective colonial legal system. Who is deemed criminal in this society is what informed the massive reform from the JDA to the YOA and the eventual design of the YCJA. The social constructions of a racialized group of people relies on how this racialized group of people is portrayed in the media (Monchalin, L. 2016; Cole, D., 2019). This allows for reinforcement of ideas and reproduces new ideas so that people have a perceived understanding of what the problems with this racialized group could be. The chances of "breaking" under these conditions is much greater as the ever-presence of pain conflicting with the ideas of what 'home' could be is suffocating. The colonial legal system benefits from us breaking because it can take our pieces and separate them across different programs in an effort to fix individualized deficits. However, healing is a holistic process. I wish I could tell them that there is no way that you can think your way out of a broken heart.

Race was a consideration of the Europeans around the eighteenth century. It referred to a group of people with a common history (Banton, M., 1998; Satzewich, V., 1998). Race was also informed by classification of social status. Eventually “race started to be used to refer to groups as people who were believed to be inherently or biologically different” (Satzewich, V., 1998: 28). Race is a social construction and has been increasingly negated by researchers as people being biologically different from each other (Davis, A. Y., 2011; Li, P. S., 2008; Satzewich, V., 1998; Maslin, C., 2002) “Beliefs about the nature of race – whether true or false – still have a considerable social significance, and when a category is labelled in the popular mind of race terminology rather than religious or class criteria, certain predictable consequences ensue” (Banton, M., 1967: 4).

Indigenous people also learn how to socially construct whiteness. This is why the colonial system’s players are able to intervene so often into Indigenous peoples lives, families, communities and nations. Indigenous people are socially constructed as Deviant or Dependent by the state through the positioning of them within the *Indian Act* and subsequent laws and policies making colonialism inherently anti-Indigenous and racist. It is important to understand the political significance in how power and control is maintained within whiteness, and how this perpetuates racism in society. How problems are socially defined contribute to domination and reproduces identities amongst oppressed people where they feel inferior to the state (Fanon, F., 1967; Coulthand, G. S., 2014). However, when youth learn about racism in school, whiteness is omitted. This omission is a political move as an act of othering. “Race relations” is another way that racism is enabled as it performative in nature and benign in function (Guess, T., J., 2006).

A critique of whiteness is meant to reposition the normalization of whiteness from rule-makers by exposing their strategies of power and control, revealing that they are not an authentic identity (Bhabha, H. K., 1998). Whiteness is under-investigated and unreported on in newspapers. It skews the social constructions of race in our society, and through such omission, allows whiteness to continue dominating our institutions. Race and whiteness “lack scientific clarity and specificity. Rather than emerging from a scientific perspective, the notion, “race,” is informed by historical, social, cultural, and political values” (Guess, J., T., 2006: 654).

Within the context of the Indigenous youth’s involvement in the colonial legal system, the social constructions of race decidedly come into play. The YCJA design saw political engagement from each province, there was public pressure for stricter policies, Indigenous people were moving to the city quickly and this was socially framed as an ‘Indian Problem’ (Monchalin, L., 2016) The YCJA was informed by a political climate that valued whiteness. This is what enabled oppressive policies to continue on in the name of assimilation. The government creates programs and services based on their own agenda, and then takes these programs and services away when it’s time to rework the budget. Indigenous people are demanding better conditions for education, child welfare and justice, and yet all three areas continue to operate precariously for Indigenous people. Jurisdiction makes it very hard for advocacy because the laws are made by the Federal Government and the practices and policies are interpreted and implemented by the province and enforced by the police.

The Government of Saskatchewan has thus been protecting whiteness since its conception and as part of doing so, has socially constructed Indigenous people to develop

complex needs over time so that they can utilize the programs and services designed and implemented as ways to enhance and strengthen the public service sector. It is important that people are working, but it is clear that whiteness will continue to be protected within the current governance structure of justice and will ultimately continue to have a devastating impact on Indigenous people.

The RNR model developed and continued to adapt in response to the social problems that come with the conditions created by gaps that exist in program and service delivery. People's basic needs are not being met. Racism also poses challenges for people to do well in school, have friends, play sports, get a job, walk home at night, walk through a store, secure a home, go to University – these are all normal things that happen in this country, but for an Indigenous person it is often such a feat because of the racism that is so prevalent in our society. The reality of being an Indigenous youth in Saskatoon predisposes them to violence in community and this violence is not contrasted with adequate community support because the colonial legal system monopolizes on programs and service and through the mechanisms of systemic intervention prevent the likelihood of collective healing and sustained community support for vulnerable Indigenous youth. It is dangerous to be an Indigenous youth in Saskatoon.

Chapter 5: Conclusion

This thesis answered the following research question: In the context of the *Youth Criminal Justice Act (YCJA)* as it pertains to Saskatchewan in the case of Indigenous youth aged 12-17 in Saskatoon, how do the reintegration and rehabilitation strategies operate to prevent marginalization of young people exiting the youth criminal justice system? More specifically, how do probation officers on the ground design and implement these strategies? How do marginalized young people perceive these strategies? Finally, how could these strategies be improved?

Reintegration and rehabilitation strategies are operable within the policies of the youth probation office and as long as the probation officer adheres to the policy they have freedom into how to implement the probation orders for youth. The policies that the probation officers must adhere to are not readily available and therefore the parameters in which the probation offers are able to operate are unknown. Reintegration and rehabilitation as a method for justice is assimilative in nature and recognizes Canadian body politic as superior to Indigenous ways of knowing. In order to achieve reintegration and rehabilitation, the colonial legal system utilizes agencies that are designed, funded, mandated and resourced by the colonial legal system and through system, an iatrogenic feedback loop is created whereas Indigenous youth are targets. The probation orders that are reliant on the RNR model make it so the youth are ordered to attend programming at the government-run agencies making the youth reliant on a system that is deficit focused and deficit driven. The probation officer is limited in time and capacity to build relationships with youth due to high caseloads, high amount of paperwork and

operationalized reporting processes. The youth who come into contact with a probation officer is more likely to get breached than they are to exit the system entirely. Each breach is a new charge and therefore the youth may be ‘bumped up’ on the risk assessment scale. Marginalization occurs when a youth is not getting their basic needs met, they are limited in how they are able to express their trauma because their only access to coping strategies is considered ‘dangerous’ or ‘criminal’, or the youth is unable to gain sustained access to support and they are afraid to ask for more help. The agencies that are aligned with the probation orders may address the targeted areas of focus with the youth but their role is not to understand how to help the youth gain access to sustained supports that the youth may need.

The youth who participated in this research have identified the colonial legal system as a part of their reality and it is not the only form of state intervention the youth have experienced. Each of the youth expressed their strategies for exiting the colonial legal system as part of what they have to do to proceed in life. The RNR model that yields the level of risk makes it so more youth are involved in some way in the colonial legal system and they would have less of a chance to meet their own goals in life. Because the youth population who is most affected by the colonial legal system is Indigenous and this population has been oppressed by prior versions of the same system, it is clear that the system maintains the same function by design. This is how marginalization is managed through the colonial legal system and the probation officer who acts as a buffer between the state and the people and the state and the agencies, they are passively managing the maintenance of this system.

It is my recommendation that probation services be replaced with mentorship services and programs. Mentorship can happen in the community and many youths spoke to the positive and important role that mentorship played in their lives. The money that is used to fund the programs and services currently designed and implemented by the provincial government, could instead be used for Indigenous-based programming. The political philosophy of Indigeneity in Saskatchewan is informed by wâhkôhtôwin. Within this political philosophy, youth who are experiencing the ramifications of trauma can be supported within a ‘solution network’ where the young person is connected to healthy people in the community. This network makes up the social infrastructure in the environment where the youth lives and they offer programs and services at different locations at different times. These people and places that are a part of the solution network could be accessible to the youth who are most vulnerable by making sure the youth know what they offer and when they are available. A wellness plan can be made for the youth instead of a case plan and it can be designed, implemented, and mandated by an organization that has autonomy and an interest in fostering kinship in their network.

The youth need to know how to contribute, how to learn from other people, learn how to be themselves and not walk in fear. Youth need to know that their life matters and that there are people willing and ready to support them. A wâhkôhtôwin political philosophy of justice would ensure that people, places, and things are offered in a way that responds to the community’s needs as a whole – it does not silo youth in programming away from parents or elders. Rather, it would provide the opportunity to

engage in these spaces in a way where we are all learning and reclaiming our own identity and dismantling the internalized impacts of colonialism.

Contributions to the Literature

This empirical study contributes a range of perspectives with intimate lived knowledge of the daily challenges between probation officers and Indigenous youth. It offers an analysis on how the colonial legal system is experienced by Indigenous youth. It is my hope that scholars can use this research to empathize with Indigenous youth and advocate for justice reforms outside of the existing colonial legal system. This research illustrates how whiteness, racism, and settler-colonialism enable inequity in Saskatoon through an exposure of oppressive policy decision-making processes.

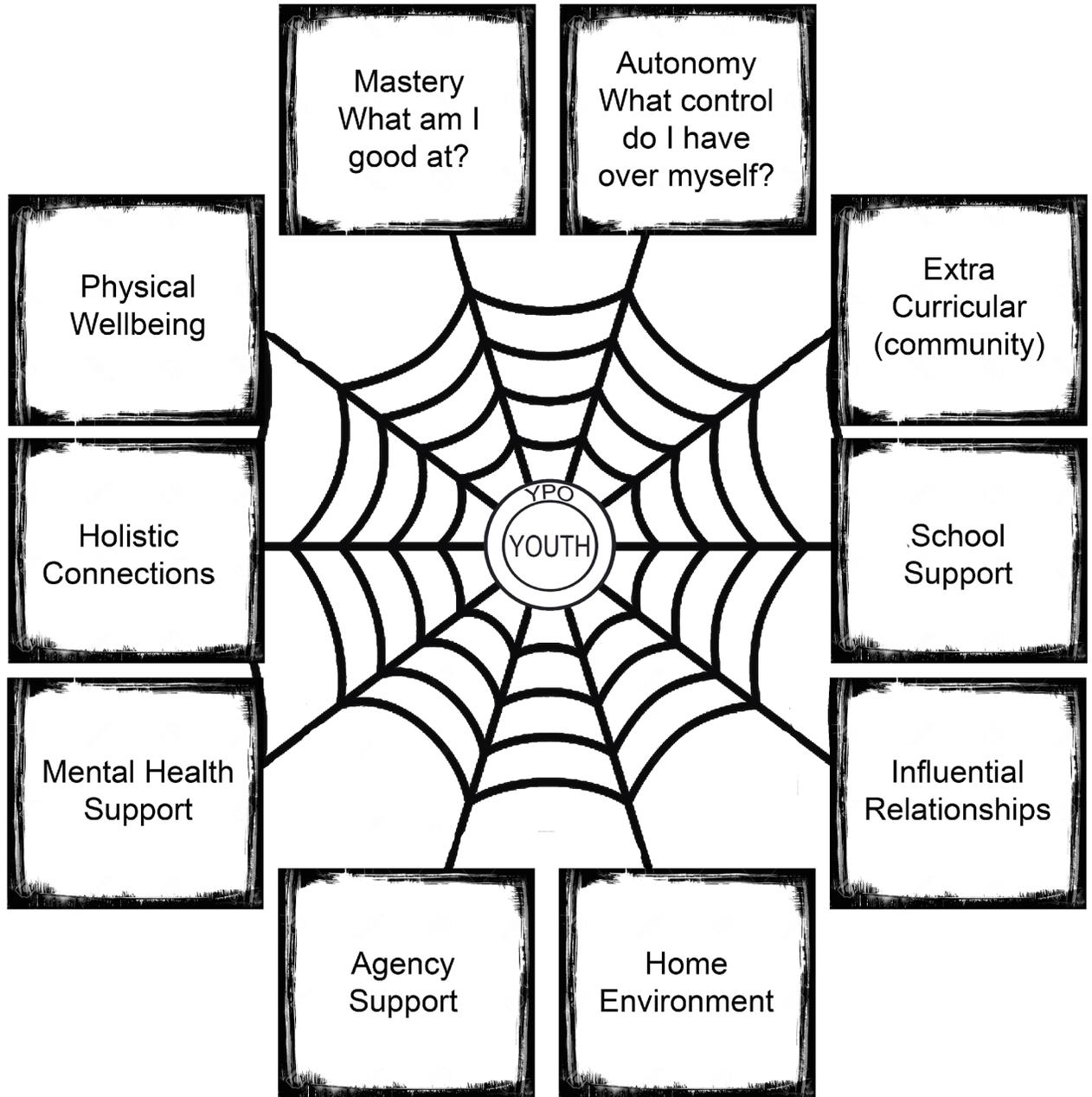
The purpose of this thesis was to gain an understanding of the political ideology of the colonial legal system plays out in the administration process and intersects with Indigenous youth. If the system wanted to change, it would have changed already. Instead, this research has made it clear that the colonial legal system and broader colonial state benefits from Indigenous people's oppression and will continue to as long as the current colonial legal system maintains a political ideology that protects whiteness and settler-colonialism. Due to the iatrogenic feedback loop, the system's reach will continue to grow making more and more people vulnerable to state intervention – particularly Indigenous youth.

Limitations and Agenda for Further Research

In conjunction with my research of the system and my interviews with the street level bureaucrats, I also requested the following documents from the Research and Implementation Branch of Integrated Justice Services at the Government of

Saskatchewan: risk assessment tools and questions; the documentation scoring form that accompanies the risk assessment tool; and the policy manual for the youth probation officers. I was delivered the following response, “the Level of Service Inventory – Saskatchewan Youth Edition (LSI-SK) is a copyrighted tool developed by the Ministry through contract with the tool owner Multi Health System (MHS). Formal assessment tools such as the LSI-SK require prescribed qualification levels for each tool to be ordered, owned, possessed, and/or use such tools. Ownership and use do not grant the user the permission to distribute the tool nor manual(s) for its use. As such, there are both ethical and legal rationale for why the Ministry cannot distribute such tools to the public, even for your research purposes. (personal communication, February 2020) In order to gain access to the policy manual I would need to file a Access to Information request with the Ministry. (personal communication, February 2020). This research therefore lacks access to the policy tools, the RNR model, and the policy manual that is used by probation officers in Saskatchewan as they are not available.

Appendix A



Questions

Questions for young people:

1. I just want to go around the circle and get to know each other. Each person can take as much time as they need to tell their story and we'll take breaks as we need to. I want to stress that everything that we say in this room stays in this room.

As each person tells their story, I will ask clarifying questions about different aspects that are unclear or can be explored more. I will ask them to talk about their first experience with colonial interventions with street level bureaucrats.

2. What was your first experience with a social worker, police officer, or probation officer?
3. What was your experience like in school?
4. Did you move a lot? Was the experience different as you changed schools?
5. Did you play any sports or were you involved in any groups in your community?
6. Who were some of the most influential people in your life?
7. When do you feel like you have the most control of your life?
8. Is there anything that you needed in your childhood that you didn't feel like you got? Can you tell me about that?
9. What are you good at?
10. What do you practice most?
11. What do you want to be good at?
12. What are some of your hopes for your life?
13. What do you hope for your family?
14. Who are the people you love the most?
15. Why did you choose those people?
16. Can you tell me about different organizations or people that helped you along your path?
17. Have you ever felt that you needed mental or emotional support that you didn't receive?
18. Have you ever felt let down by your teachers, principals, youth worker or police officers?
19. What was your relationship like with your probation officer?
20. What was your first interaction with them and how did you two build your relationship?
21. Did you ever feel like you needed something from them and they weren't able to offer it?
22. When is a time when you felt supported by your probation officer?
23. What kind of supports do you have in your community right now?
24. Where do you call home?
25. What is your relationship to your home?
26. What do you do when you're angry? Sad? Frustrated? Scared?

27. Who do you turn to first?
28. What are your goals for the next year?
29. What kinds of supports do you need to get there?
30. What are your goals for the next five years?
31. What kinds of supports do you need to get there?
32. Do you know where to find the support you need?
33. What does reintegration mean to you?
34. What does rehabilitation mean to you?
35. Is there anything else anyone wants to add?

Questions for Probation Officers:

1. Why did you become a probation officer?
2. Is the job what you anticipated it being?
3. What kind of impacts did you hope to make coming into the position?
4. Do you feel like that is the true nature of your position?
5. What is different?
6. What does a day in the life of you at work look like?
7. How do you cope with the emotional stress that is brought on by the youth that you see?
8. What makes an excellent youth probation officer?
9. Can you share a time that you've had a difficult experience and how you handled it?
10. Tell me about how you manage your cases. Is there a process that you go through or does it vary?
11. What methods do you use that you feel that are most effective?
12. Can you think of a time when you were challenged by a young person? How did you handle the situation?
13. Do you ever have to go above and beyond your job description? Tell me about it.
14. What does reintegration mean to you?
15. How do you achieve that?
16. What does rehabilitation mean to you?
17. How do you achieve that?
18. Do you have any success stories of young people who exited the youth justice system entirely? Is this common or rare?
19. What do you see as the biggest challenges the young people you support face?
20. Have you ever been successful in persuading a young person who was emotional to think of alternative solutions to their problems that wouldn't get them in trouble again?
21. Tell me about a time when you had to approach your work by thinking outside of the box.
22. Is there something else in the community that is needed to support the most vulnerable youth?
23. What are some ways that you engage with community organizations and supports for young people that you're responsible for?

24. Are there any challenges that you face with gaining and sustaining good relationships with these organizations?
25. Tell me how you organize, plan and prioritize your caseload.
26. What are the greatest successes that you can think of within your role?
27. What are the greatest challenges you face?
28. Do you have any advice on how to make those challenges less prevalent in your field?
29. What are some strengths within Saskatchewan's youth justice system?
30. What are some challenges you see within Saskatchewan's youth justice system?
31. What advice do you have for the youth justice system?
32. Is there anything else you'd like to add?

References

- Ahmed, S. (2007). A phenomenology of whiteness. *Feminist theory*, 8(2), 149-168.
- Akbar, N., & Rasheed, T. (1996). *Breaking the chains of psychological slavery*. Mind Productions & Associates.
- Allard, J. (2002). Big Bear's Treaty: The road to freedom. *Inroads: The Canadian Journal of Opinion*, 11, 125-52.
- Andrews, D. A., Bonta, J., & Wormith, J. S. (2006). The recent past and near future of risk and/or need assessment. *Crime & delinquency*, 52(1), 7-27.
- Anthias, F., & Yuval-Davis, N. (1992). Racialized Boundaries: Race. *Nation*, 303.
- Aziz, T., (2020) How this probation officer is fighting anti-Black racism in the Canadian justice system. CBC News. Retrieved: September 20th 2020.
- Balkissoon, D. (2018). Even after death, Canada denies Tina Fontaine dignity. *The Globe and Mail*.
- Banton, M. (1999). Reporting on race. *Anthropology today*, 15(3), 1-3.
- Battiste, M. (2013). You can't be the doctor if you're the disease: Eurocentrism and indigenous renaissance. *CAUT Distinguished Academic Lecture*.
- Bainbridge, W. S. (1992). Crime, delinquency, and religion. *Religion and mental health*, 199-210.
- Bellegarde, P., (2020). Let's just admit it. Canada has a racist problem. *Globe and Mail*.
- Bird-Naytowhow, K., Hatala, A. R., Pearl, T., Judge, A., & Sjoblom, E. (2017). Ceremonies of relationship: Engaging urban indigenous youth in community-based research. *International Journal of Qualitative Methods*, 16(1), 1609406917707899.

- Blackstock, C., Brown, I., & Bennett, M. (2007). Reconciliation: Rebuilding the Canadian child welfare system to better serve aboriginal children and youth. *Putting a human face on child welfare: Voices from the prairies*, 59-87.
- Bridges, A. (2020). Q&A: Founder of Black Lives Matter in Canada explains the call to defund police. CBC News.
- Bonta, J., & Andrews, D. A. (2007). Risk-need-responsivity model for offender assessment and rehabilitation. *Rehabilitation*, 6(1), 1-22.
- Bhabha, H. K. (1998). The white stuff (Whiteness studies). *Artforum*, 36(9), 21-+.
- Bulin, M. J. (1990). *Expansion of Probation in Saskatchewan: Effects of the Practices of Probation Officers* (Doctoral dissertation, University of Saskatchewan).
- Cardinal, H. (2007). Nation-building as process: Reflections of a Nihiyow [Cree]. *Canadian Review of Comparative Literature/Revue Canadienne de Littérature Comparée*, 34(1).
- Castellano, M. B., Archibald, L., DeGagné, M., & Castellano, M. B. (2008). *From truth to reconciliation: Transforming the legacy of residential schools* (pp. 323-38). Ottawa: Aboriginal Healing Foundation.
- Cheng, H. (2015). Factors influencing public satisfaction with the local police: A study in Saskatoon, Canada. *Policing: An International Journal of Police Strategies & Management*.
- Chermak, S., Scheer, C., & Wilson, J. M. (2014). Police consolidation in the news. *Police Quarterly*, 17(2), 150-175.
- Clark, N. (2016). Shock and awe: Trauma as the new colonial frontier. *Humanities*, 5(1).

- Coburn, V., (2019). Why are the deaths of Indigenous women and girls ungrievable? *Policy Options*.
- Cohen, S. (1985). *Visions of social control: Crime, punishment and classification* (pp. 127-143). Cambridge: Policy Press.
- Cole, D., (2019). *The Skin We're In: A Year of Black Resistance and Power*. DoubleDay Canada.
- Coletta, A., (2018). Canada's indigenous population is overrepresented in federal prisons — and it's only getting worse. Washington Post.
- Comack, E. (2014). "The Feminist Engagement with Criminology." In G. Balfour & E. Comack (eds.), *Criminalizing women: Gender and (In)justice in Neo-Liberal Times* (second edition). Winnipeg and Halifax: Fernwood Publishing.
- Comack, E. (2018). *Coming Back to Jail: Women, Trauma, and Criminalization*. Halifax and Winnipeg: Fernwood Publishing.
- Commission on First Nations and Métis People. (2004). Final Report Volume 1. Legacy of hope: An agenda for change. Retrieved from www.justicereformcomm.sk.ca
- Corrado, R. R., Gronsdahl, K., MacAlister, D., & Cohen, I. M. (2010). Youth justice in Canada: Theoretical perspectives of youth probation officers. *Canadian Journal of Criminology and Criminal Justice*, 52(4), 397-426.
- Couldry, N. (2010). *Why voice matters: Culture and politics after neoliberalism*. Sage publications.
- Coulthard, G. S. (2014). *Red skin, white masks: Rejecting the colonial politics of recognition*. U of Minnesota Press.
- Cunneen, C., & Tauri, J. (2016). *Indigenous criminology*. Policy Press.

- Dangerfield, K. (2018). How the Tragic Death of Tina Fontaine Helped Spark the MMIWG Inquiry. *CBC News*.
- Davis, A. (2000). Masked racism: reflections on the prison industrial complex. [Article reprinted from Colorlines]. *Indigenous Law Bulletin*, 4(27), 4.
- Davis, A. Y. (2011). *Women, race, & class*. Vintage.
- Denney, D., Ellis, T., & Barn, R. (2006). Race, diversity and criminal justice in Canada: A view from the UK. *The Internet Journal of Criminology*.
- Dhillon, J. K. (2017). *Prairie rising: Indigenous youth, decolonization, and the politics of intervention*. University of Toronto Press.
- DiAlto, S. J. (2005). From 'problem minority' to 'model minority': The changing social construction of Japanese Americans. *Deserving and entitled: Social constructions and public policy*, 81-103.
- Dorries, H., & Harjo, L. (2020). Beyond safety: refusing colonial violence through indigenous feminist planning. *Journal of planning education and research*, 40(2), 210-219.
- Fanon, F. (1967). Black skin, white masks, trans. *Charles Lam Markmann (New York: Grove, 1967)*, 109, 98.
- Eisler, D (2017). Crime in Saskatchewan: The issue too many would rather ignore. *Policy Brief*. Regina, SK. Johnson Shoyama Graduate School of Public Policy.
- Flaminio, A. (2013). *Gladue through wahkotowin: Social history through Cree kinship lens in corrections and parole* (Doctoral dissertation, University of Saskatchewan).
- Flanagan, R., (2020). What we know about the last 100 people shot and killed by police in Canada. CTV News.

- Foucault, M. (1980). *Power/knowledge: Selected interviews and other writings, 1972-1977*. Vintage.
- Frank, J., Smith, B. W., & Novak, K. J. (2005). Exploring the basis of citizens' attitudes toward the police. *Police quarterly*, 8(2), 206-228.
- Friedel, T. (2013). Outdoor education as a site of epistemological persistence: Unsettling an understanding of urban Indigenous youth resistance. In *Youth resistance research and theories of change* (pp. 207-220). Routledge.
- Gill, C., Weisburd, D., Telep, C. W., Vitter, Z., & Bennett, T. (2014). Community-oriented policing to reduce crime, disorder and fear and increase satisfaction and legitimacy among citizens: A systematic review. *Journal of experimental criminology*, 10(4), 399-428.
- Gillies, C. L. (2018). *A Critical Race Theory Analysis of Métis Teachers' Counter-Stories* (Doctoral dissertation, University of Saskatchewan).
- Grabish, A. (2020). Winnipeg parents of girl, 16, fatally shot by police in shock and grieving. CBC News.
- Green, J. (2006). From Stonechild to social cohesion: Anti-racist challenges for Saskatchewan. *Canadian Journal of Political Science/Revue canadienne de science politique*, 507-527.
- Government of Canada. (2015). Retrieved from: https://www.justice.gc.ca/eng/rp-pr/cj-jp/yj-jj/rr03_yj4-rr03_jj4/a1.html.
- Government of Canada. (2018) Statistical Snapshot of Youth at Risk and Youth Offending in Canada.

- Guess, T. J. (2006). The social construction of whiteness: Racism by intent, racism by consequence. *Critical Sociology*, 32(4), 649-673.
- Hall, S. (2001). Foucault: Power, knowledge and ϕ . *Discourse theory and practice: A reader*, 72.
- Hannah-Moffat, K. (2004). Losing ground: Gendered knowledges, parole risk, and responsibility. *Social politics: international studies in gender, state & society*, 11(3), 363-385.
- Hansen, J. (2014). Indigenous-settler incarceration disparities in Canada: How tribal justice programming helps urban Indigenous youth. *Indigenous Policy Journal*, 25(3).
- Henzi, S. (2020, January). MMIWG in Canada, in Québec: How the Literature and Art of Indigenous Women Carries Them Up. In *2020 MLA Annual Convention*. MLA.
- Hinton, A. L., Woolford, A., & Benvenuto, J. (Eds.). (2014). *Colonial genocide in indigenous North America*. Duke University Press.
- Hubbard, T., 2018. *nîpawistamâsowin: We Will Stand Up*. National Film Board.
- Hudson, S. (2020). We Must Defund the Police; it is the only option. MacLeans.
- Huebner, B. M., Schafer, J. A., & Bynum, T. S. (2004). African American and White perceptions of police services: Within-and between-group variation. *Journal of Criminal Justice*, 32(2), 123-135.
- Hunt, S. (2015). Representing colonial violence: Trafficking, sex work, and the violence of law. *Atlantis: Critical Studies in Gender, Culture & Social Justice*, 37(2), 25-39.
- Illich, I. (1975). *Medical nemesis*. Australian Broadcasting Commission, Science Programmes Unit.

- Ingram, H., and A. Schneider. (1993). "Social construction of target populations
Implications for politics and policy." *American Political Science Review* 87 (2): 334-337.
- Ingram, H., Schneider, A. L., & DeLeon, P. (2007). Social construction and policy
design. *Theories of the policy process*, 2, 93-126.
- Innes, R. A. (2009). " Wait a Second. Who Are You Anyways?" The insider/outsider
debate and American Indian Studies. *American Indian Quarterly*, 33(4), 440-461.
- Joffe, H., Yardley, L. (2004). Content and thematic analysis. *Research methods for
clinical and health psychology*, 56, 68.
- Justice, D. H. (2006). *Our fire survives the storm: A Cherokee literary history*. U of
Minnesota Press.
- Juvenile Delinquents Bill, (1908) SC 1908, C 40.
- Kaiser-Derrick, E. (2019). *Implicating the system: Judicial discourses in the sentencing
of Indigenous women* (Vol. 3). Univ. of Manitoba Press.
- Kovach, M. (2009). Indigenous Methodologies: Characteristics. *Conversations, and
Contexts*.
- Kovach, M. (2015). Emerging from the margins: Indigenous methodologies. *Research as
resistance: Revisiting critical, Indigenous, and anti-oppressive approaches*, 2, 43-
64.
- Lasswell, H. D. (1936). Politics: who gets what, when, how. Cleveland. *Meridian
Books, 1958*, 677-715.
- Latessa, E. (2011). Why the Risk and Needs Principles are Relevant to Correctional
Program (Even to Employment Programs). *Criminology & Pub. Pol'y*, 10, 973.

- LaRocque, E. (2015). Preface or here are our voices—who will hear?. *Introduction to Indigenous Literary Criticism in Canada*, 47.
- Lewis, J. E., Arista, N., Pechawis, A., & Kite, S. (2018). Making kin with the machines. *Journal of Design and Science*.
- Li, P. S. (2008). The market value and social value of race. *Daily struggles: The deepening racialization and feminization of poverty in Canada*, 21-34.
- Lipsky, M. (1969). *Toward a theory of street-level bureaucracy*. Institute for Research on Poverty, University of Wisconsin.
- Lipsky, M. (1980). Street-level bureaucracy: Dilemmas of the individual in public services. *New York: Russell Sage Foundation*.
- Lockwood, I., Peterson-Badali, M., & Schmidt, F. (2018). The relationship between risk, criminogenic need, and recidivism for indigenous justice-involved youth. *Criminal Justice and Behavior*, 45(11), 1688-1708.
- Mackay, G., (2005). *The City as Home: The sense of belonging amongst aboriginal youth in Saskatoon: Final Report*. Department of Native Studies. University of Saskatchewan.
- Malone, K. G., (2018). Nearly half of Canada's incarcerated youth are Indigenous, according to Statistics Canada. CBC News.
- Manuel, A., & Derrickson, G. C. R. M. (2015). *Unsettling Canada: A national wake-up call*. Between the Lines.
- Marchinko, E. (2018). Subverting Colonial Choreographies of Memory: Drag the Red and the March for Tina Fontaine. *Canadian Theatre Review*, 176, 19-25.

- Maslin, C. L. (2002). *Social construction of aboriginal peoples in the Saskatchewan print media* (Doctoral dissertation, University of Saskatchewan).
- Maynard, R. (2017). *Policing Black lives: State violence in Canada from slavery to the present*. Fernwood Publishing.
- Macdougall, B. (2017). *Land, Family and Identity: Contextualizing Metis Health and Well Being*. National Collaborating Centre for Aboriginal Health.
- McNeilly, G. (2018) Broken Trust: Indigenous People and the Thunder Bay Police Service. Office of the Independent Police Review Director.
- Million, D., (2013). *Therapeutic Nations: Healing in an age of Indigenous human rights*. University of Arizona Press.
- Monchalin, L. (2016). *The colonial problem: An Indigenous perspective on crime and injustice in Canada*. University of Toronto Press.
- Monture-Angus, P. (1999). Women and risk: Aboriginal women, colonialism, and correctional practice. *Canadian Woman Studies*, 19(1-2).
- Monture, P. A. (2006). Confronting power: Aboriginal women and justice reform. *Canadian Woman Studies*, 25(3).
- Moreton-Robinson, A. (2004). Whiteness, epistemology and Indigenous representation. *Whitening race: Essays in social and cultural criticism*, 1, 75-88.
- National Archives of Canada, Record Group 10, vol. 6810, file 470-2-3, vol. 7, 55 (L-3) and 63 (N-3)
- National Inquiry into Missing and Murdered Indigenous Women and Girls. (2019). 51.
- Nichols, R. (2014). The colonialism of incarceration. *Radical Philosophy Review*, 17(2), 435-455.

- Nilson, C. (2017). A journey toward cultural competence: The role of researcher reflexivity in indigenous research. *Journal of Transcultural Nursing*, 28(2), 119-127.
- Oudshoorn, J. (2015). *Trauma-informed youth justice: A new framework toward a kinder future*. Canadian Scholars' Press.
- Pal, L. A. (2014). *Beyond policy analysis: Public issue management in turbulent times*. Thomson Nelson.
- Pashagumskun, J., (2020). Country erupts into Wet'suwet'en solidarity demonstrations: a week in pictures. APTN News.
- Peck, J. (2003). Geography and public policy: mapping the penal state. *Progress in Human Geography*, 27(2), 222-232.
- Prokopchuk, M. (2018). "Racist attitudes' contributed to poor Indigenous death investigations by Thunder Bay police, report says". CBC News.
- Rankin, J., Gillis, W., (2019) Black and Indigenous People less likely to trust Toronto police, survey says. The Star.
- Razack, S. (2015). *Dying from improvement: Inquests and inquiries into Indigenous deaths in custody*. University of Toronto Press.
- Roach, K. (2019). *Canadian Justice, Indigenous Injustice: The Gerald Stanley and Colten Boushie Case*. McGill-Queen's Press-MQUP.
- Satzewich, V. (1998). *Racism and social inequality in Canada: concepts, controversies, and strategies of resistance*. Thompson Educational Pub.

- Scarborough, B. K., Like-Haislip, T. Z., Novak, K. J., Lucas, W. L., & Alarid, L. F. (2010). Assessing the relationship between individual characteristics, neighborhood context, and fear of crime. *Journal of criminal justice*, 38(4), 819-826.
- Simpson, A. (2016). The state is a man: Theresa Spence, Loretta Saunders and the gender of settler sovereignty. *Theory & Event*, 19(4).
- Standing Committee of the Status of Women meeting #83 for Status of Women in the 42nd Parliament, 1st Session. (2017).
- Statutes of Canada (1908) S 31. C. 40
- Sinclair, M. (2018). *Thunder Bay Police Services Board Investigation*. Safety, Licensing Appeals and Standards Tribunals Ontario.
- Smoke, P. (2019) 'I know who I am': Saskatoon group with international connections aims to turn young women into leaders. CBC News.
- Swaminathan, R., & Mulvihill, T. M. (2017). *Critical approaches to questions in qualitative research*. Taylor & Francis.
- Tewelde, Y. (2018). Our justice system for youth should invest in early childhood well-being and opportunities for young people in the most marginalized communities. Policy Options.
- Toll, S. (2020, January). Tanya Tagaq's Qiksaaktuq: Decolonizing Aesthetics of Grief for MMIWG. In *2020 MLA Annual Convention*. MLA.
- Truth, & Reconciliation Commission of Canada. (2015). *Canada's Residential Schools: The Final Report of the Truth and Reconciliation Commission of Canada* (Vol. 1). McGill-Queen's Press-MQUP.

- Tuck, E., & Yang, K. W. (2012). Decolonization is not a metaphor. *Decolonization: Indigeneity, education & society*, 1(1).
- Twenter, B. J., & De Vos, L. (2020, January). Literatures of the Missing and Murdered Indigenous Women and Girls (MMIWG) Movement. In *2020 MLA Annual Convention*. MLA.
- Warick, J. (2020). 'It's becoming a state of insanity': Regina city councillor says ballooning police budgets must stop. CBC News.
- Wardell, W. J. (1987). The Young Offenders Act-A Report Card 1984-1986. *JL & Soc. Pol'y*, 2, 39.
- Warzecha, M., (2020) Is the Toronto police budget really 'untouchable'? TVO.
- White, R. (2013). *Crimes against nature: Environmental criminology and ecological justice*. Routledge.
- Wolfe, D., Wuttunee K. (2019) *Young Indigenous Women's Utopia*.
- Wolfe, P. (2006). Settler Colonialism and the Elimination of the Native. *Journal of genocide research*, 8(4), 387-409.
- Young, D. (2019). Your ways or our ways?: Addressing Canadian Neo-colonialism and restorative justice. *Salus Journal*, 7(2), 85.
- Zacka, B. (2017). *When the state meets the street*. Harvard university press.