

ABORIGINAL YOUTH IN THE CRIMINAL JUSTICE SYSTEM:  
IS SYSTEMIC DISCRIMINATION INFLUENCING  
CUSTODY DECISIONS

By

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## Abstract

The over-representation of Aboriginal people in the Criminal Justice System (CJS) is a considerable problem that has been present in Canada for many years and has been found to be even more extreme with Aboriginal young offender populations. One theory of the over-representation of Aboriginal people in the CJS is the presence of systemic discrimination. The present study, which utilizes data from the Vancouver Serious and Violent Young Offenders Study (Corrado, Cohen, Glackman, & Odgers, in press) funded by the Social Science and Humanities Research Council of Canada, looks at gaining an understanding of the sentencing decisions of open or closed custody and how the offence committed and risk factors of reoffending may be affecting these decisions. This study focused on 441 young offenders currently residing in two open and two closed custody facilities in the Greater Vancouver Region, British Columbia.

The results of this study found that systemic discrimination was not evident in sentencing decisions as race, i.e., Aboriginal and non-Aboriginal, was not a significant predictor of the type of sentence youth received. Also, many of the variables that were included in the analysis were not found to be significant predictors of the sentencing decision. Therefore, as the results indicated, there were other variables considered for sentencing decisions that were not presently measured. Future research should focus on understanding what these variables may be. The results also indicated that the over-representation of Aboriginal youth in the CJS was not a direct result of systemic discrimination during sentencing. Therefore, it is important to examine other areas of the CJS, such as police procedures, to see if systemic discrimination is present and to explore how this may affect the presence of Aboriginal people in the justice system.

Keywords: Aboriginal, Youth, Criminal Justice System, Over-representation

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## Table of Contents

Approval .....	ii
Abstract .....	iii
Acknowledgements .....	iv
Table of Contents .....	v
List of Tables .....	vii
1 Introduction .....	1
1.1 Problem Statement .....	1
1.2 Youth Justice Policy .....	2
1.3 Hypothesis of Over-representation .....	4
1.4 Poverty Theory .....	5
1.4.1 Education .....	6
1.4.2 Education Profiles of Young Offenders .....	7
1.4.3 Employment .....	7
1.4.4 Employment Status of Parents of Young Offender .....	8
1.4.5 Family Composition .....	9
1.4.6 Family Composition of Young Offenders .....	9
1.4.7 Young Offender Drug and Alcohol Use .....	10
1.4.8 Parental Drug and Alcohol Use .....	10
1.4.9 Young Offenders Experience of Physical and/or Sexual Abuse ...	11
1.4.10 Parental Experience with Physical and/or Sexual Abuse .....	11
1.4.11 Family Member with a Criminal Record .....	11
1.4.12 Association with Delinquent Peers .....	12
1.4.13 The Effect of Colonialization on Aboriginal People .....	12
1.4.14 Summary of Poverty Hypothesis .....	15
1.5 Systemic Discrimination Theory .....	16
1.5.1 Culture Clash .....	17
1.5.2 Police Discretion .....	18
1.5.3 Systemic Discrimination through Sentencing Decision .....	20
1.5.4 Possible Explanations for Sentencing Disparities .....	24
1.5.5 The Argument Against Systemic Discrimination .....	24
1.6 Risk Factors and Sentencing Decisions .....	26
1.7 Present Study .....	29
2 Method .....	32
2.1 Research Design .....	32
2.2 Participants .....	32
2.3 Procedure .....	34
2.4 Measures .....	34
2.5 Analytical Strategy .....	40

3	Results.....	41
3.1	Criminal Experience .....	41
3.2	Risk Variables of Reoffending.....	42
3.3	Family Associated Risk Variables.....	43
3.4	Logistic Regression .....	44
4	Discussion .....	52
4.1	Overview .....	52
4.2	Limitations .....	60
4.3	Conclusions and Implications .....	61
4.4	Directions for Future Research.....	63
5	References .....	65



## List of Tables

Table 1: Frequency and Coding of Variables .....	39
Table 2: Correlation Matrix .....	46
Table 3: A Comparison of Odds-ratios from the Five Logistic Regression Models .....	50
Table 4: A Comparison of Odds-ratios from the Five Logistic Regression Models Continued .....	51

## Introduction

### 1.1 Problem Statement

The over-representation of Aboriginal people in the criminal justice system (CJS), youth and adults alike, has been a major policy concern since the 1960's (Lane, Daniels, Blyan, and Royer, 1978). This policy issue has intensified over time (see Hartnagel, 2004; LaPrairie, 1997; Latimer & Foss, 2004; Monture-Angus, 2000; Motiuk & Nafekh, 2000; Royal Commission on Aboriginal Peoples, 1996). Much of the focus of policy related research has been on "the proportion of Aboriginal people [adult and youth] incarcerated in federal, provincial and territorial institutions as compared to their proportion in the general population" (LaPrairie, 1992, p. 3). Regarding Aboriginal young offender populations, Monture-Angus (2000) argued that this problem is extreme and, even, catastrophic; while the population of Aboriginal youth (ages 10-19) within Canada is approximately one twentieth (approximately 4.9%) of Canada's youth population (Statistics Canada, 2003), and approximately 33% of youth in custody (Ages 12-17) are Aboriginal (Latimer & Foss, 2004). This severe disproportionality exists in the majority of provinces in Canada. For example, in British Columbia, Aboriginal youth (ages 10-19) comprised approximately 8.2% of the youth population (Statistics Canada, 2003), while 49% of the population of youth in custody (Ages 12-17) in British Columbia were Aboriginal (Latimer & Foss, 2004). Far greater over-representation of Aboriginal youth in youth justice systems has occurred among the Prairie Provinces (see Corrado, Gronsdahl, MacAlister, & Cohen, 2007 (b); Latimer & Foss, 2004). For instance, in Saskatchewan, Aboriginal youth (ages 10-19) comprised approximately 19.6% of the youth population (Statistics Canada, 2003), and 88% of youth in custody (Ages 12-17) (Latimer & Foss, 2004).

More generally, in 1986, Aboriginal individuals were 16 times more likely to be incarcerated than non-Aboriginal individuals throughout Canada (Tonry, 1994), while, more recently Aboriginal youth across Canada were approximately eight times more likely to be in custody than non-Aboriginal youth (Latimer & Foss, 2004). Again, the rate of incarceration for Aboriginal youth was far more disproportionate in the Prairie Provinces, e.g., in Saskatchewan, Aboriginal youth were approximately 30 times more likely to be in custody than non-Aboriginal youth. However, caution must be taken when interpreting these results as this odds ratio might not be representative of the current Prairie Provinces youth criminal justice population as the Latimer & Foss (2004) data was collected only three months after the Youth Criminal Justice Act (YCJA) was implemented in April of 2003. Most importantly, a major policy objective of the YCJA is to reduce the use of incarceration for young offenders, especially Aboriginal youth; therefore, the rate of Aboriginal incarceration is expected to have decreased since the YCJA goal was implemented.

## 1.2 Youth Justice Policy

The change in youth criminal justice legislation, from the Young Offenders Act (YOA) to the YCJA, resulted due to the extensive criticisms of the YOA, including the above high rates of Aboriginal youth incarceration. Most importantly, the YOA principles were ambiguous, and were hypothesized to have caused wide provincial disparities in its implementation in the provinces and territories. Specifically, this ambiguity was associated with excessive discretion and provincial variability in sentencing practices (Corrado et al., 2007, (b)). The YCJA focuses on reinforcing procedural integrity and young offender accountability; the latter by ensuring that the sentences are proportionate to the seriousness of the offence committed. Specifically, the most severe sentence, custody, is reserved for only the most serious offences or pattern of offences. The YCJA also stresses the importance of taking into account mitigating offender characteristics

when deciding appropriate dispositions, especially the need for rehabilitation and reintegration into the youth's community (Corrado, Gronsdahl, MacAlister, and Cohen, 2007 (a)).

Given the general policy issue about adult Aboriginal offenders as well, Federal government policy initiatives have attempted to reduce the over-representation of adult Aboriginal offenders in the CJS. Most importantly, Section 718.2(e) of the Criminal Code states that "all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders" (Criminal Code C-46, 1985). This sentencing provision was instigated directly in response to the over-representation of Aboriginal people within the CJS (Jiwani, 2002; Stenning & Roberts, 2001). The key rationale for this provision was that Aboriginal people were more likely to confront a wide range of social disadvantages, including social-economic discrimination, far lower health conditions, poor social and economic conditions, and physical dislocations that increased this likelihood of involvement in criminal justice (Green, 2003; Jiwani, 2002). In effect, judges must consider less punitive sentencing options for Aboriginal people, such as extrajudicial sanctions that restrict the use of custodial sentences. However, while judges have the distinctive mitigating factors of Aboriginal offenders in their sentencing decisions, judges still have to consider proportionality and parity with non-Aboriginal offenders. In other words, the sentences should not be too disproportionate to what non-Aboriginal offenders receive for similar offences in similar circumstances (Stenning & Roberts, 2001). This key Criminal Code change reflected the consensus among scholars that previous routine judicial sentencing practices towards Aboriginal offenders have been ineffective given their high rates of recidivism (Bala, 2003; Stenning & Roberts, 2001).

Regarding youth justice policy, a very similar sanction to Section 718.2(e) of the Criminal Code exists in Section 38(2)(d) of the YCJA: “all available sanctions other than custody that are reasonable in the circumstances should be considered for all young persons, with particular attention to the circumstance of Aboriginal young persons” (Youth Criminal Justice Act, 2002). However, initial research conducted following the implementation of the new adult and youth justice policies indicated that over-representation of Aboriginal people in the CJS has continued (see Latimer & Foss, 2004). Even though further research is required to confirm the effect of these new policies on the over-representation of Aboriginal people in the CJS, the above research suggests that the explanation and policy solutions to Aboriginal involvement with the justice system involves factors beyond sentencing policies.

### 1.3 Hypothesis of Over-representation

Several explanations for the over-representation of Aboriginal people in the justice system have been proposed. One hypothesis is that a greater number of Aboriginal people commit more serious crimes than non-Aboriginal offenders, and therefore, a greater number of Aboriginal people are in custody since these crimes are more likely to have charges placed against the person and are more likely to result in imprisonment (Broadhurst, 1997; Roberts & Doob, 1997; Tonry, 1994; Weatherburn, Fitzgerald, & Hua, 2003). For example, Weatherburn and colleagues (2003) found that Aboriginal people were ten times more likely to commit assault causing grievous bodily harm than non-Aboriginal people. Another hypothesis asserts that a larger proportion of Aboriginal people within the 12 to 17 year age group have the complete range of risk factors associated with initial offending (Boe, 2002; Hartnagel, 2004; LaPrairie, 1990, 1992; Roberts & Melchers, 2003). A related hypothesis is that the same risk factors also increase the likelihood for recidivism and, therefore, the disproportionate number of Aboriginal people in custody (i.e. Bonta, LaPrairie, & Wallace-Capretta, 1997). These

hypotheses are complimentary in explaining the over-representation of Aboriginal people in the justice system. For example, the presence of two or more of the factors involved in these hypotheses, such as committing a violent offence and being a recidivist, subsequently increase the likelihood of being convicted of another offence, therefore, increasing the likelihood of receiving a custodial sentence. In other words, if these variables are more frequently present with Aboriginal people, these hypotheses contribute to predicting and explaining their over-representation in the CJS.

#### 1.4 Poverty Hypothesis

The poverty hypothesis has also been utilized to partially explain the over-representation of Aboriginal youth in the CJS. This hypothesis incorporates the aforementioned hypotheses and assists in providing a greater understanding of the possible reasons for the over-representation of Aboriginal youth in the CJS. The experience of poverty can increase an individual's chances of having a number of negative experiences that can become significant to their chances of becoming involved in criminal activity. Some of these experiences include poor education, having parents with low paying employment, poor family dynamics, family members with criminal backgrounds, and substance abuse. In effect, a youth raised in poverty is at increased risk of criminal activity. As well, poverty is usually associated with other risk factors of offending such as low levels of education and employment, higher rates of single parent families or broken and dysfunctional homes with maladaptive parenting skills, drug and alcohol dependencies, instances of physical and sexual abuse, having family members involved in criminal activity, and associating with delinquent peers (see Andrews & Bonta, 1994; Conger, Conger, Elder, Lorenz, Simons, & Whitbeck, 1992; Fergusson & Horwood, 1999; 1996; Fergusson, Swain-Campbell, & Howard, 2004; Gail, Bailey, Harris, & Wundersitz, 1990; Kramer, 2000; LaPrairie, 1997; Rowe & Farrington, 1997; Tonry, 1994; Weatherburn, Snowball, & Hunter, 2006). Also, when there is an

accumulation of risk factors, there is an increased risk that an individual will become involved in criminal activity (see Fergusson et al., 2004). Given that Aboriginal people continue to experience high levels of poverty; it has been hypothesized that Aboriginal over-representation in the CJS is directly linked to their high levels of poverty. In other words, Aboriginal people are disproportionately from the lower socio-economic bracket of Canada, as they are in other countries (see Conger et al., 1992; Dodge, Pettit, & Bates, 1994; Farrington, 1990; Fergusson et al., 2004; Kramer, 2000; LaPrairie, 2002; Rudin, 2007; Rutter, Giller, & Hagell, 1998).

There are several theoretical frameworks that provide an explanation for the association between socio-economic disadvantages, risk factors of offending, and criminal activity, including Agnew's (1992) general strain theory, Gottfriedson and Hirshi's (1990) social control theory or general theory of crime, Sutherland and Cressy's (1978) differential association theory, and Bandura's (1979) social learning perspective. While research has confirmed the association between these risk factors and criminal behaviour, there is less research concerning the prevalence of these risk factors for criminal behaviour among Aboriginal people, and more specifically, Aboriginal youth in the justice system (see Bonta et al., 1997; Corrado & Cohen, 2004; 2002; Ellerby & MacPherson, 2002; Gale, Bailey, Harris, & Wundersitz, 1990; LaPrairie, 1997; 1990; Statistics Canada, 2001; Trevethan, Tremblay, & Carter, 2000).

#### 1.4.1 Education

Educational attainment is a risk variable for criminality which also is associated with poverty. Not surprisingly, Aboriginal people have lower levels of education than non-Aboriginal people (see Trevethan et al., 2000). Approximately 42% of the Aboriginal population in Canada, aged 25 and over, had not completed their high school education compared to approximately 29% of non-Aboriginal people aged 25 and over (Statistics

Canada, 2003). Also, Aboriginal youth were less likely to attend school on either a full or part-time basis than non-Aboriginal youth (Statistics Canada, 2001).

#### 1.4.2 Education profiles of Young Offenders

The education profiles of the young offender population, generally, reveal low education levels. However, there was little difference between Aboriginal and non-Aboriginal young offenders' rates of enrolment, last grade completed, rates of skipping classes, and getting into trouble at school (Corrado & Cohen, 2004; Corrado & Cohen, 2002; Ellerby & MacPherson, 2002). Specifically, Corrado and Cohen's (2004) study of a sample of young offenders in British Columbia indicated that approximately half of the incarcerated youth had been attending school during the time of their offence; the mean last grade completed was very similar for both Aboriginal and non-Aboriginal youth (grade 9 and 9.4 respectively); approximately 95% of both Aboriginal and non-Aboriginal youth reported getting into trouble at school; and 94% of Aboriginal youth, compared to 91% of non-Aboriginal youth reported skipping school. Also, Latimer and Foss' (2004) examination of snapshot data taken from a sample of Canadian Aboriginal people in custody found that 98% of Aboriginal adults (aged 18 and over) had not completed high school. A comparison between Aboriginal and non-Aboriginal inmates was not possible since data on non-Aboriginal inmates was not available.

#### 1.4.3 Employment

Aboriginal people are less likely to be involved in the paid labour force than non-Aboriginal people (see Trevethan & Tremblay, 2000). Statistics Canada conducted a survey in 2001 and found that, of those able to be active in the labour force, approximately 19% of Aboriginal people were unemployed, compared to approximately 7% of non-Aboriginal people (Statistics Canada, 2003). In addition, of those employed, Aboriginal people were more likely to be either employed in lower paying jobs or were receiving a lower wage than non-Aboriginal people. Not surprising, therefore, Aboriginal



average income was lower. This lower income is linked to Aboriginal lower levels of education and employment. Of the Aboriginal people who were employed in a full time job, their income, on average, was approximately \$10,000 less than that of non-Aboriginal full time employees. Specifically, an Aboriginal person who was employed in a part time position or who worked for part of the year in 2000 made approximately \$5,600 less, on average, than part time non-Aboriginal employees (Statistics Canada, 2003). Also, approximately one quarter (26%) of Aboriginal people's income was received through Government payments compared to approximately 14% of non-Aboriginal people (Statistics Canada, 2001). Theoretically, it has been argued that such negative financial profiles put excessive strain on parents' ability to supervise and support their children which increases the likelihood of their children becoming involved in risk situations that promote criminal behaviours. (Agnew, 1992)

#### 1.4.4 Employment Status of the Parents of Young Offenders

Having parents who are unemployed increases the risk of living in impoverished circumstances which has, in turn, been associated with a greater likelihood of becoming involved in serious delinquency (Farrington, 2002; 1997). Regarding the employment status of the parents of incarcerated youth, Corrado and Cohen (2004) found that Aboriginal young offenders were more likely to have either one parent or both parents without gainful employment than non-Aboriginal young offenders. Only, approximately one third (32%) of Aboriginal youth had both a mother and father who were employed compared to more than half (54%) of non-Aboriginal youth. Less than half (47%) of Aboriginal youth compared to approximately two thirds (68.0%) of non-Aboriginal youth had only a mother employed. There was less disparity involving fathers, 72% of Aboriginal youth compared to 83% of non-Aboriginal youth had a father employed.

#### 1.4.5 Family Composition

Poverty is also negatively associated with the dynamics of the family, including family composition, in a number of ways. First, the stress of poverty can lead to the dissolution of the family through separation or divorce. Second, poverty is associated with poor parental supervision and discipline as the parents may have more focus on their financial issues than on their children. Third, discipline within the family can become abusive, specifically when alcohol or drugs are utilized to cope with pressure and stress (see Conger et al., 1992; Kramer, 2000). The composition of a family can affect the potential of delinquent behaviours in a number of ways. Youth are more at risk of becoming involved in delinquency when they do not live with one or both of the biological parents, new parent figures are frequently introduced into the family, and there is a large number of siblings (see Farrington, 2002; Weatherburn et al., 2006).

Research on family dynamics has been with both Aboriginal and non-Aboriginal (see Corrado & Cohen, 2004; Corrado & Cohen, 2002; Ellerby & MacPherson, 2002). Differences between the experiences of Aboriginal and non-Aboriginal youth have been identified. In terms of family composition, Aboriginal children, in the general population, experienced single parent living conditions at a greater rate than non-Aboriginal youth; approximately 61% of Aboriginal youth were living with both parents compared to approximately 83% of non-Aboriginal youth (Statistics Canada, 2003).

#### 1.4.6 Family Composition of Young Offenders

In terms of incarcerated youth, when examining the living arrangements of a young offender sample in British Columbia, Corrado and Cohen (2004) found that fewer Aboriginal youth were living with their immediate family compared to non-Aboriginal youth (40% and 48% respectively), and more Aboriginal youth were living with their extended family than non-Aboriginal youth (18% and 4% respectively). Aboriginal youth were more likely to be living on their own than non-Aboriginal youth (22% and 17%

respectively) and approximately one quarter of both Aboriginal and non-Aboriginal youth were living as wards of the state. Youth who are living in a stable environment with both parents may be less likely to become involved in criminal behaviours than youth living with relatives, friends, or in foster homes due the amount of supervision and support they receive from those caring for them.

#### 1.4.7 Young Offender Drug and Alcohol Use

The use of alcohol and drugs is associated with criminal behaviour (see Boyum & Klieman, 2002; Corrado & Cohen, 2004; 2002; Weatherburn et al., 2003). More violent crime is committed when individuals are under the influence of alcohol than when they are under the influence of drugs (Boyum & Klieman, 2002). While intoxication can increase the chances of crime being committed due to an increase in aggressive behaviours, criminal acts are also committed in order to obtain money (Boyum & Klieman, 2002). Corrado and Cohen's (2004) study of young offenders in British Columbia found few differences in the use of drugs and alcohol by Aboriginal and non-Aboriginal young offenders; 93% of Aboriginal youth compared to 91% of non-Aboriginal youth reported using alcohol, and 95% of Aboriginal youth compared to 92% of non-Aboriginal youth reported using drugs (see also Corrado & Cohen, 2002). However, Aboriginal youth had been diagnosed with having an alcohol abuse problem more frequently than non-Aboriginal youth (22% and 12% respectively).

#### 1.4.8 Parental Drug and Alcohol Use

Differences in the use of drugs and alcohol of the parents of Aboriginal and non-Aboriginal young offenders are apparent. A greater proportion of Aboriginal youth reported having a family member with an alcohol abuse problem (87% and 71% respectively) or a substance abuse problem (72% and 56% respectively) (Corrado & Cohen, 2004). It is possible for youth to be at greater risk of using drugs and alcohol if their parents abuse these substances. As mentioned above, the use of alcohol and

drugs may increase a youth's likelihood of involvement in criminal behaviours as a means of obtaining access to these items.

#### 1.4.9 Young Offenders Experience of Physical and/or Sexual Abuse

There is also research that indicates a relationship between experiences of abuse for both juvenile and adult criminal offending (McCord, 1983; Smith & Thornberry, 1995; Widom, 1989). Physical and sexual abuse varies greatly between gender and race. Corrado and Cohen (2004) found that female young offenders reported much higher rates of physical and sexual abuse than male offenders; 62% of females compared to 39% of males reported physically abuse, and 51% of females compared to 12% of males reported sexual abused. In terms of race, 44% of Aboriginal males compared to 38% of non-Aboriginal males reported being physically abused and 14% of Aboriginal males compared to 12% of non-Aboriginal males reported being sexually abused. Also, 79% of Aboriginal females compared to 55% of non-Aboriginal females reported being physically abused, while 66% of Aboriginal females compared to 45% of non-Aboriginal females reported being sexually abused.

#### 1.4.10 Parental Experiences with Physical and/or Sexual Abuse

Experiences of abuse were more prevalent among the family members of Aboriginal youth than non-Aboriginal youth. Specifically, 62% of Aboriginal youth had a family member who had been physically abused compared to 46% of non-Aboriginal youth and 34% of Aboriginal youth had a family member who had been sexually abused compared to 20% of non-Aboriginal youth (Corrado & Cohen; 2004).

#### 1.4.11 Family Members with a Criminal Record

Having a criminal parent increases the likelihood of a youth becoming involved in criminal activity (Farrington, Jolliffe, Loeber, stouthamer-Loeber, & Kalb, 2001; Rowe & Farrington, 1997). More specifically, Farrington et al. (2001) found that the most significant predictor of a child's offending was the father's criminal record. Aboriginal

youth had a high prevalence of a family member with a criminal record; three quarters of Aboriginal youth in Corrado and Cohen's research (2004) of incarcerated youth, compared to approximately two thirds of non-Aboriginal youth, had a family member with a criminal record. One explanation is that, when a child's parent is involved in criminal activity, the youth may become more accepting of criminal behaviours and more willing to take part in these behaviours themselves (Farrington, 2002).

#### 1.4.12 Association with Delinquent Peers

Fergusson and Horwood (1996) found that criminal behaviour was more likely to occur over time when an individual associates with criminal or delinquent peers. There are several explanations for this relationship. One theory focuses on how youth are influenced by peer pressure to participate in criminal behaviour which is reinforced through social learning. A second theory emphasizes that youth with already existing risk variables for criminal offending associate with peers with similar traits which, once set in motion, progresses into routine criminal behaviour (Fergusson & Horwood, 1996). However, there were no studies that compared differences in the association with delinquent peers between Aboriginal and non-Aboriginal youth in the CJS.

#### 1.4.13 The Effect of Colonialization on Aboriginal People

One experience unique to Aboriginal people that could be a possible explanation for their high levels of poverty and criminal activity is the devastating effect of the colonialization experiences over the past three centuries of the European conquest of First Nations and Aboriginal communities in Canada and elsewhere such as the United States and Australia. The historical effects of colonialization centers on forced assimilation, the subsequent loss of culture, spiritual practices, and restrictions of rights, loss of land, and compulsory attendance in residential schools. All of these factors combined across several generations in a systematically destructive process resulted in Aboriginal people, especially young and adult males, being disproportionately more likely

to commit serious crimes than non-Aboriginal groups (i.e., Green, 2002; LaPrairie, 1997; LaPrairie, 1996; Rudin, 2007). In other words, the higher rates of serious offending and custodial sentences is not the result of “the individual failures of particular Aboriginal people,” but rather individual problems caused by colonialism (Monture-Angus, 2000, p.363).

It is important to briefly describe the historical process of the colonization of Aboriginal people in Canada. The First Nations people were introduced to new agricultural and social structures by European settlers in the 16<sup>th</sup> Century.<sup>1</sup> For the First Nations people, the colonization process culminated when the first Canadian federal government implemented the *Indian Act* in 1867. As a result of this Act, the social, political, religious, and economic structures of the First Nations people were fundamentally damaged or destroyed while new European structures were introduced which contrasted sharply with the First Nations way of life. Social disorganization and isolation of the First Nations people was a result of this process (Oka, 1995).

The federal government initially attempted to assimilate the First Nations people by relocating them to reserves. By forcing the First Nations people off their extensive and traditional lands, which held both physical and spiritual importance, First Nations people were restricted to geographically limited reserves which began the fundamental alteration of hunting, fishing, and agrarian economies central to the perpetuation of Aboriginal institutions and culture.

The legal policy of assimilation was accelerated through the creation and implementation of Protestant Church and Roman Catholic Church operated residential schools. The residential schools used primarily Christian religions and churches to

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<sup>1</sup> Before immigration, First Nations communities were economically self sufficient, politically independent, and were focused on collective principles, socially and economically (Oka, 1995). When the European settlers introduced new economic structures, the First Nations communities became dependent on the new economy and the focus shifted to the individual rather than the collective.

replace indigenous culture and social institutions (Haig-Brown, 1993). Language barriers and cultural differences resulted in Aboriginal students having difficulties in understanding and attaining educational goals (Miller, 1996).<sup>2</sup> In effect, the residential schools often simply did not provide Aboriginal students with the minimum education needed to survive, let alone prosper, in the highly competitive Canadian job market.

More devastating than the inadequate education was the pervasiveness of the emotional, physical, and sexual abuse of students during their time at the residential schools (Miller, 1996).<sup>3</sup> Also, the longer term social effect on the children who attended residential schools was considerable; they were not taught how to live within a family environment and, therefore, they were ill-equipped for subsequent parenting (Miller, 1996). The residential school system has also been a contributing factor in a greater number of Aboriginal individuals with mental illness, psychiatric disorders, and alcohol and substance abuse. Recently, Sochting, Corrado, Cohen, Brasford & Ley (2007) introduced a new psychiatric construct, post traumatic stress disorder-residential school (PTSD-RS) based on the distinctive traumatic effect of residential schools i.e., the recurrent and repressed shame of the emotional and sexual abuse for certain Aboriginal men is associated with anger against their own culture and violence. These researchers asserted that it was likely that the violence, including sexual aggression against Aboriginal women and children, resulted or contributed to the intergenerational transmission of violence within PTSD-RS families.

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<sup>2</sup> Even those students who graduated from residential schools often were not educationally prepared to enter the work force; they often lacked skill sets needed to obtain adequately paying jobs, such as in the trades and professional occupations (Miller, 1996).

<sup>3</sup> Physical abuse was routinely present in the form of discipline; it was not uncommon for children to experience the strap, ear pulling, being slapped across the head, and being hit with knuckles. A substantial proportion of children also experienced sexual abuse by principals, supervisors, teachers, doctors, and priests. Emotional abuse was common since the absence of parents, older siblings, extended family members, and traditional community activities left students isolated, lonely, and vulnerable to other forms of abuse (Miller, 1996).

The key hypothesis, therefore, is that the initial colonization and subsequent forced assimilation continues to systematically influence many Aboriginal people towards both criminality and victimization ( LaPrairie, 1997, 1996; Proulx, 2003; Turpel-Lafond, 1994). As well, from within the Aboriginal leadership, for example, Judge Mary Ellen Turpel-Lafond (1994), stated that:

[w]e have to accept that there are profound social and economic problems in Aboriginal communities today that never existed pre-colonization and even in the first few hundred years of interaction. Problems of alcohol and solvent abuse, family violence and sexual abuse, and youth crime – these are indications of a fundamental breakdown in the social order in Aboriginal communities of a magnitude never known before (p. 208-209).

According to Proulx ( 2003), colonialism “destroyed Aboriginal social orders, stability, and cultural integration, leading to a disjunction between ends and means within Aboriginal cultures resulting in crime and social disorder” ( p. 27). In effect, colonization has directly influenced Aboriginal people’s disproportionate susceptibility to risk factors that are commonly correlated with poverty and criminal activity, including alcoholism, disrupted family dynamic, poor education and employment skills, physical and sexual abuse, and social dependency.

#### 1.4.14 Summary of Poverty Theory

Both Aboriginal and non-Aboriginal youth face circumstances of poverty and the risk factors of criminal offending related to poverty which, in turn, increase their likelihood of becoming involved in the CJS. However, the major hypothesis is that there is a substantial difference between Aboriginal and non-Aboriginal youth in terms of the pervasiveness of the criminogenic risk factors, in particular, dysfunction within families, because of the continuing detrimental and catastrophic effects of colonization. Again, it is asserted that the damaging behaviours and life circumstances associated with colonization are passed down to new generations of Aboriginal youth. However, the studies conducted in Canada on youth in the CJS do not examine whether this



difference in pervasiveness of criminogenic risk factors distinguishes Aboriginal and non-Aboriginal youth.

While the poverty hypothesis focuses on the effects of poverty on the individual and the circumstances that are coupled with poverty that can promote criminal activity, another explanation of the over-representation of Aboriginal people in CJS focuses on the role of the CJS in particular and the possible discrimination that Aboriginal people face when they become involved with the CJS.

### 1.5 Discrimination Theory

It is hypothesized that the disproportionate number of Aboriginal people in both youth and adult criminal justice systems in Canada occurs because of systematic discrimination against Aboriginal people within the CJS. This discrimination is seen to be evident throughout all the stages of the CJS beginning with police discretion, and continuing to remand, conviction, sentence, probation, and parole. (See Bonta, 1989; Broadhurst, 1997; 1996; Gail et al., 1990; Hylton, 2002; LaPrairie, 1997; 1990; Luke & Cunneen, 1995; Monture-Agnus, 2000; Royal Commission, 1996; Schissel, 1993; Smith, 1994; Stenning & Roberts, 2001; Welsh & Ogloff, 2000). It is argued that Aboriginal peoples in other countries also experience this systematic discrimination. For example, research conducted in Australia found that Aborigines were nine times more likely to be apprehended by the police than non-Aborigines, and were approximately five times more likely to be sentenced to imprisonment than non-Aborigines (see Broadhurst, 1997; Broadhurst, 1996). Research in Canada has also found similar experiences for Aboriginal people, as Aboriginal offenders were more likely to receive jail terms (Hamilton & Sinclair, 1991).

However, a study conducted by Luke and Cunneen (1995) found mixed results for the presence of systemic discrimination. While Aboriginal youth were more likely to be apprehended and prosecuted than non-Aboriginal youth, regardless of the type of

offence committed, Aboriginal young offenders had lengthier prior criminal records. However, when Aboriginal and non-Aboriginal youth had relatively similar criminal histories, similar sentencing decisions were evident (Luke & Cunneen, 1995). In effect, systemic discrimination was not evident at the sentencing stage; however, it may still be present at this stage as well as other stages of the youth criminal justice systems in Canada as past research in this area has not found consistent results.

### 1.5.1 Culture Clash

One type of systemic discrimination that has been proposed is the culture clash theory of discrimination. Within this theory, the CJS is not based on the principles of Aboriginal justice; the Western concepts of justice are in direct conflict with those of Aboriginal justice; thus, it is argued that when Aboriginal people come into contact with the justice system, over-representation is inevitable (Rudin, 2007). One example of these differences is the concept of taking responsibility for your actions. In the Aboriginal culture, it is very important for a person to take responsibility for the actions they have committed (Royal Commission, 1996). The CJS encourages people to take responsibility for their actions by pleading guilty; therefore, Aboriginal people may be more inclined to plead guilty in order to take responsibility for their actions even though their actions may have a reasonable explanation or defence. If Aboriginal people are more likely to plead guilty, they may emerge from the legal process without gaining a better understanding of the CJS, as well as a possible disrespect toward it (Royal Commission, 1996).

Culture clash may also occur in situations where non-Aboriginal people are not familiar with the cultural norms of Aboriginal people. For instance, making direct eye contact with a person of authority is viewed as disrespectful in the Aboriginal culture; however, Western culture is more likely to view a lack of direct eye contact as a sign of guilt and evasiveness (Rudin, 2007). It is possible that when Aboriginal people come

into contact with the police, or with a judge, the lack of eye contact may be viewed as being hostile and uncooperative. This misunderstanding may influence a judge's decision which may increase as individuals' chances of being incarcerated and assists in adding to the over-representation of Aboriginal people in the CJS.

However, over-representation based on a culture clash theory of discrimination is only fully supported if many Aboriginal people who are incarcerated were not raised in the traditional ways of their Aboriginal culture, did not live on reserves, and cannot speak their Aboriginal language, as those who have not lived in this manner may not live by these cultural beliefs (see Royal Commission 1996; Rudin, 2007). Although the theory of culture clash may explain why some of the Aboriginal people are in custody, arguably most Aboriginal people involved with the CJS today, have limited knowledge of Aboriginal culture and were raised primarily with Western values. In other words, even though culture clash can only account for a portion of the number of Aboriginal people in the offender population, other forms of discrimination are present. Specifically, it has been hypothesized that Aboriginal people experience differential treatment at all levels of the CJS (e.g. policing, court processes, sentencing), and all of these occurrences contribute to the over-representation of Aboriginal people in the CJS.

#### 1.5.2 Police Discretion

Historically, much of the systemic discrimination against Aboriginal people in Canada has been associated with tragic cases where police have been accused of violently discriminating against young Aboriginal males, such as the incident in Vancouver where an intoxicated Aboriginal man, Frank Paul, was removed from a holding jail and left in an alley where he froze to death. Similar incidents occurred in Saskatchewan cities, including an incident in Saskatoon with Neil Stonechild, a 17 year old youth, who froze to death when Saskatoon police were accused of driving him to the outskirts of Saskatoon and left him to make his way back to the city. Beyond such tragic

incidents, police have the most frequent contact with Aboriginal youth given the “gatekeeper” role of the police in terms of order maintenance, investigation, charge initiation, and arrest. More importantly, Aboriginal people are more likely to come into contact with the police than non-Aboriginal people since the former are far more likely to be a victim, a witness, or the perpetrator of a crime (Statistics Canada, 2001). It has been asserted that Aboriginal people are over-policed (see Royal Commission, 1996; Rudin, 2007). Over-policing refers to the practice of focusing a greater amount of attention on members of a specific race or ethnicity or in a certain geographical location, particularly poor neighbourhoods. Associated with over-policing is the use of discretion by police officers. It is possible for a police officer to resolve a situation through a number of different options, including making an arrest or charging an individual for serious criminal incidents, or issuing a warning and/or ignoring minor incidents (Rudin, 2007). However, research has indicated that police utilize these latter forms of discretion less with Aboriginal people (see Luke & Cunneen, 1995). It is hypothesized that police less frequent use lenient options which results in longer criminal histories for Aboriginal people. In effect, Aboriginal people, especially youth, are being apprehended at a younger age, instead of given a warning or caution and will thus, amass a larger criminal record over time which can also result in harsher penalties over time (see Hartnagel, 2004; Luke & Cunneen 1995).

Over-policing can lead to Aboriginal over-representation in the CJS. The hypothesis is that more frequent police presence in a neighbourhood with a substantial population of Aboriginal people increases the likelihood of crimes being solved which involve Aboriginal people. A related hypothesis is that where discretion to not arrest is an option, it is less likely to be utilized with Aboriginal people. As well, over-policing is hypothesized to increase Aboriginal peoples’ distrust of the police because police

presence is not to provide services and protect Aboriginal people, but to monitor, harass, and punish through discriminatory arrests (Rudin, 2007).

### 1.5.3 Systemic Discrimination through Sentencing Decisions

There is extensive research concerning remand and sentencing decisions comparing Aboriginal and non-Aboriginal people in the CJS. Aboriginal people were more likely to be placed on remand and spend more time there than non-Aboriginals. In addition, while in remand, Aboriginal people had fewer and generally shorter interactions with their lawyers (see Hamilton & Sinclair, 1991; Statistics Canada, 2001). It has been asserted that the remand experience has potential negative effects. First, an individual sentenced to remand may be more likely to plead guilty in order to get through the court process faster. Second, if individuals are remanded, it indicates that they were not assessed to be releasable in the community on their own recognisance, therefore, it increases the likelihood that, once convicted, the court is more likely to impose a custody sentence rather than a community-based sentence (Royal Commission, 1996).

There has been a longstanding debate in the research literature concerning whether there has been systemic sentencing discrimination against Aboriginal offenders as evidenced in longer sentences. The research literature has addressed the issue of systemic discrimination in sentencing, more specifically, the differences in sentence lengths, for Aboriginal and non-Aboriginal people (See Bala, 2003; Bonta, 1989; Canfield & Drinnan, 1981; Corrado & Cohen, 2004; Corrado & Cohen, 2002; Hamilton & Sinclair, 1991; Hylton, 1981; LaPrairie, 1996; LaPrairie, 1990; Latimer & Foss, 2005; Latimer & Foss, 2004; Motiuk & Nafekh, 2000; Schmeiser, 1974; Trevethan et al., 2000). The results of this research is contradicting in some aspects. It is important to examine the sentencing decisions in terms of sentence lengths, as sentence lengths can effect Aboriginal over-representation in a number of ways. First, if sentences are too short, it is possible that fewer options can be used in terms of programming which may result in

lower rehabilitation rates. Second, sentences that are too long can result in Aboriginal people spending a greater period of time in jail which results in a higher accumulation of Aboriginal people in custody at one time.

When the issue of sentence disparities was first researched, Aboriginal offenders were found to have shorter sentence lengths than non-Aboriginal offenders; however, these findings were the result of less serious offences being committed by Aboriginal offenders (see Hylton, 1981; Schmeiser, 1974). However, when controlling for variables, such as the type of offence committed and the criminal history of the offender, the results varied. Specifically, some research that controlled for the type of offence found that Aboriginal offenders still received shorter sentences than non-Aboriginal offenders (see Canfield & Drinnan, 1981). Yet, other researchers, who also controlled for type of offence and criminal history, did not find significant sentence disparities between Aboriginal and non-Aboriginal offenders (Bonta, 1989).

Regarding longer sentences to federal prisons, Aboriginal offenders generally received shorter sentences than non-Aboriginal offenders i.e., 4 years vs. 5 years respectively. Further, when examining sentence length by type of offence, Aboriginal offenders received significantly shorter sentences for attempted murder, assault causing injury, and robbery. In effect, even for Aboriginal offenders who had committed more serious offences, they too received shorter sentences than non-Aboriginal offenders with similar offences (LaPrairie, 1996).

Other research indicated that the sentencing disparities also depended on the type of facility the offender was in (see Hamilton & Sinclair, 1991; Latimer & Foss, 2004; Motiuk & Nafekh, 2000). A one-day snapshot of adult offenders conducted in 1996, found that Aboriginal adult offenders had received longer sentences in provincial/territorial facilities i.e., 245 days and 183 days respectively but shorter sentences on average than non-Aboriginal offenders in federal facilities i.e., 1,460 days

and 1,825 days respectively (Trevethan, et al., 2000). However, this study did not control for criminal history and offence severity.

In contrast, sentencing disparities were found for Aboriginal young offender populations. A 2003 one-day snapshot of youth in custody throughout Canada, indicated that the median sentence length of Aboriginal youth was 212 days compared to 182 days for non-Aboriginal youth (Latimer & Foss, 2004). Aboriginal youth had longer sentences, on average, than non-Aboriginal youth for crimes against the person where non-Aboriginal youth had longer sentences, on average, than Aboriginal youth for less serious offences, such as administration of justice offences, drug possession, and robbery. However, once again, criminal history and offence severity were not controlled for, thus these findings have to be interpreted with caution (Latimer & Foss, 2004).

Similarly, data collected over a one year period from April 1999 to March 2000, from five major cities across Canada indicated that Aboriginal youth had a significantly longer median sentence length than non-Aboriginal youth (90 days and 35 days respectively) after controlling for criminal history and severity of the offence (Latimer & Foss, 2005). However, the authors cautioned that the results may be influenced by the offender's level of risk to reoffend. The Aboriginal offenders in custody had a higher level of risk to reoffend than the non-Aboriginal offenders; thus, the Aboriginal youth may have received longer sentences. Risk of reoffending was not controlled for in this study since there was considerable missing data for this risk factor, and, therefore, it could not be entered into the analysis (Latimer & Foss, 2005). It is important that future research collect data on risk factors in order to see if these variables have an effect on sentencing decisions for Aboriginal youth.

Corridor and Cohen (2004) also focused on youth in custody in their study of Aboriginal and non-Aboriginal youth in British Columbia. They reported mixed results regarding sentence lengths for data collected between 1998 and 2003. Aboriginal youth

sentenced to secure custody received sentences that were two months shorter, on average, than non-Aboriginal offenders. However, Aboriginal youth sentenced to open custody received sentences 40 days longer, on average, than non-Aboriginal youth. The researchers also conducted a snapshot survey in 2004 with 98% of the sentenced youth having been sentenced under the YCJA. They reported that the sentences for Aboriginal youth were slightly shorter, on average, compared to non-Aboriginal youth (155 days and 170 days respectively).

In terms of sentence length based on offence, Aboriginal youth received longer sentences, on average, for violent offences (approximately 2 months longer) than non-Aboriginal youth. Non-Aboriginal youth received sentences that were nearly twice as long as Aboriginal youth for property offences. There was very little difference between the two groups when examining past criminal histories. 88% of non-Aboriginal young offenders had a previous sentence compared to 82% of Aboriginal young offenders. Regarding current sentences only for Aboriginal and non-Aboriginal serious and/or violent young offenders, Corrado and Cohen (2002) found that the sentence length of Aboriginal youth was shorter than non-Aboriginal youth. However, Aboriginal young offenders spent a greater amount of time in custody overall than non-Aboriginal youth. Based on the above studies, it is apparent that the length of sentences for Aboriginal and non-Aboriginal people have been inconsistent. Given the above disparities, it is important to find out what variables are being considered by the courts in deciding the length of sentences youth are receiving and what variables are being considered in the decisions for the type of custody they will be sentenced to. If there is a greater understanding of what variables are being considered when making these decisions, it may assist in understanding why Aboriginal youth are not receiving the same type of sentencing decisions as non-Aboriginal people. This may also help to understand their over-representation in the CJS.



#### 1.5.4 Possible Explanations for Sentencing Disparities

Several explanations have been proposed regarding the disparities in the sentencing of Aboriginal and non-Aboriginal offenders. LaPrairie (1990) proposed that Aboriginal offenders received shorter custodial sentences due to a lack of sentencing options. For example, judges possibly choose incarceration over probation as a sentence for less serious offences because Aboriginal offenders were less likely to meet the typical requirements for probation; because of the lack of structure in their lives and their community. For Aboriginal young offenders under the YOA, judges sentenced youth to custody sentences instead of probation or conditional sentences because, only in custody, were rehabilitative resources and a protective environment available (Bala, 2003). Another explanation for Aboriginal offenders receiving shorter sentences was that judges considered the Aboriginal offender's historically disadvantaged position and attempted to rectify this imbalance (LaPrairie, 1996). Nevertheless, these explanations do not explain completely why Aboriginal offenders received longer sentences than non-Aboriginal offenders when offence history and seriousness of offence were taken into account.

#### 1.5.5 The Argument Against Systemic Discrimination

Although there is some data indicating that the CJS has been discriminatory toward Aboriginal people, other scholars have argued that systemic discrimination did not occur. The main argument is that the over-representation of Aboriginal people in the CJS is because Aboriginal people commit disproportionately more crime, have longer criminal records, and commit more serious crime than non-Aboriginal people. (see Broadhurst, 1997; Corrado & Cohen, 2004; Gail et al., 1990; LaPrairie, 1992; Motiuk & Nafekh, 2000; Oka, 1995; Royal Commission, 1996; Roberts & Doob, 1997; Stenning & Roberts, 2001; Tonry, 1994; Weatherburn et al., 2003). In particular, Aboriginal people in urban areas had higher disorder offences, but were less frequently charged with

property offences than non-Aboriginal people (see Royal Commission, 1996). Also, it has been argued that if Aboriginal people were denied bail or received custodial dispositions more often than non-Aboriginal people, this simply reflected the facts that Aboriginal people were committing more serious offences and were remaining in the CJS longer than non-Aboriginal offenders (LaPrairie, 1992; Latimer & Foss 2004; Weatherburn et al., 2003). For example, Weatherburn and colleagues (2003) found that, while the incarceration rate of Aboriginal people for assault causing grievous bodily harm was ten times higher than non-Aboriginal people, Aboriginal people who had been convicted of a violent offence were significantly more likely to have violent criminal records than non-Aboriginal people convicted of violent offences. Aboriginal people also were more likely to have committed offences against the person than non-Aboriginal people (see Broadhurst, 1996; Finn, Trevethan, Carrier, & Kowalski, 1999; LaPrairie, 1996; Latimer & Foss, 2004; Robinson, Porporino, Millson, Trevethan & MacKillop, 1998; Stenning & Roberts, 2001; Trevethan, Carriere, MacKillop, Finn, Robinson, Proporino, & Millson, 1999; Trevethan, Moore, & Rastin, 2002). After conducting a one-day snapshot of young offenders across Canada, Latimer and Foss (2004) found that a greater number of Aboriginal youth were incarcerated for more serious offences, such as homicide/attempted homicide, serious assault, and sexual assault compared to non-Aboriginal youth and a greater number of non-Aboriginal youth were incarcerated for less serious offences, including property offences, drug possession and administration of justice than Aboriginal youth.

Another argument against the systemic discrimination theory is that police utilize discretionary measures with Aboriginal people to the same extent as with non-Aboriginal people; however, because more serious crimes are committed by Aboriginal people, it is less likely that a discretionary measure is available (Weatherburn et al., 2003). In other words, whether Aboriginal or non-Aboriginal, those individuals serving a prison sentence

are doing so for serious offences; therefore, a police caution or police discretion would not be appropriate.

While the above statistics on the type of crime committed by Aboriginal people provided by Weatherburn and colleagues and Latimer and Foss confirmed that Aboriginal people committed more serious crimes, the examination of self-reported criminal involvement can also assist in understanding the criminal profiles of Aboriginal people. Through self-reported criminal involvement, Weatherburn and colleagues (2003) found that Aboriginal youth reported more involvement in criminal behaviours, including assault, vehicle theft, break and enter, and shoplifting, than non-Aboriginal youth. Also, through self-reports, the number of Aboriginal youth who disclosed that they had committed more than five offences in the past 12 months was more than double the number of non-Aboriginal youth who disclosed the same amount of criminal behaviour. Thus, the differences found in arrest rates seem to be reflective of differences in the participation in criminal behaviour and not systemic bias (Weatherburn et al., 2003).

Although it is possible that the disparities between Aboriginal and non-Aboriginal people in the justice system could be explained by the more pervasive criminal behaviours of Aboriginal people, another hypothesis is that the discrimination against Aboriginal people throughout the justice system interacts with these higher rates (Smith, 1994). In effect, it is possible that systemic racial bias, disproportionate rates of offending, and offence severity may be working together to exacerbate the over-representation of Aboriginal people in the youth and adult criminal justice systems in Canada.

## 1.6 Risk Factors and Sentencing Decisions

While there has been considerable research on judicial decisions for Aboriginal people regarding sentence lengths and the type of custody (see Corrado & Cohen,

2004; 2002; Latimer & Foss, 2005; 2004), there is far less research on the variables taken into consideration when these decisions are made (see Royal Commission, 1996; Vigorita, 2001; 2003; Welsch & Ogloff, 2000). Past research has focused on understanding the variables that are considered in the decisions of whether an individual is considered a risk to reoffend (Vigorita, 2003); should be remanded to pre-trial detention (Royal Commission, 1996), given full parole (Welsch & Ogloff, 2000), or sentenced to custody (Vigorita, 2001).

The Aboriginal Justice Inquiry of Manitoba found that when making the decision for pre-trial detention, variables that were considered included the persons' employment, if they had a permanent place of residence, involvement in educational pursuits, and other links to their community (Royal Commission, 1996). Welsh and Ogloff (2000) conducted a study in 1996 of 2479 male federal offender correctional files that identified the variables considered when decisions of full parole were made by the courts. Most importantly, Aboriginal status was not a predictor of parole decisions. However, other variables were able to predict these decisions, such as the offence, criminal history, and the risk/needs factors of the individual. These risk/needs factors consisted of employment, marital status, personal associates, social connections, and substance abuse.

As indicated by the two studies above, risk variables of offending were taken into account when making judicial decisions. Vigorita (2003) asserted that risk considerations were the most important variables taken into consideration when sentencing decisions were made. Vigorita (2003) examined the variables taken into consideration when judges decided if an individual was a risk to reoffend, which was defined as "the probability that an event will occur" (pp 362). Variables that were utilized in the study included: the individual's current offence; their criminal history, which included total number of arrests, the total number of convictions for specific offences, and previous

incarcerations; whether or not they were sentenced to pre-trial detention; their age, gender, employment status, and education level; whether the individual had a drug problem; and the family structure, such as marriage status and children. Seriousness of the current offence was not a predictive factor of the decision of being a risk to reoffend, while the number of past offences was the most important predictive factor, along with age, gender, employment status, single parent, and education level.

Vigorita (2001) conducted a similar study to identify the variables considered in the decision to incarcerate. The more specific focus was the factors in the individual's prior record that were given greater weight by judges when deciding to give a custody sentence. These factors were the seriousness of prior offences, the number of prior incarcerations, and the number of prior arrests. The seriousness of the current offense was another key variable considered. Vigorita (2001) found that judges took into consideration all three prior record factors along with the seriousness of the current offense. Other variables that were found to be significant predictors of incarceration decisions were age, race, gender, and employment status. However, none of Vigorita's studies included Aboriginal individuals, in particular, Aboriginal young offenders.

It is important to gain a better understanding of the factors that affect the sentencing decisions of judges in order to better understand the discrepancies between the above discussed outcomes of Aboriginal and non-Aboriginal youth involved in the CJS. Also, examining the variables that are considered in sentencing decisions may provide more insight into the presence or absence of systemic discrimination in the CJS toward Aboriginal people. While research in this area has examined different levels of sentencing decisions, little research has been conducted that specifically examines the variables that are considered when deciding whether a youth will be sentenced to open or closed custody.

## 1.7 Present Study

The present study focuses on gaining an increased understanding of the profiles of the youth in the CJS. It will focus on the risk variables of reoffending that are present in youths' lives, as well as their criminal involvement as these variables may be affecting the custody decisions of the courts for open or closed custody. While this research will not focus on explaining the over-representation of Aboriginal youth in the CJS in particular, it will seek to find the differences and commonalities of a sample of incarcerated Aboriginal youth and non-Aboriginal in British Columbia in terms of the above theories of over-representation. Also, the present study focuses on gaining an increased understanding of the variables that judges may take into consideration when making custody decisions; specifically, the decision between open and closed custody, by examining data from a sample of young offenders in British Columbia. More specifically, this study will try to gain a better understanding of the circumstances of the youth in the CJS in terms of their criminal background, their current offence information, and the presence of risk variables of reoffending, including their place of residence, education level, drug and alcohol use, experiences of physical and/or sexual abuse, having a family member with a criminal record, and their association with delinquent peers. These risk variables for reoffending were selected on the basis of research that has found these variables to be important predictors of youth criminal behaviour. This study will also assess whether these variables can predict the custody decisions of the court. Most importantly, this study will examine whether hypothesized differences between Aboriginal and non-Aboriginal youth in custody, in terms of risk factors, can predict the type of custody a youth is sentenced to. The specific research questions are: Are there differences in "current" offences that are associated with the custody sentences?; Do the experiences that Aboriginal, Caucasian, and other minority groups have in prison differ in terms of type of custody (open vs. closed custody) and sentence

length?; What variations are present between the risk variables of reoffending for Aboriginal, Caucasian, and other minority youth? Are these variations statistically different? Is there a statistical relationship between the youths' experience in prison (such as type of sentence and length of sentence) and their criminal history?; and What criminal variables and risk variables of reoffending are predictors of the type of custody the youth are sentenced to (i.e. Open or Closed custody).

Since the youth CJS is a funnel process whereby only the most serious offenders are sentenced to custody, it is likely that differentiation will only be found in certain aspects of the criminal profiles of young offenders. Specifically, it is hypothesized that significant differences will not be found when examining the variations for most of the risk factors of the young offender risk profiles of reoffending. However, it is likely that Aboriginal youth, and possibly other minority youth, will have had more contact with the CJS than Caucasian youth, given this, it is hypothesized that Aboriginal young offenders will have more extensive criminal records than non-Aboriginal young offenders. It is also hypothesized that the prior criminal convictions, the current offence, and the presence of risk variables will be significantly related to the youth's experience in prison, in terms of the type of the sentence (open or closed custody) the youth is given.

Even though it is hypothesized that youth will have similar risk profiles, if the profiles of Aboriginal youth are found to be significantly different than the other youth, this may assist in explaining disparities in custody decisions. However, if differentiation cannot be found between the risk factors present between Aboriginal and non-Aboriginal youth, and if sentencing decisions are found to be similar among the youth, this may disconfirm the presence of systemic discrimination at this level of the court process. Still, if differences are found for Aboriginal youth in terms of the type of custody they are sentenced to and their sentence length, while all other factors are found to be similar, it may be possible that systemic discrimination at the level of sentencing is affecting the

outcomes of Aboriginal youth in the CJS, and, on a larger scale, it is possible that it could also contribute to the over-representation of Aboriginal youth in custody.

The present study will add to the existing literature in the following ways. First, the sample of this study is young offenders where most research that has examined the predictive factors of sentencing decisions has utilized adult samples. It is possible that judges will take into consideration different variables based on the age of the offender. Second, past research has focused on examining the differences in sentence length for Aboriginal and non-Aboriginal offenders. The present study identifies variables that predict the decision of sentencing a youth to open or closed custody. This is important since different variables may be taken into consideration when making a decision for the type of custody than they do when making a decision on the sentence length that the individual will receive. Also, the present study utilizes a comparison group, non-Aboriginal young offenders, to see if any risk factors are specific to Aboriginal young offenders.



## Method

### 2.1 Research Design

In order to empirically examine the profiles of youth in the CJS and to gain a better understanding of the variables taken into consideration for sentencing decisions, a semi-structured interview was designed. The semi-structured interview was conducted one-on-one with incarcerated youth and the interviewer. Interviews were conducted by a research team over a period of six years (1997 to 2003). The present research will utilize the data from the Vancouver Serious and Violent Young Offenders Study (Corrado, Cohen, Glackman, & Odgers, in press) funded by the Social Science and Humanities Research Council of Canada. The format of the research project allowed for quantitative data to be collected but utilized a contrasted groups design where the participants cannot be randomly assigned to the conditions involved (i.e., Aboriginal, Caucasian, and other minority young offenders). The unit of analysis for this study is individuals.

### 2.2 Participants

The population which was sampled in this study was young offenders currently residing at two open and two closed custody facilities in the Greater Vancouver Region, British Columbia; with the majority of the interviews being conducted at the Burnaby Youth Custody Center. A total of 507 young offenders completed the interview. The youth who participated, both male and female, ranged in age from 12 to 19 years at the time of their disposition, with a mean age of 16.16 years ( $SD = 1.27$ ) and came from a number of different racial backgrounds, including Caucasian, Black, Aboriginal, Asiatic, Indian, or Other.

An initial missing data analysis was conducted to determine whether any individuals should be excluded from the sample within the context of the study. The criterion for excluding a participant was the absence of information regarding their ethnic

self-identification, type of custody placement, or length of custody. Of the total sample of 507 youth, 66 individuals were excluded as missing value analyses revealed that 21 of those individuals had failed to self-identify as being of a particular ethnicity, and 45 individuals did not provide information on either their length of custody or whether they were in open or closed custody, leaving the sample size of 441 youth. Analyses were conducted to see if these 66 youth differed in terms of the risk variables included in the study. Significant differences were only found for two variables: the type of custody they were sentenced to and their association with criminal peers. A significant difference was found for the type of custody the youth was sentenced to as the majority of youth who were removed from the sample were removed specifically due to their response to this question. These youth either indicated that they were not sentenced to either open or closed custody or they indicated they were sentenced to both. In regards to the association with criminal peers, very few youth indicated that they did not have criminal peers. This was the case for the youth who were removed from the sample and for those who remained within the study. However, there were significantly less individuals who were removed from the sample that indicated they had criminal peers compared to those who were included in the sample.

Of the 441 young offenders included in the study, 337 were male (76.4%) and 104 were female (23.6%). The majority of young offenders identified as being Caucasian (n=283; 64.2%), 88 youth identified as Aboriginal (20%), 15 as Black (3.4%), 26 as Asiatic (5.9%), 8 as Indian (1.8%), and 20 as Other (4.5%). These results indicated that of the sample, 88 youth, or 20%, were of Aboriginal descent, 283, or 64.2%, were of Caucasian decent, and 70 youth, or 15.9%, were of other minority groups.

### 2.3 Procedure

Every youth who was sentenced to one of the youth custody facilities participating in the research project was approached by a research assistant. The youth who participated in the interviews were informed of the purpose of the study and were also offered a snack for their participation (i.e. pop and chips). Informed consent was obtained from all participants prior to their participation. All interviews took place in a private interview room within the custody facility and took approximately 90 minutes to administer. At the conclusion of the interview, the participants were debriefed and were given the chance to ask any questions they may have had about the interview and/or their participation. In order to gain additional information about the youth and to corroborate the information gathered throughout the interview, the youth's institutional file was reviewed. The response rate for the current study was 93%. The youth who did not participate were unable to do so as the time of the interview conflicted with either a scheduled program they had to attend or a scheduled visit.

### 2.4 Measures

The variables used in this study measured both the youths' risk factors for criminal offending and the young offenders experience with the criminal justice system. The frequencies and coding of all variables are shown in Table 1.

*Dependent variable.* The type of custody sentence the youth received, either open or closed custody, was used as the dependent variable for this study. As discussed previously, this variable has been infrequently used when researching the significance of criminal variables and risk variables of reoffending with relation to a judge's decision making process. The type of custody was coded as 1 when the youth was sentenced to closed custody and was coded 0 if they were sentenced to open custody. While 39 Aboriginal (44.3%), 130 Caucasian (45.9%), and 24 other minority youth (34.3%) were

sentenced to open custody, 49 Aboriginal (55.7%), 153 Caucasian (54.1%), and 46 other minority youth (65.7%) were sentenced to closed custody.

*Independent Variables.* The independent variables that focus on the offenders' experiences in prison included the offenders' current offence and their criminal history. The *current offence* was separated into two outcomes, either violent or non-violent offences. Violent offences included murder, sex offence, assault, and robbery. Non-violent offences included property offences, drug offences, breach or escape, and other. The current offence was coded as one if the youth committed a violent offence and 0 if they committed a non-violent offence. Violent offences were more common among Aboriginal and other minority youth where 67.0% of Aboriginal youth and 60.0% of other minority youth had committed a violent offence. Caucasian youth were more commonly incarcerated for non-violent offences (60.8%).

The *criminal history* of the youth, which is an interval variable, indicated the number of times the individual had been convicted of an offence in the past. Aboriginal youth and Caucasian youth had been convicted, on average, approximately five times and other minority youth had been convicted, on average approximately four times in the past. The mean number of times the youth had been convicted of an offence in the past for the sample was 4.8 (sd = 3.2).

The *sentence length* of either open or closed custody, which is an interval variable, indicates the total number of days a youth was sentenced to for their offence. The mean number of days the youth had been sentenced to open custody was 84.98 days (sd = 94.99) and was 151.58 days (sd = 149.46) for closed custody<sup>4</sup>.

The risk variables of reoffending included the following: The youth's *place of residence* was a nominal variable with nine categories: both natural parents; single

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<sup>4</sup> After outliers were removed.

parent; alone; relative; friend or partner; street; foster care/ward of the state/group home; jail; and adopted parents. Approximately 34% of both Caucasian and Aboriginal youth were most likely to be living with a single parent. The second most common place of residence for Caucasian and Aboriginal youth (23.2% and 26.2% respectively) was with foster care, a group home, or a ward of the state. For other minority youth, approximately 30% were living with both of their natural parents and 28.4% were living with a single parent.

The *enrolment status* of the youth was coded as 1 if the youth was enrolled during the time of the offence. Slightly more than half of Caucasian and other minority youth were enrolled in school when they committed their offence (51.6% compared to 57.1%), and slightly less than half of the Aboriginal youth (46.6%) were enrolled in school when they committed their offence.

*Drug use* was coded as 1 if the youth indicated that they were currently using drugs and *Alcohol use* was coded as 1 if the youth indicated that they were currently using alcohol. Approximately three quarters of Caucasian and Aboriginal youth indicated that they were currently using drugs, compared to slightly over half (57.1%) of other minority youth. More than 80% of all three groups indicated that they had currently been using alcohol.

*Physical abuse* was coded as 1 if the youth had been physically abused and *Sexual abuse* was coded as 1 if the youth had been sexually abused. A greater number of youth who had responded indicated that they had been physically abused than sexually abused. More specifically, 41.3% of Caucasian youth, 55.7% of Aboriginal youth, and 35.7% of other minority youth indicated that they had been physically abused, and 19.4% of Caucasian youth, 29.5% of Aboriginal youth and 11.4% of other minority youth indicated that they had been sexually abused.

*Association with criminal peers* was coded as 1 if the youth indicated that they had friends who would be considered delinquent by the police. Almost all of the youth who had responded had indicated that they had delinquent friends. More specifically, 96.6% of Caucasian youth, 97.4% of Aboriginal youth, and 93.4% of other minority youth responded positively.

Finally, *criminal family member* was coded as 1 if the youth indicated that they had a family member with a criminal record. Again, the majority of all three groups who responded indicated that they had a family member with a criminal record; 70.3% of Caucasian youth, 73.3% of Aboriginal youth, and 45.7% of the other minority youth responded positively.

Other variables included in the analysis were sentence length; whether the youth had ever used drugs and/or alcohol; whether or not they had a family member who had a drug and/or alcohol abuse problem; and whether they had a family member who had been physically and/or sexually abused. Caucasian youth were sentenced to a longer time in closed custody (319 days) than Aboriginal (202 days) and other minority groups (162 days), but Caucasian youth were sentenced to a shorter open custody sentence (88 days) than Aboriginal (123 days) and other minority youth (86 days).

As previously mentioned, the youth were asked to indicate if they were currently using drugs and alcohol, they were also asked to indicate whether or not they had ever used alcohol and drugs. Over 90% of Aboriginal and Caucasian youth and 82.6% of other minority youth indicated that they had used alcohol at some time in their lives. Also, at least 90% of all three groups indicated that they had used drugs at some point.

The youth were asked to answer questions regarding their parents' alcohol and drug use, as well as whether or not their parents had experienced physical or sexual abuse. Of those who responded, the majority of Caucasian and Aboriginal youth (76.5% and 85.1% respectively) had a family member with an alcohol abuse problem, while

slightly less than half (46.4%) of other minority youth had a family member with an alcohol abuse problem. Similar results were found for the drug use of family members. Approximately two thirds of Caucasian and Aboriginal youth who responded (62% and 62.4% respectively) had a family member with a drug abuse problem, while approximately one third (32.4%) of other minority youth indicated the same. Physical abuse was more prevalent among the youths' family than sexual abuse. Less than half of Caucasian and other minority youth who responded (48.0% and 33.8% respectively) had a family member who had been physically abused, while 61.9.6% of Aboriginal youth had a family member who experienced physical abuse. A greater number of Aboriginal youth also had a family member who had experienced sexual abuse; 34.6% of Aboriginal youth compared to 24.5% of Caucasian youth and 4.5% of other minority youth had a family member who had been sexually abused.

*Control Variables.* The control variables that were utilized included the age of the youth, which is an interval variable that outline the exact age of the youth when they committed the offence, gender, and the youths' ethnicity.

**Table 1: Frequency and Coding for Variables**

Variable	Code	Frequency (Percentage)*		
		Caucasian (n=283)	Aboriginal (n=88)	Other Minority (n=70)
Gender	0 = Female	64 (22.6)	28 (31.8)	12 (17.1)
	1 = Male	219 (77.4)	60 (68.2)	58 (82.9)
Age	Interval Level: Actual Age	Mean: 16.1	Mean: 16.0	Mean: 16.5
Custody	0 = Open	130 (45.9)	39 (44.3)	24 (34.3)
	1 = Closed	153 (54.1)	49 (55.7)	46 (65.7)
Length of Closed Custody	Interval Level: # of Days	Mean: 318.9	Mean: 202.2	Mean: 161.8
Length of Open Custody	Interval Level: # of Days	Mean: 87.8	Mean: 123.1	Mean: 86.2
Current Offence	0 = Non-Violent	172 (60.8)	29 (33.0)	28 (40.0)
	1 = Violent	111 (39.2)	59 (67.0)	42 (60.0)
Criminal History	Interval Level: # of past Convictions	Mean: 5.03	Mean: 4.7	Mean: 3.8
	Place of Res.			
	1 = Both Parents	28 (11.0)	4 (5.0)	19 (28.4)
	2 = Single Parent	88 (34.6)	27 (33.8)	20 (29.9)
	3 = Alone	19 (7.5)	5 (6.2)	2 (3.0)
	4 = Relative	8 (3.1)	13 (16.2)	1 (1.5)
	5 = Friend/Partner	39 (15.4)	8 (10.0)	11 (16.4)
	6 = Street	8 (3.1)	0 (0)	1 (1.5)
	7 = Foster Care/Ward of State/ Group Home	59 (23.2)	21 (26.2)	11 (16.4)
	8 = Jail	3 (1.2)	1 (1.2)	0 (0)
	9 = Adopted Parents	2 (0.8)	1 (1.2)	2 (3.0)
Enrolled	1 = Yes	146 (51.6)	41 (46.6)	40 (57.1)
Currently Drugs	1 = Yes	211 (74.6)	68 (77.3)	37 (52.9)
Ever Use Drugs	1 = Yes	274 (97.2)	83 (95.4)	57 (82.6)
Currently Alcohol	1 = Yes	241 (85.2)	77 (87.5)	57 (81.4)
Ever Use Alcohol	1 = Yes	253 (92.3)	78 (94.0)	63 (90.0)
Physical Abuse	1 = Yes	117 (41.3)	49 (55.7)	25 (35.7)
Sexual Abuse	1 = Yes	55 (19.4)	27 (29.5)	8 (11.4)
Delinq. Friends	1 = Yes	229 (96.6)	74 (97.4)	57 (93.4)
Family Criminal Record	1 = Yes	196 (70.3)	63 (73.3)	32 (45.7)
Family Alcohol	1 = Yes	215 (76.5)	74 (85.1)	32 (46.4)
Family Drugs	1 = Yes	173 (62.0)	63 (62.4)	22 (32.4)
Fam. Phy. Abuse	1 = Yes	130 (48.0)	52 (61.9)	23 (33.8)
Fam. Sex Abuse	1 = Yes	66 (24.5)	28 (34.6)	3 (4.5)

\*Percentage of youth within the ethnic group

\*\*Percentage of all the youth within the sample



## 2.5 Analytical Strategy

The data will be analyzed by first looking at the profiles of the youth in custody through the examination of bivariate analysis, including chi-square tests and ANOVA. These results will be interpreted to see if there is an association between the prevalence of the offence variables and risk variables for the three ethnic groups. Logistic regression analysis will be conducted to examine which risk variables of reoffending and offence variables were better predictors of the type of custody (i.e. closed or open custody) a youth was sentenced to by the courts, while controlling for the youths' age, gender, and race. Five logistic regression models are discussed. The first model included the control variables of age, gender and ethnicity. The second model included variables related to the youths' criminal involvement including their current offence and their criminal history. The third model will included the risk variables of reoffending including enrolment status, alcohol and drug use, being a victim of abuse and having a family member with a criminal record. The fourth model will included the control variables and the risk variables of reoffending and the fifth and final model included all variables.

## Results

### 3.1 Criminal Experience

In terms of the youth's experience with the CJS, including their current charge, the type of custody they were sentenced to, the length of their current disposition, and their criminal history, Anova's and chi-square tests were conducted to assess if associations were present between the variables examined and the ethnicity of the youth. With respect to the youths' current offence, a significant difference was found in that the type of offences committed by the youth were not evenly distributed across ethnic groups [ $X^2 (2) = 13.13, p = .001$ ] with Aboriginal and other minority youth reporting a greater prevalence of violent offences and the Caucasian group reporting a greater prevalence of non-violent offences.

Regarding current open and closed custody dispositions, a significant difference was not found to be present across ethnicities [ $X^2 (2) = 3.11, p = .21$ ]. Also, significant differences were not found across ethnicities for the length of time the youth were sentenced to closed custody or open custody.

Similarly, after outliers or extreme cases were removed, there was no significant difference between the average number of days the youth were sentenced to open custody. Also, a significant difference was not found for the length time a youth was sentenced to closed custody.

The total number of offences that the youth had been convicted of in the past ranged from 0 to 17. Only 16% of the youth had no prior convictions. For the ANOVA test, only the youth who had a previous conviction were included. A significant difference between the average number of offences for the youth was found [ $F(2,373)=3.06, p=.048$ ]. However, once outliers were removed, the average number of offences was no longer significant.

### 3.2 Risk Variables of Reoffending

The risk variables of reoffending that were examined included: the youth's place of residence at the time of the offence, their education enrolment status, their use of drugs and alcohol, their experiences with physical and sexual abuse, their association with delinquent peers; and whether they had a family member with a criminal record. Other family risk variables included the presence of alcohol or drug abuse, and being the victim of physical and sexual abuse.

A significant difference was found between the ethnicity of the youth and their place of residence when they committed the offence [ $\chi^2(16)=49.41, p=.000$ ]<sup>5</sup>. Enrolment status was evenly distributed among ethnicities as approximately half of each ethnic group was not attending school at the time of the offence. As such, no significant differences were found between the youths' enrolment status at the time of the offence [ $\chi^2(2)=1.74, p=.42$ ].

In terms of drug and alcohol use, a significant difference was found for youth who indicated they were "currently using drugs" [ $\chi^2(2)=14.72, p=.001$ ], with the Aboriginal and Caucasian group reporting a higher prevalence of current drug use (approximately three quarters of both Aboriginal and Caucasian youth) and approximately half of other minority youth reporting current drug use. A significant difference was not found for the "current alcohol use" of the youth indicating that the use of alcohol was evenly distributed across all ethnic groups [ $\chi^2(2)=1.139, p=.57$ ]. Over 80% of all three groups indicated that they were currently using alcohol. Similar results were found for the responses of the youth when asked to indicate whether they had ever used drugs or

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<sup>5</sup> Chi-square analysis indicated that there was statistically significant differences for the place of residence between Aboriginal and non-Aboriginal youth;  $\chi^2(16, 401) = 49.41, p = 0.000$ . However, caution must be used when interpreting this significance level as 40.7% of the cells have expected counts of less than 5 and, therefore, may not be correct. This expected count percentage is after a few variables had been recoded to collapse the number of possible responses into fewer categories in order to decrease the percentage of cells with less than the expectant count of 5. Specifically, living with a friend or with a partner was recoded into the same response outcome, and living in foster care, being a ward of the state, or living in a group home was also recoded into one outcome for this variable.

alcohol. A significant difference was found for drug use [ $X^2(2)=22.84$ ,  $p<.000$ ], but not for alcohol use [ $X^2(2)=.846$ ,  $p=.655$ ].

A significant difference was not found for the prevalence of associating with delinquent peers indicating that the prevalence of having delinquent peers was evenly distributed across ethnicities [ $X^2(2)=1.69$ ,  $p=.429$ ]. Again, the number of youth reporting that they associated with delinquent peers was very high. Over 93% of each group reported a positive response.

When examining the prevalence of physical and sexual abuse, the associations were examined for both ethnicity and gender. Physical abuse was not evenly distributed across ethnicities [ $X^2(2)=7.58$ ,  $p=.023$ ] with Aboriginal and Caucasian youth more likely to have been a victim of physical abuse than other minority youth. In terms of gender differences, no significant difference was evident across ethnicities for male offenders [ $X^2(2)=5.24$ ,  $p=.073$ ]; however, a significant difference occurred across ethnicities for female offenders, with the Aboriginal and other minority youth reporting higher prevalence of physical abuse [ $X^2(2)=12.29$ ,  $p=.002$ ].

The prevalence of sexual abuse across ethnicities was statistically significant [ $X^2(2)=8.22$ ,  $p=.016$ ], with Caucasian and other minority youth reporting the lowest prevalence of sexual abuse. In terms of gender differences, a significant difference was not found among the male young offenders [ $X^2(2)=1.82$ ,  $p=.402$ ] or female young offenders [ $X^2(2)=5.26$ ,  $p=.071$ ]. These results indicated that the prevalence of sexual abuse was evenly distributed across genders, but not across ethnic groups.

### 3.3 Family Associated Risk Variables

In terms of the risk variables in relation to the youths' family, youth were asked to indicate whether they had a family member with a criminal record. A significant difference was found across ethnic groups [ $X^2(2)=15.13$ ,  $p=.001$ ]. Specifically, Caucasian and Aboriginal youth reported a higher prevalence of having a family member

with a criminal record. The youth were also asked to indicate if they had a family member who had an alcohol and/or drug problem. A significant difference was found for the prevalence of alcohol [ $\chi^2(2)=33.33, p<.000$ ] and drugs [ $\chi^2(2)=27.53, p<.000$ ]. Caucasian and Aboriginal youth reported a higher prevalence for both variables. Significant differences were also found for the prevalence of having a family member who had experienced physical abuse [ $\chi^2(2)=11.94, p=.003$ ] and sexual abuse [ $\chi^2(2)=19.29, p<.000$ ]. Again, Caucasian and Aboriginal youth reported a higher prevalence for both variables. It is interesting to note that while Aboriginal and Caucasian youth reported higher frequencies of these risk variables, Aboriginal youth reported the highest prevalence for all of these variables, with the exception of having a family member with a drug problem. Aboriginal and Caucasian youth both reported nearly the same prevalence for this risk variable (approximately 62%).

### 3.4 Logistic Regression

To examine the youths' experience with the court system, logistic regression was conducted to assess if offence variables, which included current offence and criminal history (the number of prior convictions), and the risk variables of reoffending present in the youths' profile predicted the type of sentence the youth would receive (either open or closed custody). The risk variables for reoffending included: the youth's place of residence; whether they were enrolled in school; their current drug and alcohol use; whether they had been physically or sexually abused; their association with criminal peers; and whether they had a family member with a criminal record.

Given that the dependent variable, type of custody, was dichotomous, logistic regression analysis was utilized. It was hypothesized that the youths' risk variables of reoffending and their offence variables would be significant predictors of the type of custody sentence. Age, gender, and ethnicity were used as control variables.

Prior to conducting these analyses, the data was examined with crosstabs to ensure adequacy of expected frequencies. This analysis revealed that a couple of risk variables should not be included in the regression analysis due to a high frequency of missing cases (10% or more). The variables association with delinquent peers and place of residence had greater than 10% or very slightly less than 10% missing cases and were therefore not included in the analysis.

Pearson correlations were calculated among the variables used in the analyses (see Table 2). Only four of the 13 variables used in the analysis were significantly correlated to the dependent variable. These variables included gender, age, being a victim of physical abuse, and criminal history. Although these variables were significantly correlated with the dependent variable, these correlations would be considered weak or low. The correlations ranged from  $r = .096$  to  $r = .221$ . The variables not significantly correlated to the type of custody included: the youth's ethnicity; the youth's current offence; the youth's place of residence; whether the youth was enrolled at the time of the offence; their current alcohol and drug use; having been sexually abused; associating with criminal peers; having a family member with a criminal record and having an accumulation of these risk variables. A high correlation with custody type was evident for experiencing physical abuse and experiencing sexual abuse ( $r = .347$ ). Therefore, these variables were combined in the logistic regression analysis into one variable; namely victim of abuse.

Table 2: Correlation Matrix

	1	2	3	4	5	6	7	8	9	10	11	12	13	14
1. Gender	1													
2. Age	.144**	1												
3. Ethnicity	.013	.086	1											
4. Place of Residence	-.145**	-.144**	-.065	1										
5. Enrolled	-.016	-.080	.022	-.085	1									
6. Drugs	.077	-.053	-.143**	.010	-.067	1								
7. Alcohol	.021	.000	-.024	-.028	-.026	.173**	1							
8. Physical Abuse	-.172**	-.124**	.002	.207**	-.085	.022	-.018	1						
9. Sexual Abuse	-.359**	-.021	-.030	.215**	-.043	.015	-.058	.347**	1					
10. Delinquent Peers	.052	-.098	-.048	.041	-.054	.145**	.152**	.058	.064	1				
11. Family Criminal Rec.	.006	-.030	-.145**	.105**	-.143**	.051	.056	.119*	.113*	.039	1			
12. Current Offence	-.032	-.057	-.116*	.048	-.021	.198**	.010	.017	.135**	.091	.023	1		
13. Criminal History	.049	.142**	-.142**	.165**	-.088	.072	.005	.043	.093	.126*	.104*	.196**	1	
14. Open/Closed	.221**	.104*	.078	-.028	-.015	.013	.014	-.114*	-.092	-.071	.017	-.062	.096*	1

\* Significance level at the .05 level      \*\* Significance at the .01 level

Several models were tested with combinations of the control variables and the independent variables which specifically included the risk variables and offence variables. The Hosmer and Lemeshow goodness of fit test was not significant for all of the models indicating that the prediction model was acceptable. See Table 3 for an outline of the models included.

Model 1 included the control variables only. The goodness of fit test for this model was non-significant ( $X^2(8, 441) = 7.158, p = .520$ ). Of the three predictors included, only gender emerged as significant ( $\text{Exp}(B) = 2.752, p = .000$ ), indicating that male young offenders were significantly more likely to be given a closed custody sentence and females were significantly more likely to be given an open custody sentence. The percent of correct classification for this model was 62.8%

Model 2 included the offence variables of the youth's current offence and total number of offences that the youth had been convicted of. Only the youth's criminal history was found to be a significant predictor of the type of custody the youth was sentenced to. The goodness of fit test for this model was non-significant ( $X^2(8, 441) = 6.28, p = .616$ ). The total number of previous custody convictions very slightly increased their chances of being sentenced to closed custody ( $\text{Exp}(B) = 1.071, p = .021$ ). While not significant, the odds ratio for current offence indicated that if a youth committed a non-violent offence, it decreased their chances of being sentenced to closed custody. The percent of correct classification for this model was 56.7%.

Model 3 included the risk variables for reoffending; school enrolment, drug use, alcohol use, being a victim of abuse, and having a family member with a criminal record. This prediction model was acceptable as the goodness of fit test was non-significant ( $X^2(7, 441) = 4.752, p = .690$ ). Of the five risk variables, the only variable that was significant was being a victim of abuse. Specifically, experiencing abuse decreased the



odds that the youth would be sentenced to closed custody ( $\text{Exp}(B) = .596$ ,  $p = .009$ ).

The percent of correct classification for this model was 56.8%.

Model 4 included the control variables and the risk variables of reoffending. This prediction model was also acceptable as the goodness of fit test was non-significant ( $\chi^2(8, 441) = 9.096$ ,  $p = .334$ ). Within this model, gender remained a strong significant predictor for the type of custody received ( $\text{Exp}(B) = 2.459$ ,  $p = .000$ ), indicating that being male increased the chance of receiving a closed custody sentence. Being the victim of abuse was no longer a significant predictor ( $\text{Exp}(B) = .744$ ,  $p = .160$ ), indicating that the presence and strength of the control variable gender rendered the effect of abuse on predicting the type of custody insignificant. No other variables were significant in this model. The percent of correct classification for this model was 63.5%.

The fifth, and final model, included the control variables, offence variables, and risk of reoffending variables. This prediction model was once again acceptable as the goodness of fit test was non-significant ( $\chi^2(8, 441) = 13.17$ ,  $p = .106$ ). Within this model, gender remained a significant predictor ( $\text{Exp}(B) = 2.387$ ,  $p = .000$ ), while being the victim of abuse remained insignificant. The youth's number of prior convictions ( $\text{Exp}(B) = 1.072$ ,  $p = .030$ ) was again found to be a significant predictor, while the current offence remained not significant. The percent of correct classification for this model was 63.0%. These results indicate that variables related to the youth's criminal past and gender which remained significant predictors throughout the models were greater predictors of the type of custody a youth was sentenced to as opposed to the ethnicity of the youth, the seriousness of the youth's current offence and any of the other risk variables for reoffending.

It is important to note that, even though the above prediction models were significant, the overall percent of the predictions in the classification tables were low, ranging from an overall correct classification of 56.7% to 63.5% correct. The models

that included the control variables were found to have the highest correct classification. Also, the correct classification percent was mainly due to the distribution of the dependent variable and not the model's ability to predict correctly. In effect, the models had much better accuracy predicting the closed custody cases than the open custody cases. For example, the fourth model, which included the control and risk variables, had the greatest overall correct classification of 63.5%. The open custody group was classified with 36.9% accuracy resulting in 63.6% false negatives. The closed custody group was classified with 83.7% accuracy resulting in 16.3% false positives. It is also interesting to note that when the cut-off was adjusted to .2, the classification tables, on all models, did not show an increase in overall correct classification percentages.

The results of these models indicate that gender is an important predictor for the type of custody. This variable was a significant predictor in every model in which it was included. Also, gender was a more stable predictor than the only risk variable for reoffending that was a predictor of the type of custody i.e., whether the youth had been abused. The latter variable was insignificant when it was entered in a model with the gender variable. The total number of prior convictions was also found to be an important predictor of the type of custody. Ethnicity became a significant predictor only when coupled with every other variable included in the study. This suggests that the other variables included in the model were influencing the predictive ability of this variable. Very importantly, the seriousness of the current offence was not a significant predictor of the type of custody (see Table 3 and 4 for a comparison of the odds-ratios for each model).

Table 3: A Comparison of Odds-ratios from the Five Logistic Regression Models.

Variable	Model 1		Model 2		Model 3	
	Exp(B)	95%CI	Exp(B)	95%CI	Exp(B)	95% CI
Gender	2.75***	(1.75-4.36)				
Age	1.12	(.96-1.31)				
Ethnicity	1.22	(.94-1.99)				
Current Offence			.70	(.47-1.05)		
Criminal History			.02*	(1.01-1.14)		
Enrolment					.90	(.61-1.33)
Drug Use					.97	(.62-1.50)
Alcohol Use					1.02	(.59-1.76)
Abuse					.60**	(.40-.88)
Family Record					1.15	(.76-1.74)
-2 Log likelihood	578.35		597.33		584.98	
X <sup>2</sup> (df) Model	7.16 (8)		6.28 (8)		4.75 (7)	
Cox & Snell R <sup>2</sup>	.06		.02		.02	

\*Significant at the .05 level      \*\*Significant at the .01 level      \*\*\*Significant at the .001 level

Table 3: A Comparison of Odds-ratios from the Five Logistic Regression Models Continued.

Variable	Model 4		Model 5	
	Exp(B)	95%CI	Exp(B)	95%CI
Gender	2.46***	(1.51-3.99)	2.39***	(1.47-3.89)
Age	1.12	(.95-1.30)	1.08	(.92-1.27)
Ethnicity	1.26	(.96-1.66)	1.30	(.98-1.72)
Current Offence			.69	(.45-1.06)
Criminal History			1.07*	(1.01-1.14)
Enrolment	.93	(.63-1.39)	.95	(.63-1.42)
Drug Use	.96	(.61-1.51)	1.01	(.63-1.60)
Alcohol Use	1.03	(.59-1.81)	1.03	(.58-1.81)
Abuse	.74	(.49-1.12)	.74	(.48-1.12)
Family Record	1.18	(.77-1.82)	1.15	(.74-1.77)
-2 Log likelihood	564.72		558.13	
X <sup>2</sup> (df) Model	9.10 (8)		13.17 (8)	
Cox & Snell R <sup>2</sup>	.06		.08	

\*Significant at the .05 level      \*\*Significant at the .01 level      \*\*\*Significant at the .001 level

## Discussion

### 4.1 Overview

This thesis examined the possible differences present across Aboriginal, Caucasian, and other minority young offenders in terms of their criminal history, their risk profiles, and their contact with the court system. Moreover, this thesis examined whether any of these variables were able to predict whether a young offender was sentenced to open or closed custody. The first hypothesis proposed no significant differences among the risk profiles of the Aboriginal, Caucasian, and other minority youth. It was explained that no differences would be found, even though the history of Aboriginal people included fundamental differences based on their colonial subjugation, pervasive poverty, and systematic discrimination, because most youth who are serious and violent offenders and have been sentenced to custody have largely similar criminality risk factors and related life experiences, regardless of ethnicity. The findings of this research did not provide strong support for or against this general hypothesis; of the variables that were included in the analyses, some were significantly different across ethnicities, while others were not.

Overall, significant differences by ethnicity were found for the youths' current offence, their place of residence when they committed the crime, their current drug use, their experience of being a victim of physical and sexual abuse, as well as with all the family variables, including having a family member with a criminal record, an alcohol and/or drug problem, and who had been physically and/or sexually abused. Although it was not possible to identify systematically these differences across the three ethnic categories, with few exceptions, the significant differences involved Aboriginal young offenders; i.e., they had the highest reported frequencies for the majority of these variables. Caucasian young offenders had the next highest frequencies, while the "other minority group" category had the lowest reported prevalence for these risk factors. In other words, Aboriginal youth risk profiles were closer to the Caucasian group than the other minority group.

Statistically significant differences were not found across the three ethnic categories regarding enrolment status, alcohol use, and association with delinquent peers. Interestingly, while a significant difference was found for the current offence, again, Aboriginal youth and Caucasian youth reported a greater frequency for non-violent offences, while the “other minority group” reported the highest frequency of violent offences. Significant differences were not evident for any of the other criminal or offence related variables, including the type of custody (open or closed), and the number of days a youth was sentenced to open or closed custody.

The second hypothesis was that a significant difference would be found for the criminal histories of the youth. However, this hypothesis was not confirmed since the number of prior convictions was very similar for all three groups. These findings suggest support for the assertion that there is no systemic youth criminal justice discrimination against Aboriginal young offenders. As discussed above, there has been a widely held perspective that the disproportionate number of Aboriginal young offenders, in part, was caused by the over-policing of Aboriginal youth. As well, police discretion was not utilized at the same rate with non-Caucasian ethnic groups; therefore, these youth have accumulated a larger criminal record faster than youth who were not over-policed.

The final hypothesis proposed that the current offence, the youths’ prior convictions, and the risk variables that the youth experienced would be significantly related to the type of custody the youth received. This hypothesis was only somewhat supported; few variables predicted the type of custody. The strongest predictor was gender. The total number of prior convictions was also found to be another strong predictor. Somewhat surprising, the current offence committed was not a predictor of the type of custody since both the YOA and the current YCJA focus on the seriousness of the current offence as a key determining factor in the type of custody. Admittedly, youth court judges must consider other mitigating and aggravating factors, such as age, gender, and mental health in

deciding custody. Similarly, as discussed above, past research with adult offenders that focused on the offence committed and the resulting custody sentence found inconsistent results for the type of sentence received, but was a significant predictor when making a decision on full parole (Welsh & Ogloff, 2000) and incarceration (Vigorita, 2001). Ethnicity was also not found to be a predictor of the custody decision in any of the models; indicating that ethnicity by itself or in combination of the risk variables or criminal variables of the youth was a consideration of the type of custody they were sentenced to.

Also surprising, only one of the risk variables of reoffending was a significant predictor of the custody decision; whether the youth had been physically abused. However, this variable was not a significant predictor when any of the control variables or offence variables were included. Theoretically, the risk variables included in this study were the most likely for judges to take into consideration when deciding sentences. Also, as mentioned above, while there were increases in the explained variance in all the logistic regression models when the independent variables were included in the models, the increases were small. As will be discussed below, the limited increases in variance explained likely reflected a fundamental limitation of this study; many of the key predictive variables were not measured in this data set or were not included in the analyses because of their inadequate response rates. It is necessary to include additional possible risk variables in future research in order to see if any other risk variables are predictors of the type of custody a youth is sentenced to. In previous research examining the predictive variables of judicial decision making, variables that were found to be significant included the individual's place of residence and their personal associates (Royal Commission, 1996; Welsh & Ogloff, 2000); however, these variables were not included in the present research due to a large amount of missing data. Vigorita (2001) also found that significant predictors of sentencing decisions included prior record factors that were not included in the present study, such as the seriousness of past offences and the number of prior

arrests. Therefore, it may be that these variables are significant predictors of the type of custody a youth is sentenced to.

The results of this study did not provide support for the theory of systemic discrimination against Aboriginal youth. Aboriginal youth were sentenced to closed custody and open custody at the same frequency as Caucasian and other minority youth. Also, the average number of days that Aboriginal youth were sentenced to was not found to differ significantly from the sentence lengths of Caucasian and other minority youth, for either open or closed custody. Therefore, the courts do not seem to be discriminatory in their sentencing decisions for Aboriginal youth. However, it is interesting to note that while not significant, Aboriginal youths' closed custody sentences were on average over 100 days less than Caucasian youth.

The variables that were found to be significant predictors of the type of custody a youth was sentenced to also did not provide much support for the theory of systemic discrimination. Specifically, ethnicity was not found to be a significant predictor of the type of custody the youth was sentenced to. Instead, gender and the number of prior convictions held the most predictive ability.

Systemic discrimination theory also outlines the possibility of over-policing leading to a greater likelihood that Aboriginal youth would enter the CJS sooner and develop a more extensive criminal record faster than Caucasian youth. Also, another proposition of the theory outlines that the police are less likely to utilize discretion when making the decision to make an arrest or caution an Aboriginal youth. If these types of systemic discrimination were occurring, it would likely result in Aboriginal youth having a greater average number of prior convictions; however, the results of this research did not support this proposition as Aboriginal youth had almost the same average number of prior convictions as the other youth in the study.



While strong support was not found for the theory of systemic discrimination in the courts' decision for the type of custody a youth is sentenced to, this study did not examine whether the systematic discrimination hypothesis was applicable to the many other decision-making junctures in youth criminal justice, such as: the wide ranging discretionary decisions made routinely by the police in proceeding with investigations, especially of minor charges; Crown counsel's choice to allow charges to be laid; probation officer decisions regarding violations of probation conditions; and how youth custodial personnel respond to Aboriginal youth versus non- Aboriginal youth (e.g. regarding distinctive Aboriginal cultural sensitivities or needs). Nonetheless, this study did provide some support for the more ethnically neutral judicial decision-making under the YOA. Paradoxically, this neutrality has been criticized as unfair by the Supreme Court of Canada. According to the *Gladue* case precedent, youth courts need to consider Aboriginal ethnicity as a mitigating factor in the severity of the sentence, especially in situation, such as open versus closed custody decisions (*Gladue*). Before a sentence is imposed, all possible sanctions should be considered that are reasonable to the circumstances of the offence. Specific attention is to be paid to Aboriginal offenders as their circumstances are different than non-Aboriginal offenders, and these differences need to be taken into consideration before a sentencing decision is made. It is important to consider all possible sanctions, especially open custody as, typically, open custody is considered less punitive than closed custody and more amenable to treatment interventions. Therefore, while additional research should be conducted to gain more information on the presence or absence of systemic discrimination in the CJS, the present research did find some support for the poverty hypothesis proposed.

While the data of this study cannot provide information on understanding the over-representation of Aboriginal youth specifically, it can assist in providing a profile of the youth who are involved in the CJS. In relation to the poverty hypothesis proposed,

while the socio-economic status of the youth was not recorded, variables associated with poverty and low socio-economic status were prevalent in the majority of the youth who took part in the study and, as such, the results of this study did provide some support for the poverty hypothesis proposed. Again, the poverty hypothesis outlines a number of social circumstances that are associated with poverty and which foster criminal involvement. More specifically, the poverty hypothesis purports that poor socio-economic status is connected with a greater likelihood of living in areas with greater criminal activity, as well as a greater likelihood of becoming involved with delinquent peers, a low commitment to gaining an education, and a greater likelihood of living in unstable home environments, all of which can increase the likelihood of criminal behaviours.

The present study found that almost half of the youth involved in the study were not enrolled in school at the time of the offence, providing support that the youth involved in the CJS have a lower commitment to their education. The use of alcohol was surprising high for all of the youth involved in the study. Also, the youths' use of drugs was also quite high, but was reported more frequently by Aboriginal and Caucasian youth than the other minority youth. Almost every youth indicated that they associated with delinquent peers. In regards to the youths' place of residence, the highest frequency of Caucasian and Aboriginal youth reported that they were living with a single parent, while the highest frequency of other minority youth reported they were living with both of their natural parents followed closely by reports of living with a single parent. The next most common living arrangement for all three groups was either with foster care, a group home, or as wards of the state. These findings show some support that the majority of the youth in the justice system are not necessarily living in a stable home environment. In terms of being a victim of abuse, sexual abuse was rather infrequent among the youth; with Aboriginal youth reporting the highest frequency, while physical abuse was experienced more frequently

among the youth. Again, Aboriginal youth reported the highest frequency of being physically abused.

The present study found rather strong support for the presence of unstable familial environments. Variables that were included in the study that would signify an unstable familial environment included having a family member with a criminal record, having a family member with a drug and/or alcohol problem, and having a family member who had been a victim of physical and/or sexual abuse. While these experiences were present for Aboriginal and Caucasian youth, the other minority youth reported experiences of family instability less frequently. Also, Aboriginal youth reported the highest frequency for all of these instances with the exception of having a family member with a criminal record, where they reported the same frequency as Caucasian youth.

These findings indicate support for the negative effects that colonialization may be continuing to have on Aboriginal youth. These findings tend to confirm that the experiences of Aboriginal people during the time of colonization continues to affect Aboriginal people as the experiences have led to greater occurrences of alcohol and drug abuse, being a victim of physical and sexual abuse, as well as having poor education and employment skills. Also, these experiences are theorized to decrease parenting skills and abilities. Therefore, it is likely that Aboriginal youth are more susceptible to the risk factors that are more likely to lead to criminal involvement as their experiences with the risk factors begin within their family environment.

As the results of the current study indicate, a higher frequency of Aboriginal youth reported having a family member who was dependent on alcohol and/or drugs, and they were more likely to have family members who experienced physical and/or sexual abuse. If a greater number of Aboriginal youth have a family structure where risk factors are present, it is more likely that they will become involved in criminal activity. Therefore, in accordance with the colonization theory, if a greater number of Aboriginal families in

society are more susceptible to the risk factors that can lead to crime, it is likely that a greater percentage of Aboriginal youth will become involved in crime than those of other ethnicities. It is, therefore, necessary to see if this proposition can be confirmed. If so, these circumstances may be an explanation for Aboriginal peoples' over-representation within the CJS.

In comparison to past research, this study provided data on the presence or absence of significant risk variables of reoffending which past research did not focused on (see Corrado & Cohen, 2002; 2004; Latimer & Foss, 2004). Therefore, the present study contributes to the literature by providing a greater understanding of these differences. Also, unlike past research, the present study separated the non-Aboriginal group into more distinct categories of Caucasian and other minority youth. This separation of Caucasian and other minority youth provides a greater understanding of where differences lie between a greater number of ethnic backgrounds.

This study also expanded the literature by examining the decision process of judges with a focus on the type of custody a youth is sentenced to. While it was found that significant predictors of this decision included the gender of the youth, the youth's past criminal involvement, having been abused, and the ethnicity of the youth in one model; past research on similar areas, such as parole decisions, pre-trial detention, and sentencing decisions have found similar results. Predictors that were found to be significant throughout these studies included the individual's place of residence, employment, education, substance use, links to the community, personal associates, age, gender, and past criminal history. As mentioned previously, the significance of the current offence committed has been found to be an inconsistent variable in the decision process; this study found that the current offence was not considered when reaching the custody designation decision. Also, while past research focused on adult offenders, the present research focused on young offenders.

## 4.2 Limitations

A number of limitations were identified in this study. First, missing data was present for a few variables which limited the use of the variables in the statistical analyses. The results must be interpreted with caution as a number of respondents were not included in some of the analyses. However, bivariate analyses were conducted to assess if there were significant differences between those who responded to the questions where there was a large number of missing data and those who did not; very few significant differences were found.

Second, the nature of the interview process included self-report measures which rely very heavily on the responses of the participants and must be viewed with caution, especially when respondents are asked to recall life-time events. Obviously, the validity of such responses, e.g. recall of family experiences, depend on the accuracy and veracity of the participants' responses. Also, another explanation of the missing data in this study was the participants' unwillingness to provide personal information to student interviewers, especially when the latter was a member of the opposite sex. A social desirability scale was not included in the questionnaire; therefore, the extent to which the participants' responses may have been influenced by interview context was not measured. Nevertheless, self-report measures are viewed as a very reliable method of obtaining data on criminal activity since the respondent is more knowledgeable about their own behaviours than other sources, such as their parents and official criminal records.

Third, this study used a contrasted-groups design which prevents assertions of causality. Specifically, with contrasted-groups design, the researcher is not able to randomly assign participants to comparison groups. In this case, it was not possible to randomly assign the youth to the comparison groups of Aboriginal, Caucasian, and other minority youth. As such, it may be that there are initial differences between the groups that

affected the results, instead of the effect of the other independent variables. Therefore, causal inferences cannot be made.

Finally, generalizations from this study can only be made to small groups of offenders. Specifically, the sample of offenders consisted of youth who were in custody within the Greater Vancouver Region in British Columbia and may not be representative of a broader population of young offenders.

#### 4.3 Conclusions and Implications

Given the limitations noted above, interesting findings were reported that provide a greater understanding of the youth involved in the justice system and that assist in gaining a better understanding of where focus should be placed for future research. While the findings of this research cannot provide support for understanding the over-representation of Aboriginal youth in the CJS, they do offer an increased understanding of the profiles of the youth in the CJS and can assist in highlighting commonalities and differences found in the profiles of Aboriginal, Caucasian, and other minority youth. As mentioned earlier, while it is not possible to discuss support for the theories outlined in terms of the over-representation of Aboriginal youth in particular, it is possible to gain an understanding of why youth may be entering the CJS based on the theories. While strong support was not found for either the poverty hypothesis or the systemic discrimination theory, information was gained that can assist in understanding the youth in the CJS.

In reference to the poverty hypothesis, it was found that the majority of risk variables associated with the poverty hypothesis were present for all of the youth who participated in the study. However, it is not surprising that the youth who are involved in the CJS have very similar backgrounds. Therefore, more focus needs to be placed on youth in society to gain a better understanding of the proportion of youth who are experiencing these types of circumstances. It is likely that a greater proportion of Aboriginal youth in society will have these risk factors than non-Aboriginal youth which may

be contributing to the over-representation of Aboriginal people in the CJS. This argument may be supported within this study through the findings that are associated with the family members of the youth. Aboriginal youth were more likely to have had experiences with negative parental/family factors which are likely to be passed on to children, thus increasing their chances of criminal involvement. These results may be due to the colonialization that Aboriginal people have experienced and may indicate that these experiences are continuing to affect Aboriginal youth. Therefore, if a higher percentage of Aboriginal youth have families who have experienced, or are experiencing, the risk factors that increase criminal involvement, it is likely that there will be a higher percentage of the Aboriginal youth population involved in the CJS compared to the non-Aboriginal youth population.

Again, the theory of systemic discrimination was not well supported. Specifically, differences were not present between the type of custody that Aboriginal, Caucasian, and other minority youth were sentenced to. Also, the sentence lengths of the three groups were also not significantly different. However, a significant difference was found to be present for the type of offence committed by Aboriginal and Caucasian youth. It could be argued that with these youth committing different crimes, differences in the type of custody and the sentence length should have been found as well. A significant difference was also not found between the total number of offences the youth had been charged with or convicted of indicating that systemic discrimination in the form of over-policing also may not be valid. If over-policing of Aboriginal youth was occurring, it would be likely that Aboriginal youth would have been charged with or convicted of a significantly greater number of offences than non-Aboriginal youth. Also, ethnicity was not found to be a strong predictive variable for the type of custody the youth was sentenced to by the court.

#### 4.4 Directions for Future Research

While the present research contributes to the knowledge of Aboriginal youth in the justice system, it does not provide a strong explanation for the variables that judges take into consideration when making a custody decision. Therefore, future research should focus on gaining a greater understanding of additional variables that contribute to custody decisions. Past research has indicated that significant predictors of judicial decisions have included place of residence, personal associates and social connections or links to the community, as well as the seriousness of past offences and the number of past arrests. The present research either did not examine some of these variables or had too many missing responses to be able to include these variables in the present research.

Also, data used in this study did not have sufficient information for gaining a better understanding of the over-representation of Aboriginal youth in the CJS. In order to understand the over-representation of Aboriginal youth in the CJS, future research needs to focus on gaining a greater understanding of Aboriginal youth in society as this may lead to a greater understanding of why Aboriginal youth are entering the CJS at a greater rate than non-Aboriginal youth. It is important to focus on the family structures, living environments, and risk variables present in the lives of the Aboriginal youth who are not presently involved in the CJS to see if these youth have similar or different circumstances than those of non-Aboriginal youth who are also not involved in the CJS. If it is found that a disproportionate rate of Aboriginal youth in society are experiencing these circumstances compared to non-Aboriginal youth, this may be the underlying factor for Aboriginal over-representation in the CJS.

The data that was used in the present study was collected from 1997 to 2003; therefore, this data is somewhat dated. Similar research should be conducted with more current data to see if the same results are found. It is possible that the implementation of the YCJA may have changed the experiences that Aboriginal youth are having with the



CJS, specifically with the decisions of court judges, and it is important to see if the data confirms this.

Also, future research should expand the population of the sample in order to increase the generalizability of the research. The current research includes youth from custody facilities in the Greater Vancouver Region in Vancouver, British Columbia. Research that includes participants from all provinces of Canada would assist in gaining a better knowledge base of the youth in the CJS and would also assist in expanding the literature in this area of research.

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