MEETING THE NEEDS OF ABORIGINAL YOUTH IN THE ONTARIO JUSTICE SYSTEM: RECONCILING INDIGENOUS AND NON-INDIGENOUS WAYS OF KNOWING

AN EXPLORATORY QUALITATIVE STUDY

by

Sonia Madelene Littler Finseth

A thesis submitted in conformity with the requirements for the degree of Master of Arts
Graduate Department of Applied Psychology and Human Development
Ontario Institute for Studies in Education
University of Toronto

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Abstract

Using a qualitative, exploratory design and drawing on interpretivist, postcolonial, and decolonizing frameworks, this study sought to comprehend the perceptions of justice system personnel and Aboriginal service users about Aboriginal-specific, community-based justice programming and to better understand the factors that influence successful referral and access to these programs within community-sentencing and probation contexts. In-depth, semi-structured interviews were conducted with 16 participants (youth court judges, crown attorneys, youth court workers, youth probation officers, service providers, and Aboriginal service users) and thematic analysis was employed to identify key themes. Results indicate that there is strong support for Aboriginal-specific, community-based programming within the youth justice community. However, barriers to matching Aboriginal service users with Aboriginal programming are numerous and include poor communication between mainstream and Aboriginal justice partners and inconsistency in Aboriginal-specific program offerings, among others. Findings are also discussed in reference to the Risk-Need-Responsivity framework.
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Introduction

The overrepresentation of Aboriginal youth in the Canadian justice system is clearly established as a historical and ongoing problem, indicative of the failure of the Canadian criminal justice system to meet the needs of Aboriginal peoples in Canada (Jackson, 1989; RCAP, 1996; LaPrairie, 2002; Rudin, 2005; Clark & Landau, 2012; Munch, 2012). According to the 2006 Canadian population data, Aboriginal youth represented 6% of all youth in the country; however, in 2008–2009, they comprised 27% of youth remanded, 36% of youth sentenced to custody, and 24% of youth admitted to probation (Public Safety Canada, 2012). In contrast, between 2004-2010, Aboriginal youth were underrepresented in terms of the least invasive sanctions available to youth involved in the youth justice system (e.g., extra-judicial measures, such as diversion), even when controlling for offense type (Rudin & Zimmerman, 2014). These alarming rates are evidence of the inequality experienced by Aboriginal youth in the Canadian criminal youth justice system specifically, but cannot be divorced from an understanding of the pervasive, systemic disadvantages that Aboriginal individuals face in the arenas of healthcare, education, employment, and income (Kirmayer, Brass, & Tait, 2000; La Prairie, 2002; Calverley, Cotter, & Halla, 2010).

Aboriginal Peoples in Canada and the Criminal Justice System

The term Aboriginal is used in Canada’s Youth Criminal Justice Act (YCJA) and refers to status and non-status Indians, Métis, and Inuit youth, living both on- and off-reserve (Legal Aid Ontario, 2014). Although Aboriginal youth throughout this paper will be referred to collectively, it is crucial to explicitly acknowledge that this is a heterogeneous
group of youth. Diversity of language, tradition, values, spirituality, experiences, and environment is remarkable among the First Nations, Métis, and Inuit populations living on reserves, in urban cities, and in rural communities across Canada (Douglas, 2013; National Collaborating Centre for Aboriginal health, 2013). Despite vast differences, however, many Aboriginal individuals share similar social, economic, and political realities, as a result of colonization.

Beginning in the 16th century with the arrival of European explorers, missionaries, fur traders, and colonists in Canada came the introduction of infectious disease and forced dislocation from land, followed by the active suppression of culture through residential schools, the Sixties Scoop\(^1\), the creation of reserves, and legislation that prohibited cultural practices (Dickason & McNab, 2009; Miller, 2000; Hoxie, 1996; Richardson, 1993; Stannard, 1992). Unfortunately, residential schools and out-of-community child welfare policies resulted in thousands of children being exposed to physical, emotional, and sexual abuse, and denied families the ability to pass on languages and cultural identity through traditional child rearing practices (Chrisjohn, Young, & Maraun, 2006; Armitage, 1995). The intergenerational effects of these colonial policies have been profound and are evidenced by the lower rates of educational attainment and income, as well as the higher rates of unemployment, mental health difficulties, and physical health problems that Aboriginal individuals in Canada continue to experience (Kirmayer, Brass, & Tait, 2000; Clark & Landau, 2012; Munch, 2012; NCCAH, 2013).

Similarly, much of the literature seeking to understand Aboriginal

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\(^1\)The *Sixties Scoop*, a term coined by Johnston (1983), refers to the practice of apprehending unusually high numbers of Aboriginal children from their homes and fostering or adopting them out, usually into non-Aboriginal families; this occurred in Canada from the early 1960s into the late 1980s.
overrepresentation in the justice system has focused on these historical and contemporary sociopolitical factors, including intergenerational effects of colonialism, residential schools, and out-of-community adoption, as well as current social and economic disadvantage, culture-clash (in the conceptualization of justice and responses to criminal behaviour), and discriminatory practices, such as over- and under-policing (Clark & Landau, 2012; Kirmayer, Brass, & Tait, 2000; La Prairie, 2002; RCAP, 1996; Rudin, 2005). Beyond describing overrepresentation and discussing its causes, the need to understand how to address the overrepresentation of Aboriginal youth in the criminal justice system has been highlighted by Indigenous and non-Indigenous researchers alike, Canadian government task forces, and the United Nations Convention on the Rights of the Child (Government of Ontario, 2008; Kroes, 2008; McCaskill, FitzMaurice, & Cidro, 2011; Rudin, & Zimmerman, 2014; UNCRC, 2012).

**The Youth Criminal Justice Act and R. v. Gladue**

The Youth Criminal Justice Act (YCJA), which came into effect in 2003, contains several clauses that instruct justice system personnel to pay particular attention to the culturally specific needs of Aboriginal youth, in an attempt to address overrepresentation (Kuehn & Corrado, 2011). Specifically, the YCJA’s Declaration of Principle states that “within the limits of fair and proportionate accountability, interventions should […] respect gender, ethnic, cultural and linguistic differences; and respond to the needs of Aboriginal young persons and young persons with special requirements,” and section 38(2)(d) of the YCJA instructs judges to consider “all available sanctions other than custody that are reasonable in the circumstances […] for all young persons, with particular attention to the circumstances of Aboriginal young persons.” Like its adult equivalent (section 718.2(e) of
the Criminal Code of Canada), section 38(2)(d) of the YCJA can be more clearly understood by considering the Supreme Court of Canada’s instruction, resulting from *R. v. Gladue*, that judges consider: “(a) the unique systemic or background factors which may have played a part in bringing the particular Aboriginal offender before the courts; and (b) the types of sentencing procedures and sanctions which may be appropriate in the circumstances for the offender because of his or her particular Aboriginal heritage or connection” (*R. v. Gladue*, 1999).

However, despite good intentions, these YCJA and Gladue considerations have not had the intended effects. Although rates of incarceration for both Aboriginal and non-Aboriginal youth have decreased since 2003, the drop has been much more significant for non-Aboriginal offenders, meaning that rates of Aboriginal overrepresentation continue to rise in Ontario (as well as in Canada, more broadly) (*Calverley, Cotter, & Halla, 2010; Munch, 2012; Rudin, 2008; Rudin & Zimmerman, 2014*). Moreover, Aboriginal youth are not only overrepresented in custody, but also in secure detention (remand or custody while awaiting trial) and community dispositions (supervision by probation). Multiple reasons for the continuation of Aboriginal youth overrepresentation in the Canadian justice system have been hypothesized, including judges’ lack of access to the information about systemic and background factors that is necessary to properly inform sentences, and inadequate knowledge – as well as availability – of appropriate alternatives to incarceration (*Rudin, 2008*).

Moreover, although systemic issues such as poverty and discrimination are strongly associated with offending behaviour, and essential to consider in relation to legislation and policy, these types of variables in and of themselves are not *predictive* of offending
behaviour at the level of the individual (Andrews & Bonta, 2010a). A comprehensive assessment of the overrepresentation of Aboriginal youth in the justice system must include an understanding of the more proximal (individual-level) risk factors that characterize Aboriginal youth who are already involved in the justice system (Gottfredson & Snyder, 2005; Andrews & Bonta, 2010a) and, most importantly, knowledge around effective/appropriate approaches to treatment needs.

The Risk-Need-Responsivity Framework of Offender Rehabilitation

The risk-need-responsivity (RNR) framework (Andrews, Bonta, & Hoge, 1990) is one of the most comprehensive, well-researched, and widely used models of offender rehabilitation and is focused on assessing and addressing the proximal risk factors associated with offending behaviour. The model asserts that (a) as an individual’s risk to reoffend increases, so should intensity of intervention (risk principle); (b) factors empirically demonstrated to directly predict offending should be the target of intervention (need principle); and (c) intervention services should be evidence-based (general responsivity principle) and tailored to individual characteristics, such as learning style, personality, culture, age, and gender (specific responsivity principle). Within this framework, Aboriginal-specific cultural variables would be considered under specific responsivity and used not to assess risk, but to inform program delivery (Bonta, 2002).

Research has shown that the RNR model is successful in reducing recidivism among the general youth justice population: when services adhere to all three components of the model, reoffending can be reduced by close to 30% (Andrews & Bonta, 2010a). Additionally, at the individual level, Vieira, Skilling, and Peterson-Badali (2009) found that youth who had a higher proportion of their individual criminogenic needs addressed in
treatment reoffended at significantly lower rates than those who had a lower proportion of identified criminogenic needs treated. The RNR framework is currently used across Canada with youth justice populations, regardless of culture or gender, to assess risk and to inform treatment goals. However, research investigating the use of RNR principles within Aboriginal populations is scarce, and what does exist has focused primarily on risk assessment (among Aboriginal adult populations most often), rather than approaches to rehabilitation. Preliminary evidence indicates that risk assessment measures (based on RNR principles) significantly predict recidivism for Aboriginal adults (Andrews, Dowden, & Rettinger, 2001; Bonta, 1989; Bonta, LaPrairie, & Wallace-Capretta, 1997; Gutierrez, Wilson, Rugge, & Bonta, 2013; Rugge, 2006; Wilson & Gutierrez, 2014) and youth (Jung & Rawana, 1999; Luong & Wormith, 2011; Olver, Stockdale, & Wong, 2012; Olver, Stockdale, & Wormith, 2009; Schwalbe, 2009), although these instruments demonstrate weaker predictive accuracy among Aboriginal offenders, as compared to non-Aboriginal offenders (Luong & Wormith, 2011; Wilson & Gutierrez, 2014). Moreover, research shows that Aboriginal youth consistently obtain higher risk scores (overall and in particular risk/need domains) and recidivate at higher rates than non-Aboriginal youth (Jung & Rawana, 1999; Luong & Wormith, 2011; Olver, Stockdale, & Wong, 2012).

However, despite research support for the use of current risk instruments among Aboriginal populations, there is a body of literature that questions the appropriateness of these measures for Aboriginal offenders. Some scholars suggest the existence of unique, culturally-specific risk/need factors for Aboriginal offenders (Gutierrez et al., 2013; Heckbert & Turkington, 2001; Mann, 2009), noting that the use of risk instruments that do not account for these culturally-specific factors introduces a cultural bias in the estimation
of risk for this population (Allan & Dawson, 2004; LaPrairie, 1995; Martel, Brassard, & Jaccoud, 2011; Waldram, 1992). However, there is limited empirical evidence about the predictive validity of these proposed (unique) risk/need factors (Gutierrez et al., 2013). Moreover, researchers note that current risk factors cannot be easily detached from socio-political, economic, or cultural experiences: while Aboriginal offenders may have more risk factors than non-Aboriginal offenders (and, therefore, score higher on risk assessment measures), these higher risk scores (e.g., higher rates of unemployment and lower educational attainment) are consequences of a long history of social marginalization and discrimination (e.g., risk scores reflect systemic factors) (Hannah-Moffat, 2013; Hannah-Moffat & Maurutto, 2010); in this way, higher risk scores among Aboriginal offenders are seen as an unjust exaggeration of risk.

Beyond risk assessment, we know very little about rehabilitation and ‘what works’ in terms of treatment delivery for Aboriginal youth. Effects of treatment delivery have been shown to vary by gender; one study found that high service-to-needs match ratios were successful in reducing recidivism only among boys, but not girls (Vitopoulos, Peterson-Badali, & Skilling, 2012) – possibly due to unaddressed gender-specific needs in females (Van Voorhis, Wright, Salisbury, & Bauman, 2010). Considering the possibility of culture-specific needs or culture-specific approaches to treatment, questions remain around appropriate and effective programming for Aboriginal justice-involved youth.

**Holistic Wellbeing and the Inclusion of Traditional Teachings**

Despite discriminatory policies of forced assimilation and the intergenerational effects of these policies, which continue to affect Aboriginal youth today, Aboriginal
culture is very much alive and there is evidence of pride, strength, and resilience among many Aboriginal communities in Canada. Research has demonstrated that autonomy, at the community level, and a strong sense of cultural identity, at the individual level, are associated with improved mental health among Aboriginal adults and youth, including reduced substance use and lower suicide rates (Chandler & Lalonde, 1998; Currie, Cameron Wild, Schopflocher, Laing & Veugelers, 2013; Colquhoun & Dockery, 2012; Dockery, 2011; Fleming & Ledogar, 2008; McIvor & Napoleon, 2009).

Aboriginal community control over justice system processes, and the availability of justice programs that are delivered through an Aboriginal lens, have also been proposed as crucial to combatting overrepresentation in the justice system; it has been suggested that, compared to mainstream services, community-based, Aboriginal-run justice programming is better able address the needs of Aboriginal youth (Department of Justice Canada, 2011; Griffiths, 1996).

Within Toronto, there is a growing focus within the urban Aboriginal community – and increasing support for such efforts within the mainstream justice system – to address the rehabilitation of Aboriginal youth who are involved in the criminal justice system, through Aboriginal-specific, community-based programming. Programming that is delivered through Aboriginal agencies is inclusive of traditional teachings and uses a holistic approach to address the issues believed to have led to youths’ justice system involvement; additional aims are to help youth cultivate connections within the Aboriginal community, increase their knowledge about Aboriginal culture, and develop pride in their Aboriginal heritage (Department of Justice Canada, 2011).
Although there is a dearth of evaluative research of such programs for youth in community settings, one recent evaluation by the Department of Justice’s Aboriginal Justice Strategy found that Aboriginal youth across Canada who participated in Aboriginal Justice Strategy-funded, community-based justice programming demonstrated significantly lower recidivism rates than Aboriginal youth who were referred to, but did not participate, in these programs\(^2\), up to 8 years after program completion (Department of Justice Canada, 2011).

One of the main goals of the Aboriginal Justice Strategy is to increase Aboriginal community involvement in the local administration of justice. Programs funded by the Aboriginal Justice Strategy are developed and managed in partnership with Aboriginal communities: programs are tailored by each individual Aboriginal community (often with the involvement of Elders and other local organization) to meet the particular needs of that community. These programs serve youth who are accessing diversion/extrajudicial sanctions\(^3\) and can include community sentencing, mediation, and court/community justice programs. Although promising, this evaluation did not include specifics about program characteristics (e.g., particular cultural elements), nor about control group activities, making it difficult to draw sound conclusions about effects. More studies are needed to help determine the efficacy of Aboriginal community-based programming at reducing recidivism rates for Aboriginal justice-involved youth.

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\(^2\) Whether these youth (e.g., the control group) participated in other programming or refused treatment altogether is unclear.

\(^3\) **Extrajudicial sanctions (EJS):** are formal alternatives for dealing with youth accused of committing crimes that divert youth from formal court proceedings. A crown prosecutor makes the decision about whether an extrajudicial sanction would be appropriate for an individual youth. A young person who accepts EJS must also accept responsibility for the criminal offence they are accused of. A youth’s charges are immediately withdrawn (mainstream EJS) or stayed (Aboriginal diversion) upon accepting EJS.
Moreover, research shows that Aboriginal youth continue to be underrepresented in terms of least-invasive sanctions (such as community-based diversion/alternative measures). Difficulties with availability of, and access, to culturally-specific, community-based programming (Rudin, 2008), as well as lack of mainstream justice system buy-in (Department of Justice Canada, 2011) have been posited as potential barriers to program referrals, and may help explain this statistic, although more research is needed to help clarify the presence and role of these and other barriers. This issue of connecting Aboriginal youth with culturally appropriate community programming is particularly important to examine at present, given the relatively recent (June 2012) introduction of a specialized Aboriginal Youth Court in Toronto. This resolution court – the only one of its kind in Canada – was implemented to “leverage community Aboriginal services in order to assist the court in preparing culturally appropriate plans, services and reintegration plans” (Ontario Ministry of the Attorney General, 2013, p. 22) and a process evaluation is currently underway.

In the present study, my goal was to engage with frontline workers and Aboriginal service users about their perceptions of, and involvement in, Aboriginal-specific justice programming provided in community settings (e.g., programming available to Aboriginal service users who have appeared in resolution court, have been sentenced to probation, or have been diverted from the formal judicial process (specifically, those who are offered Aboriginal diversion)). Aboriginal diversion can be offered by the crown attorney, and a youth must accept responsibility for the offence in order to participate in a diversion program. Diversion is generally offered in the case of relatively minor criminal offences (such as theft or assault) and once Aboriginal diversion is offered and accepted, a youth’s
charges are stayed. Aboriginal youth who accept Aboriginal diversion go before a community council (run by a large, multi-service Aboriginal legal agency in Toronto) where goals are agreed upon and referrals to Aboriginal-specific, community-based programming are made.

I was interested in the experiences and perceptions of justice personnel who work with Aboriginal youth in terms of: the recognition and inclusion of Aboriginal culture in the courtroom and during programming; the type of information used to inform decision-making (e.g., sentencing; treatment goals); the availability and awareness of Aboriginal-specific, community-based programming; the efficacy and necessity of Aboriginal-specific, community-based programming; and the barriers and facilitators encountered during programming referrals and case management.

I was equally interested in the perceptions of Aboriginal service users (who had accessed programming provided by Aboriginal agencies, either through probation or in the context of diversion) around: the efficacy and suitability of Aboriginal-specific programming; the barriers and facilitators to accessing and completing programming that they have encountered; as well as cultural identity and the recognition of Aboriginal culture within the justice system.

Participants’ insights will help elucidate factors that are impacting the referral process, as well as program availability, program delivery, and general interest in Aboriginal-specific programming.

**Research and Indigenous Peoples**

It is crucial to recognize the negative connotation of the word “research” among Aboriginal peoples in Canada, and Indigenous peoples around the world; as Smith (2012, p.
1) writes, it is “one of the dirtiest words in the Indigenous world’s vocabulary.”

Historically, and in some cases still today, research has been used as a method of colonization and control, with non-Indigenous researchers often times coming into Aboriginal communities, taking traditional knowledge, and then either quickly leaving without giving anything meaningful back to the these communities or using this knowledge, gathered without any real contextual understanding, to perpetuate colonial stereotypes that serve to further subjugate Aboriginal peoples (Smith, 2012). Indigenous scholars have resisted the imposition of Western research (Crazy Bull, 1997; Battiste, 2000; Deloria, 1991; Ermine, Sinclair, & Jeffrey, 2010; Gilchrist, 1997; Red Horse, Johnson, & Weiner, 1989) and are increasingly “researching back,” which involves advancing Indigenous research agendas using decolonizing methodologies⁴ that reclaim and celebrate Indigenous ways of knowing and being (Smith, 2012). There are non-Indigenous researchers also whose work prioritizes Indigenous knowledge and who successfully engage in collaborative working relationships with Indigenous researchers and communities that are enduring and mutually beneficial (Boyer, 1993; Davis, 2010; Smith, 2012); within this decolonizing framework, where Indigenous knowledge, perspectives, and priorities are emphasized equally alongside those of the non-Indigenous, there is support for non-Indigenous research contributions (Davis, 2010; Harrison, 2001; Smith, 2012). With these considerations in mind, the present study acknowledges that process is equally important as – if not more important than – product (Absolon and Willet, 2005; Kovach, 2005).

⁴ Decolonizing methodologies are concerned not with “the actual technique of selecting a method” (Smith, 2012, p. iv), but “much more with the context in which research problems are conceptualized and designed, and with the implications of research for its participants and their communities” (Smith, 2012, p. iv).
**Conceptual Frameworks**

For this study, I drew on interpretivist (Cresswell, 2013; Carson, Gilmore, Perry, & Gronhaug, 2001), postcolonial (Cunneen, 2012) and decolonizing (Smith, 2012) frameworks. *Interpretivism* developed as a critique of positivism and, rather than focusing on generalizing findings or predicting cause and effect, is concerned with understanding and interpreting human behaviour (or the *lived experience* of participants). Importantly, interpretivism assumes that *reality* is socially constructed (Burr, 2003; Crotty, 2003) and that researchers’ values influence all stages of the research process (Carson et al., 2001). Consequently, it is understood that the insights derived from research are co-constructions, influenced by both the researchers and the participants (Schwandt, 2003). Research within an interpretivist framework is typically qualitative, makes use of non-probability sampling to incorporate stakeholder perspectives, utilizes naturalistic methods of data collection (such as interviewing and observation) where researchers and participants work interdependently to construct a collaborative account of the social phenomenon of study, and results in knowledge that is emergent from the research process (Cresswell, 2013).

This study also draws on postcolonial theory and decolonizing methodologies. It is essential to note that postcolonialism is not a temporal construct, nor does it view colonization as simply a historical event; rather, it acknowledges (and seeks to criticize and deconstruct) the *enduring* social, political, economic, and cultural processes that extend from colonialism (Gilbert & Tompkins, 1996; Cunneen, 2012). Within the context of criminal justice practices, Cunneen (2012) asserts that postcolonialist perspectives should aim to understand how the justice system is viewed by marginalized peoples, question the overrepresentation of racial and minority groups from a “position grounded in the experiences of the colonized people,” (p. 254) and seek to recognize that many mainstream
policies and programs may be underutilized by, or are less effective for, particular marginalized communities. Most importantly, research within a postcolonialist framework requires the inclusion of the perspectives of the colonized and recognition of the significance of alternative ways of seeing and knowing (Cunneen, 2012).

Decolonizing methodologies (Smith, 2012), which have developed within Indigenous communities and by Indigenous researchers, stem from Indigenous ways of knowing and aim to disrupt the imbalanced (and colonizing) power relationship between researchers (often non-Indigenous) and the researched (often Indigenous). Research conducted within a decolonizing framework is community-based, mutually-beneficial, grounded in genuine relationships, and respectful of cultural history, knowledge, and protocol (Ermine, Sinclair, & Jeffrey, 2004; Fleres, 2004; Kovach, 2005; Peters, 2010; Smith, 2012). In line with postcolonial and interpretivist frameworks, a decolonizing research paradigm values – and indeed prioritizes – the interests of the Aboriginal community, and draws on methods that are compatible with Aboriginal ways of knowing – most often qualitative methods, such as storytelling and interviews, that recognize experience as a legitimate way of knowing, and subjectivity as an inherent part of the research process (Kovach, 2005).

**Locating Myself**

Absolon and Willet (2005, p.97) assert that, “one of the most fundamental principles of Aboriginal research methodology is the necessity for the researcher to locate himself or herself.” Given the subjective nature of the research process assumed within an interpretivist/decolonizing framework – from choosing subject matter to specifying particular methods – locating oneself helps readers to more fully understand the many
guiding influences that have likely impacted all stages of the research project, and consequently (and most crucially), the final conclusions that are presented.

Research cannot take place without the trust and acceptance of the community and one way to begin to gain trust is to locate oneself. Indeed, as I began to attend events within the urban Aboriginal community in Toronto, I was asked many times about my intentions and motivations. As I immersed myself in historical texts about colonialism, biographies written by individuals who attended residential school, ethical guidelines, books on methodology generally, and Indigenous approaches specifically, as well as the peer-reviewed research literature, I found myself exhausted and emotionally drained at the end of most days; I began to expand my understanding of what it means to be a non-Aboriginal Canadian, and to recognize how, as a white, able-bodied, middle-class, young female researcher, I have been privileged in many ways, and have benefited – and continue to benefit – from colonialism. Whether I could be an ally was another question I wrestled with. While some argue the impossibility of being both associated with the colonizing country and an ally (Memmi, 1965), others assert that being an ally, or “a member of an oppressor group that works to end that form of oppression which gives him or her privilege,” (Bishop, 2002, p. 12) is possible, despite being detached from the distinct experiences and struggles of the colonized (Barker, 2010; Bishop, 2002; Christian & Freeman, 2010; FitzMaurice, 2010).

I recognize that acknowledging and understanding my privileges does not remove me from this unbalanced power relationship: as Patai (2004, p. 67) remarked, “the fact is that those of us whose medium is words do occupy privileged positions, and we hardly give up those positions when we engage in endless self-scrutiny and anxious self-identification”;
in other words, “taking account of [one’s] own position does not change reality” (Patai, 2004, p. 67). However, I do believe that this act of locating myself will allow you, as readers, to better understand where I am coming from and how I – my experiences, perceptions, and values – have influenced this research project, from its conception to the final results.

In thinking more critically about why I decided to pursue my master’s research within the urban Aboriginal community in Toronto, I realized that there are three main driving forces behind this choice, including personal, political/ethical, and academic/theoretical motivations.

I grew up in the heart of East Vancouver, British Columbia – a city girl who always wanted to live in the country, or maybe in the mountains. My mother and her siblings were raised in Kitimat, a small town in Northern BC, which sits on Haisla First Nation territory. As a young child, and even into my teenage years, I always loved joining my grandparents – and my uncles who still lived in Northern BC – on camping and fishing trips. It was on these trips that I was exposed to Haisla and other First Nations’ culture, art, and history. Between campsites, we would visit every museum, stop to admire almost every totem pole we saw, and drop in on carvers and jewelers in local villages along the way. My grandmother, who worked at the Kitimat museum, was very interested in history, in general, and in First Nations history, in particular. In some ways I think that she identified with the discrimination that many Aboriginal people in Canada face every day – due to persisting stereotypes rooted in colonization – because of her own childhood experiences of racism. Her father came to Canada from India in 1904 and his first marriage, to a white Englishwoman, made the front page of the Vancouver Province in 1908; his second wife
(my great-grandmother) was also Caucasian and my grandmother and her siblings all experienced a difficult upbringing in a Vancouver that was openly hostile toward Asian immigrants, and where interracial marriages were virtually unheard of. Regardless of her reasons, what my grandmother managed to pass on to me was appreciation for northern lands and deep respect for the First Nations whose territory we live on.

Growing up in East Vancouver also exposed me to the realities of homelessness; as I grew up, I came to realize that a disproportionate number of these individuals – who were everywhere, and yet invisible, many of whom suffered from mental and physical health problems, as well as severe addictions – were of Aboriginal ancestry. It was shocking as a child, and I responded to this new realization by reading memoirs about residential school experiences and fiction about young people moving from reserves to start life in Vancouver. I continued to be horrified by the intergenerational effects of colonization in Canada for Aboriginal peoples; nevertheless, in some ways, Aboriginal homelessness along the streets of the downtown eastside did become normal, and like most people, I have been guilty of ignorance and of turning a blind eye. As a student of developmental psychology, the influence of childhood experiences is not lost on me, and I believe that these early memories, and a desire to resist desensitization, have been unconscious motivators to commencing this project.

A second, more conscious, driving force behind this research is a desire to deliberately and explicitly be part of a decolonization movement, which stems from the recognition and acknowledgement that I am tied to a history of colonization, and that I am part of the current expression of colonization in this country. In the end, research may not be the avenue through which I choose to contribute to the reconciliation process between
Aboriginal and non-Aboriginal peoples of Canada, however I believe that the knowledge acquired through research that is conducted respectfully and responsibly can be a meaningful contribution – both in terms of process and product – to the discussions and learning that need to happen on the road to reconciliation.

The third area that has inspired me to pursue research within the urban Aboriginal community in Toronto is that of an academic or theoretical nature. I have chosen to focus on justice system experiences of Aboriginal young people, and of the justice system personnel who work with these individuals, given that child and adolescent development within the context of the criminal justice system is a research interest of mine and in light of statistics and articles urging researchers to more closely examine methods of combatting Aboriginal overrepresentation – which remains hugely problematic – in the Canadian justice system. I hope to conduct research that both supports the self-determination of Aboriginal peoples in Canada, as well as emphasizes the importance of evidence-based practice; any justice programming that is provided to youth or adults should be proven effective in its ability to meet the intended goals (Latessa, Cullen, & Gendreau, 2002), whether the goals involve reducing justice system involvement, improving mental and physical health, increasing community-involvement and connection to culture, or improving relationships, among other possible objectives.

The Current Study

While much of the extant literature focuses on the historical and systemic factors associated with Aboriginal overrepresentation, there is a dearth of research that seeks to understand the efficacy of judicial procedures and programming developed to address what has been acknowledged as a “crisis in the Canadian criminal justice system” (R. v. Gladue,
What little research that does exist has focused primarily on validating risk assessment measures for Aboriginal youth (Jung & Rawana, 1999; Luong & Wormith, 2011; Olver, Stockdale & Wong, 2012) or on understanding the needs of Aboriginal youth in the context of custody facilities (Latimer & Foss, 2004). Since the Youth Criminal Justice Act came into effect in 2003, there has been an increased emphasis placed on alternatives to incarceration (such as community supervision and extrajudicial measures), particularly for Aboriginal youth – yet there is virtually no research on service provision and case management for Aboriginal youth in the context of community-based justice system programming (including issues around referrals, access, participation, and efficacy).

The aim of the current study, therefore, was to begin to understand the perceptions of justice system personnel (i.e., individuals who work with Aboriginal justice-involved youth in a community context) and of Aboriginal service users (i.e., individuals with experience in the youth and/or adult criminal justice systems) with regard to the availability and efficacy of Aboriginal-specific, community-based programming, as well as the specific challenges that these individuals have experienced, as attempts are made to move theory into practice.

Given the paucity of research in this area, an exploratory, qualitative research design was employed and goals, rather than hypotheses, were specified as follows:

1. to explore perceptions around the efficacy of Aboriginal-specific, community-based programming (e.g., programming provided by Aboriginal community agencies, which may include anger management, individual counselling, harm reduction counselling, etc) in contributing to successful rehabilitation;
(2) to determine the barriers and facilitators (encountered in both community sentencing and probation contexts) to referrals to Aboriginal-specific, community-based programming;

(3) to identify the barriers and facilitators encountered by justice system personnel in the context of case management/service provision; and,

(4) to understand the barriers and facilitators to participation in community-based, Aboriginal-specific programming that Aboriginal service users face

In Ontario, initiatives by Aboriginal young people are growing, as these individuals voice their opinions about the most pertinent issues facing Aboriginal youth today and offer strategies aimed at improving policies and programs for youth like themselves. For example, the Provincial Advocate for Children and Youth (2013) hosted a 5-day forum in March 2013 and produced the document, *Feathers of Hope: A First Nations Youth Action Plan*. More than 100 youth from 62 Northern First Nations communities participated in a discussion about what matters most to them and, on the last day, presented their action plan for change to government and community leaders and policy makers. This action plan emphasized many different areas of concern – including mental health needs (drugs and alcohol, youth suicide), the effects of residential schools, the celebration of identity and culture, quality of education, availability of sports and recreation programs, and the need for more youth leadership, among others. A second forum is planned for later this year.

Given that Aboriginal youth are actively engaged in efforts to improve their communities, it is essential that research includes these youth and acknowledges the value of their experiences and perspectives. Although researchers are increasingly noting the
importance of youth perspectives on judicial processes (Goodwin-De Faria & Marinos, 2012; Peterson-Badali, Care, & Broeking, 2007; Peterson-Badali, Ruck, & Koegl, 2001), the voices of Aboriginal youth within the context of justice system involvement have remained largely absent. The perspectives of those who work within the context of the youth criminal justice system and of Aboriginal youth service users who are involved in this system are crucial to expanding our understanding of “what works.” Given the failure of the youth criminal justice system in combating Aboriginal youth overrepresentation, this study is seen as a necessary contribution to research that proposes to critically investigate methods of addressing what the Royal Commission on Aboriginal Peoples (1996) labeled “injustice personified.”

Research Design

Following the chosen conceptual frameworks, I employed a qualitative, exploratory research design for this study (Creswell, 2013; Merriam, 2009; Patton, 2002). A comprehensive understanding of how Aboriginal youth proceed through the justice system in practice, as well as the barriers and facilitators encountered throughout this process (from the perspective of the multiple individuals involved – including youth court judges, crown attorneys, youth court workers, youth probation officers, service providers, and service users) is best accomplished through a qualitative design, which aims to capture participants’ lived experiences. An exploratory approach is further specified, given this study’s focus on generating, rather than testing, hypotheses (Strauss & Corbin, 2008). While quantitative research focuses on measuring and analyzing causal relationships within a value-free (positivist) framework, qualitative designs are concerned with meaning and process, rather than outcomes, and reject the notion of objectivity (Merriam, 2009;
Creswell, 2013; Denzin & Lincoln, 2011); in line with interpretivist, postcolonialist, and decolonizing conceptual frameworks, qualitative research acknowledges the subjective nature of the research process. As outlined by Denzin and Lincoln (2011, p.11):

The researcher [...] speaks from a particular class, gendered, racial, cultural, and ethnic community perspective. The gendered, multiculturally situated researcher approaches the world with a set of ideas, a framework (theory, ontology) that specifies a set of questions (epistemology), which are then examined (methodology, analysis) in specific ways.

**Capacity Building and Community Relations**

The success of research within Aboriginal communities relies on the quality of the relationships that are formed (Kovach, 2005). An explicit phase of this research process involved gauging community interest in research pertaining to Aboriginal youth criminal justice involvement (and, specifically, appropriate justice programming within community settings) and establishing connections and genuine relationships that can be carried forward toward increasingly collaborative research partnerships. Learning about appropriate research methodologies and becoming more familiar with the urban Aboriginal community in Toronto were also important aspects of this process.

During the planning stage of this research, which spanned approximately one year, my supervisor and I consulted with a First Nations researcher at the University of Toronto; specifically, we discussed Indigenous research paradigms, ethics, and relationship building. I also attended a workshop held by this researcher, where I learned about qualitative data collection methods in the context of Indigenous research paradigms. As much as I could, I tried to increase my understanding of what it means to conduct culturally competent,
respectful, and collaborative research with Aboriginal communities, and to improve my ability to apply these skills in practice. I attended a two-day symposium held by the Toronto Aboriginal Support Services Council, which focused on the development, design and dissemination of research with urban Aboriginal peoples and on teaching tangible skills for working within Indigenous ethical research frameworks. I also participated in a workshop that focused on recruitment strategies and data collection methods that have been used successfully with Aboriginal communities, facilitated by a Métis doctor/researcher and a non-Aboriginal researcher, both affiliated with the Well Living House at the Centre of Research on Inner City Health at St. Michael’s Hospital. Additionally, I attended an information session, organized by the Aboriginal youth court worker at the Aboriginal Youth Court, where representatives from many of the Aboriginal agencies in Toronto spoke about the culturally-specific programming that they provide for Aboriginal individuals who are involved in the justice system (including outreach services, mental health, physical health, employment, housing, an recreational programming).

During the planning stage, I also consulted with individuals at the Aboriginal Youth Court (one youth court judge, as well as the Aboriginal youth court worker) and met several times with the director of the large, multi-service Aboriginal legal agency to discuss research goals and the research process. Everyone expressed interest in the research topic and, although I was reminded of the damaging role research has played in Aboriginal communities and asked to self-reflect on my own intentions and closely consider ethical guidelines, I was encouraged to proceed. Both the Aboriginal Youth Court and the multi-service Aboriginal legal agency granted me permission to recruit individuals in both settings, including justice system employees and Aboriginal justice-involved service users.
Finally, I worked closely with one of the caseworkers at the multi-service Aboriginal agency that participated in this study. This caseworker and I met multiple times before I began interviews with staff and service users to discuss the research process and goals. First, he raised some questions about my motivations and the research design, which we discussed and resolved; no amendments were necessary, but the discussions did help us to better understand each other, where we were each coming from, and how we could work together. The caseworker and I reviewed my service user interview guide for content and phrasing, which was invaluable; minor changes were made to the wording of a few questions, but otherwise the content remained the same (as questions were quite broad and open-ended).

Overwhelmingly, the atmosphere at the conference, workshop, information session, and during individual meetings was cautionary. Distrust of non-Aboriginal researchers and other professionals was ubiquitous. Although as a non-Aboriginal researcher I found it emotionally challenging to have these feelings directed toward me, I was not discouraged. Given the historical relations between Aboriginal and non-Aboriginal individuals in Canada, distrust is inevitable and warranted. Importantly, these experiences prompted me to examine my own intentions and to very seriously consider, and include, alternative ways of thinking – rather than relying solely on Western research methodologies and concepts of justice and wellbeing – within my research design. Additionally, I decided to continue with this project, because, despite initial mistrust, many Aboriginal individuals with whom I spoke as I prepared to embark on this journey were encouraging; they wanted to find ways for Aboriginal and non-Aboriginal people to collaborate in efforts to support Aboriginal
self-determination, to ameliorate the health and wellbeing of Aboriginal children, youth, and adults in Canada, and to improve Aboriginal/non-Aboriginal relationships.

Methods

Participants

The participants in this small, exploratory study fell into two broad categories: justice system participants, and service users. Participants were recruited from the Aboriginal Youth Court, one large, multi-service Aboriginal legal agency, and from three probation offices (see Table 1).

Justice system participants. This group included youth court judges, crown attorneys, youth court workers, youth probation officers, and service providers. All of these individuals had current experience, or recent previous experience, working with Aboriginal justice-involved youth in a community context (e.g., with youth who had appeared in a resolution court, who had received a sentence of probation, or who had received an extrajudicial sanction/diversionary measure outside of the formal judicial process). It is important to note that although these individuals are grouped together and do share some commonalities, each of these subgroups has unique roles and responsibilities that may impact their experiences and perceptions; when reading the result section, note that both the collective and unique perspectives offered by justice system participants are highlighted.

Purposive and snowball sampling methods were employed. First, emails describing the study and extending an invitation to participate were sent out to justice system participants at one youth court, three probation offices, and one multi-service Aboriginal legal agency; interested individuals were asked to contact the researcher to schedule an
interview. Judges, crown attorneys, and youth court workers were contacted directly by the researcher, while probation managers circulated the study information among the probation officers at their respective offices and my contact person at the Aboriginal agency circulated the invitation among his fellow service providers. Participants were also asked to nominate other potential participants or to pass on my name (and information about the study) to colleagues they felt would be interested.

In total, 13 individuals agreed to participate. Justice system participants identified as female (N = 8), male (N = 4), and male Two-Spirit (N = 1). While the most common age group for participants was 30-39 years of age (N = 5; 38.5%), 23.1% (N = 3) were under 30 years, 15.4% (N = 2) were between 40-49 years, 7.7% (N = 1) were between 50-59 years, and 15.4% (N = 2) were over 60 years. The sample was ethnically diverse, with five participants identifying as Aboriginal, five identifying as Caucasian, and three identifying as Other. All justice system participants had completed some university/college, with eight holding a university or college degree, and four a post-graduate or professional degree. Participants’ experience in their current positions ranged from .17 – 26 years (median = 7 years).

**Service users.** This group included justice-involved individuals between 23-31 years of age, who self-identified as Aboriginal and were currently accessing (or had previously accessed) programming through a multi-service Aboriginal agency that provides legal and community-based services for Aboriginal people involved in the justice system. Although I had originally planned to recruit service users between the ages of 12-17 (who would be considered *youth* under the Youth Criminal Justice Act), this turned out to be very difficult (reasons for this, and other recruitment challenges, will be discussed later in
Despite not meeting original recruitment criteria (e.g., service users were older than 17 years of age), I decided to include the data from the service users with whom interviews were conducted because the information they provided is still very relevant to the research goals; these service users spoke to their experiences accessing and utilizing Aboriginal-specific, community-based programming that is available to both youth and young adults in the Aboriginal community in Toronto.

Several recruitment approaches were tested in an attempt to understand the best method of reaching Aboriginal service users, including purposive, snowballing, and self-selection sampling methods (Patton, 2002). Posters describing the study, and inviting interested youth to contact the researcher to schedule an interview were placed in participating probation offices. Recruitment also occurred at the multi-service Aboriginal legal agency through presentations at two youth group meetings: interested service users in attendance were encouraged to speak with the researcher at the end of group to schedule an in-person interview. Additionally, caseworkers employed at the Aboriginal legal agency were asked to pass along the study information to clients who they thought might be interested. In total, three service users completed interviews, which ranged from 30-90 minutes ($M = 63.33; SD = 30.55$). All service users who participated received a $10 gift card to a local restaurant. Service users had a mean age of 26.33 years ($SD = 4.16$) and self-identified as Aboriginal. Participants spoke English (as their first and primary language) and resided within the city of Toronto. One of the service user participants was born in the city of Toronto, while the other two had moved to Toronto as children from rural areas of Ontario. All three service users were mothers. Their education experiences ranged from
some high school to some college/university. One young woman was employed full-time, one was volunteering, and one was attending a harm reduction day-program.

**Measures**

**Background information.** Justice system participants completed a Background Information Questionnaire to obtain demographic information (such as age, gender, ethnicity, education, and employment). Service users were asked about age, gender, ethnicity, language, living arrangements, and education/employment during the semi-structured interview.

**Semi-structured interviews.** A semi-structured interview guide was created to gain a thorough understanding of the views and experiences of participants. Open-ended interview questions for justice system participants explored: (a) the recognition and inclusion of Aboriginal culture in the courtroom and during programming; (b) the type of information used to inform decision making (in the courtroom and within programming); (c) the availability and awareness of community-based, Aboriginal-specific programming; (d) perceptions around the necessity and efficacy of Aboriginal-specific, community-based programming; and (e) the barriers and facilitators encountered during programming referrals and case management.

Interviews with service users focused on: (a) general experiences within the justice system (including relationships with justice system personnel and views on available programming); (b) the barriers and facilitators encountered while trying to access and complete community programming; and (c) feelings around cultural identity and the recognition of Aboriginal culture within the justice system. Background information was also collected at this time.
**Procedure**

Prior to beginning recruitment, ethics approval was obtained from the University of Toronto (in March 2014) and from the Ministry of Children and Youth Services (in April 2014). Interviews were scheduled with each interested individual who contacted the researcher, and I met with participants individually between May-August 2014. Interviews with justice system participants were conducted at each respective participant’s private office. One probation interview was conducted via telephone. Service user interviews were conducted in a private room at the participating multi-service Aboriginal legal agency. Once consent was obtained, I gathered background information and conducted a 30-120 minute (median = 65 minutes) semi-structured interview. Individual interviews were used instead of focus groups due to the personal nature of the interview questions; it was thought that this format would improve participants’ comfort level, facilitate disclosure, and ensure confidentiality of responses. During the interviews, I transcribed participants’ responses in order to facilitate later analysis.

**Analysis**

The data were analyzed using a thematic analytic approach (Braun & Clarke, 2006). This qualitative research analysis method begins with repeated readings of the transcripts and concludes with the construction of major themes derived from the data. Transcripts were first coded line by line, and each data extract was assigned a code (or multiple codes, as required). Then, codes and associated data extracts were sorted into major themes. Transcript review and comparison continued, as themes were expanded or collapsed as necessary, resulting in a final coding schema that included 9 major themes. Transcripts
were subsequently re-coded for the presence or absence of major themes. Although the identification of themes represents an attempt to understand and describe the experiences and viewpoints of participants, I acknowledge that these themes are co-constructions, informed in many ways by my own experiences and values, my knowledge and understanding of the extant research, as well as by the frameworks that I chose to guide interpretation (Denzin & Lincoln, 2011). In order to establish inter-rater reliability, an independent second rater coded 100% (N = 16) of the transcripts for the presence or absence of major themes. All discrepancies were discussed and resolved. Inter-class correlation (ICC) using a two-way mixed effects model was .97 (CI: .91 - .99), indicating excellent agreement between the two raters.

Results

The thematic analytic coding procedure (Braun & Clarke, 2006) yielded nine key themes related to the experiences and perceptions of justice system participants and Aboriginal service users who have been involved in Aboriginal-specific, community-based justice programming. These themes, grouped into three overarching categories, are discussed below. The first category is concerned with outlining participants’ perceptions of Aboriginal-specific, community-based programming, and describing important characteristics of these culturally sensitive services; the second category comprises themes relating to challenges that justice system participants encounter during referrals to, and provision of, Aboriginal-specific, community-based programming; the third category includes a discussion of facilitators and barriers to program participation encountered by service users.
It is important to keep in mind that for this study Aboriginal-specific community-based programming refers to programming that is provided by the many Aboriginal agencies in Toronto (programming such as the Aboriginal Community Council diversion program, individual case management, harm reduction, anger management, tutoring, employment counselling, housing services, etc.) to Aboriginal justice-involved service users who (a) have been charged and are awaiting a resolution in court; (b) who have had their cases diverted; or (c) who have been sentenced to probation.

Although participants are divided into two major groups (justice system participants and service users), while reading the results it is important to keep in mind that justice system participants are composed of five subgroups, including youth court judges, crown attorneys, youth court workers, probation officers, and service providers – all of whom have different roles and responsibilities in their work with Aboriginal justice-involved young persons. Although most themes occurred across groups (and subgroups) of participants, there are some subtle differences in perceptions.

**Category 1: Perceptions and Characteristics of Aboriginal-Specific, Community-Based Programming**

**Theme 1: Justice personnel and service users expressed support for Aboriginal-specific, community-based justice programming.** Overwhelmingly, the participants in this study expressed support for Aboriginal-specific, community-based justice programming. In fact, this theme was present in 15 of the 16 interviews.

As one probation officer articulated:

I think that it is absolutely paramount that the services they are receiving include sort of the traditional, whatever they see as the traditional, forms of the treatment. I
don’t want to… it has to be a part of everything… like for someone who is deeply religious, it has to be part of their treatment… so for an Aboriginal youth who is proud of their heritage, it has to be part of the entire treatment process. I don’t think you can silo the treatment for anyone […] If you strongly identify with a people… they have to be a part of your support and treatment

When asked about Aboriginal-specific, community based programming, one of the youth court judges observed:

I think it’s wonderful. It’s sad that it took so long to get here. I think the community in the Aboriginal community is remarkable and I think that the reception that I’ve experienced in the traditional community has been impressive. There are still miles to go. But I think […] there’s a breadth and depth of [Aboriginal-specific] services, and there’s an understanding… and that information is being communicated to the court… the more the better…

Beyond expressing support, many justice system personnel noted that Aboriginal-specific, community-based programming is prioritized over mainstream services for Aboriginal service users. One of the Aboriginal youth court workers explained:

We’d ideally like to keep [youth] connected to Aboriginal community services […]

So the court asked me to try to prioritize Aboriginal programming.

Likewise, one service user observed that, in her experience, courts in Toronto seek to match Aboriginal service users with Aboriginal-specific justice programming:

The courts in Toronto… they try sticking Natives with the Native organizations […]

I stayed with Native organizations… and they’ve agreed to it.
Justice system participants also explained that Aboriginal-specific, community-based programming is preferred, and prioritized, because it is seen as more appropriate (e.g., culturally sensitive and culturally relevant) for Aboriginal service users, as compared to mainstream justice programming. As another youth court worker stated:

I would say the culture perspective is enhanced within the Aboriginal community. And for youth who go though those non-Aboriginal programs, they don’t have that sense of identity; they may feel isolated or disconnected. They may not feel able to participate well because they feel so disconnected.

Of course, despite theoretical support for Aboriginal-specific, community-based justice programming, several barriers to making referrals to these programs, as well as providing and accessing these programs, were highlighted by participants and will be discussed later in this section.

Theme 2: Aboriginal-specific programming is different from mainstream justice programming in its approach to program delivery, but not in the type of client needs that are addressed. This theme was addressed in 15 of the 16 interviews; all justice system participants (judges, crown, court workers, probation officers, service providers) and service users spoke about client needs, while explications about approaches to programming were articulated by service users and service providers, more specifically. As participants discussed their experiences with Aboriginal-specific, community-based programming, it became clear that these programs aim to address the very same client needs (e.g., criminogenic needs) that are highlighted by the Risk-Need-Responsivity framework, namely: family; education/employment; peer relationships; leisure/recreational activities; substance use; and personality/behaviour (anger, ADHD); attitude was the only
criminogenic need that was not mentioned by interviewees. As stated by various justice system participants:

I always start with… with my clients, the youths, one of our major goals is education. Without education you can’t go very far, I explain.

A lot of those programs too – they involve... it’s all about healing… harm reduction or maintaining sobriety.

Lack of family stability, addiction, mental health, anger, low self-esteem… But these problems are not specific to Aboriginal youth – all the kids who come through here display these problems… especially the ones we see over and over again.

Interestingly, however, service providers did not explicitly acknowledge the Risk-Need-Responsivity framework. Within this study’s sample, only probation officers mentioned making use of the Risk-Need-Responsivity framework (specifically, a standardized risk-need assessment measure) to guide case management. Service providers explained that informal discussions with youth served to illuminate treatment needs.

In addition to discussing client needs that would be considered *criminogenic needs* within the RNR framework, many justice system participants mentioned housing, transient/nomadic lifestyles, and mental health concerns as high priorities during rehabilitation. Often, it appeared that assisting service users in establishing some stability (e.g., finding a home, taking their medications) was necessary before addressing other areas of concern (such as substance use). The following are quotes from service providers and one Aboriginal court worker:
I think safe and appropriate housing, as a service, is one of the biggest points of concern to help youth at this time.

It’s hard to maintain the same group, because our youth are very at-risk… I hate that word – very nomadic – so it’s hard getting the same group in every week.

A lot of them are street-based kids, so obtaining housing, how to keep your housing when you get it […] Some of them have to do with managing their mental health if they’re not that well… consistently take your meds when directed, don’t be under the influence when on meds.

I don’t think I’ve ever worked with anyone who hasn’t had anxiety or depression – that’s why they’re drinking, to cope with their own issues.

The main distinctive component of Aboriginal-specific, community-based programming is its approach to service provision, which includes the incorporation of Aboriginal cultural components (e.g., spirituality, Elders, traditional teachings, participation in ceremony, etc.). Service providers and service users spoke a lot about how these cultural components are incorporated into programming. For example, a program might begin with a smudge (“we offer the youth opportunity to smudge if they want to. It’s actually pretty cool when they want to lead that part of the ceremony… that’s really awesome”) or a discussion with an Elder might precede a referral to a treatment centre (“I would talk about anger management; I would consider an Elder […] to start that dialogue”). Leisure/recreation programs might involve learning about ceremony (attending a sweat lodge) or traditional crafts (“moccasin making or beading”); moreover, an anger management group may include a discussion about mental, physical, emotional, and spiritual balance, in the context
of the medicine wheel (“what I like using is the medicine wheel. It’s round and if you roll it down the hill, it’ll keep going; if there’s one piece missing, it’ll be a bumpy ride. How can we balance it out?”), and inclusion of the 7 grandfather teachings: wisdom, love, respect, bravery, honesty, humility, and truth (“our approach to programming or to healing would be… we’re situated in Anishnaabe territory, so we follow the 7 grandfather teachings here”).

Despite the fact that Aboriginal-specific justice programming does not make use of the Risk-Need-Responsivity framework to guide case management or rehabilitation services, interviews revealed that these programs nevertheless aim to address the same types of client needs that are specified by this model. Programming is delivered, however, through an Aboriginal lens – integrating spirituality, traditional practices, ceremonies, and teachings into the healing process; of course, the diversity among Aboriginal peoples in Canada means that there is also diversity in the cultural components that are included in programming – depending on where programming takes place (in this study, on Anishnaabe territory), as well as on individual client needs (e.g., incorporating traditional Inuit teachings for Inuit service users who are attending programming).

**Theme 3: A client-centered approach, where service users are involved in setting goals and choosing programming, was seen as important.** Many justice system personnel talked about the importance of having discussions with service users and how crucial it is to consider service users’ opinions during the decision-making process in order to help establish feasible and appropriate rehabilitation goals. This theme was present in 14 of the 16 interviews, and was discussed by youth court judges, the crown attorney,
youth court workers, youth probation officers, service providers, and service users. As one probation officer articulated:

The young person needs the opportunity to exercise a choice […] I try as much as possible to have youth set priorities.

Similarly, a service provider explained:

It creates space for youth to open up and share parts of their story… where they’ve been and the circumstances surrounding the charge… and that gives us a better idea about what sorts of things we can do to meet them where they’re at.

On their end, service users expressed feeling included in the decision-making process:

The community council was very understanding and listened to what I had to say and what kind of programming I was willing to take. [Interviewer: So you felt like you were heard?] Yeah.

The emphasis on client-centered approaches was also related to justice system participants’ recognition of the diversity of Aboriginal peoples in Canada. Despite some shared history, Aboriginal service users (like all justice-involved service users) have unique life stories, beliefs, and needs that must be considered during rehabilitation. As voiced by another probation officer:

I think it has to be about the individual youth you work with and not ‘how do I work with Aboriginal youth’. Because, yes, there are youth who experience similar things, similar life or family experiences, but you can’t just homogenize the experience of these individuals […] I think it’s more important to work with the self-identified needs of the individual client, rather than thinking you can know how to work with all Aboriginal youth.
Similarly, when asked about accommodating service users from different Nations or who carry different cultural knowledge or teachings, one service provider spoke about the importance of *asking individuals to share* cultural knowledge or information about their language, so that they can be incorporated into programming:

> There’s definitely a strong voice from one youth who comes to youth group who is Inuit… we don’t have a high Inuit population, but that doesn’t mean we shouldn’t have resources for them.

Involving service users in decision-making processes was highlighted by youth court judges, crowns, youth court workers, youth probation officers, service providers, and service users in this study as a common practice employed by justice personnel, and as a crucial method for understanding the needs of individual service users.

**Category 2: Barriers in the Context of Referrals to, and Provision of, Aboriginal-Specific, Community-Based Programming**

**Theme 4: There is a need for better communication, collaboration, and trust between non-Aboriginal (mainstream) justice personnel and the Aboriginal community (including Aboriginal justice personnel and Aboriginal service users).** This theme was discussed by 12 of the 16 participants in this study. While judges spoke about communication difficulties in their encounters with Aboriginal service users, youth probation officers, youth court workers, and service providers discussed challenges in terms of the lack of communication and collaboration that occurs between them. One service user also made an observation about communication difficulties that occur between mainstream and Aboriginal-specific justice system personnel.
Many justice system participants described difficulty communicating with other justice personnel about clients’ participation in programming – in particular when communication was occurring between non-Aboriginal and Aboriginal justice personnel. Communication difficulties involved leaving messages and not having them returned, having messages returned in an untimely manner, or not being provided with the information that they requested (e.g., whether a client attended a specific program consistently). As described by one probation officer:

There are lots of problems across the board with communication with agencies that service the youth – Aboriginal youth – that we work with [...] youth would give me names of people who worked there, who they were working with, who could vouch for them… I tried to contact these people and can’t get a hold of them. Or they don’t have the info in front of them.

These problems with communication were noted as a significant barrier to making referrals to Aboriginal-specific justice programming. Another probation officer noted:

I had a hard time with consistency, with following up, with their response to me […] it would have been one of the reasons that she was referred to in-house counselling. [The staff at the Aboriginal agency] were not providing the information I needed and the follow-up.

In some cases, communication difficulties were speculated to be caused by a lack of trust (e.g., not trusting that the other person had the client’s best interests at heart) and this mistrust was seen as directly related to colonization in Canada (“I don’t know if it’s a part of the historical context… conflict about the system, distrust”, mused one probation officer). A long (and recent) history of discriminatory government policies means that
many Aboriginal people continue to be wary of non-Aboriginal individuals, such as judges, crown attorneys, and probation officers, employed by government agencies. As one Aboriginal justice system participant remarked:

I don’t really support probation, because they’re not supportive, they don’t try to help you improve your life. They’re another form of control, just another part of the justice system… a client might call them and say they don’t have money, they can’t get to the office, and then they’ll breach them for failure to comply because of financial reasons… Sometimes they’ll call me and I’ll tell them I don’t have the information – I’ll say I need a signed release, because I know they’re just going to use it against the youth.

One service user also spoke about how improved communication and collaboration between Aboriginal and non-Aboriginal justice personnel would benefit Aboriginal justice-involved individuals:

I’m thinking about how Native people benefit from everyone working together instead of it being one-sided. That’s not beneficial for anyone. That mentality doesn’t work for anyone […] and I’m saying [that mainstream and Aboriginal programming] are different and if someone didn’t feel comfortable at [one] they might be comfortable at the other place… and that kind of communication needs to go on… Helping making referrals back and forth based on the specific needs of the clients and their comfort level. Everyone is different. I can see how the Native side wants to stay reclusive to each other. You have people who want to stick traditional and those who want everyone to work together… People need to start organizing and collaborating with each other.
Finally, justice system participants indicated that, within the court setting, there are often difficulties obtaining cultural and background information from Aboriginal youth service users, in order to inform sentencing and diversion decisions. Youth court judges admitted that asking Aboriginal youth about their culture is “tricky… it’s a fine line.” Participants explained that because “there are often abuse experiences in the community” and because youth are uncomfortable talking about the intergenerational trauma they may have experienced (due to stigma and the belief that this information will be “held against them”), they have been relying on “guidance from [an Aboriginal Agency] in terms of what’s appropriate [to ask].” Additionally, justice system participants stated that formal methods of obtaining information for sentencing, such as pre-sentence reports and section 34 reports “are written from a non-Aboriginal context.” As one youth court judge articulated:

> When we talk about PSR and section 34 [reports]… these are being done by non-Aboriginal [individuals], so that’s a problem – the system is weighted to the Canadian legal side of the equation […] so there’s no effort to understand the Aboriginal context.

Although, currently, the courts “don’t ask much” and “don’t find out much,” youth court judges expressed hope that as trust between the court system and the Aboriginal community improves, communication between justice personnel and Aboriginal service users will also improve, leading to more informed sentencing procedures:

> The more you know, the better […] in Gladue courts, when people came to confidence in the [Gladue] court system, then they started to talk. So if the Aboriginal Youth Court becomes a court that people know about and have an
expectation about and know they’re going to get respect and support, then maybe we might get more of that.

Additionally, in terms of obtaining background and cultural information, one facilitating factor mentioned was the “circle process” employed at the Aboriginal Youth Court:

We have more people at the table – which enables more information. Some of these people would normally be at the back of the courtroom, but now they’re at the table and can contribute – and everyone is coming from an empathetic or compassionate view. And so it’s not bound up in judgment, but in what is motivating the behaviour and what could be done to alter the trajectory. We ask the parent – before a youth is sentenced – and the youth; sometimes information comes from the youth themselves. If there’s a community agency that’s involved, we get a letter from them, or letters from others in the community, or from family members. One thing we emphasize… we try to get a lot of information on sentencing. We really encourage that.

**Theme 5: Mainstream justice personnel would benefit from education about Aboriginal culture and history in Canada, as well as from improved awareness about culturally appropriate programming available for Aboriginal service users.** This theme was present in 14 of the 16 interviews, with all justice system participants and one service user discussing education and awareness needs among mainstream justice personnel. Non-Aboriginal justice personnel revealed that the majority of their knowledge about Aboriginal culture and history is acquired independently and informally (e.g., reading books, speaking to employees at Aboriginal agencies, etc.). While some participants felt that the current system was adequate and that individuals should be
responsible for their own learning, most suggested that more formal training would be beneficial:

I think there is hope… I think there’s a need for cultural sensitivity training with POs and corrections – that would be a good start.

However, although they exhibited interest in increasing their knowledge in this area, justice system participants said they lack the time and must prioritize training sessions based on client needs. Making cultural-sensitivity training sessions mandatory was seen as one potential way of increasing attendance and, therefore, improving non-Aboriginal justice personnel’s knowledge about Aboriginal culture and their understanding of the intergenerational effects of colonialism on offending behaviour and rehabilitation.

Additionally, justice personnel expressed that they would like to receive more information about justice programming that is available in the Aboriginal community:

Even if there was a pamphlet… if there was a list of all the services in one document, and how to make referrals, who the contact person is… like for all the [Aboriginal-specific] services that are available in Toronto. But I don’t know, maybe that does exist already and I don’t know about it. I just go on the Internet and search.

Justice personnel within the Aboriginal community also recognized the need to provide information about available Aboriginal-specific programming to the mainstream justice community:

What I’m trying to do is bring awareness about the programming. I see… there’s a general practice when crowns are screening files, they may, say, refer them to [a non-Aboriginal diversion program] – offer that as a resolution. So […] why I held
that education session was because I want there to be awareness about the 
programming that’s out there [in the Aboriginal community].
Up-to-date websites, a collated database of organizations and programs, and presentation 
from agencies (to courts/probation offices) were some suggestions that participants thought 
would increase awareness of and, consequently, referrals to Aboriginal-specific justice 
programming.

Theme 6: Challenges in terms of availability and appropriateness of 
Aboriginal-specific programming are barriers to effectively meeting the needs 
of service users. Most participants (12/16), with the exception of the crown attorney, one 
judge, one probation officer, and one service user, discussed this theme. Participants 
expressed several concerns related to the availability and appropriateness of programming 
provided by Aboriginal community agencies that appear to impede the referral process and 
limit accessibility for service users. The youth court workers in this study expressed that 
inconsistency in program offerings make it difficult to match service users with the 
Aboriginal-specific programs they required:

I was making referrals to mainstream programs, because I was waiting too long to 
get youth into programs in the Aboriginal community and I couldn’t just keep youth 
waiting.

There are programs [listed] on websites and flyers… and [the court workers] go to 
make referrals and then [the agency] say[s] they stopped [the program because] 
there weren’t enough youth… so I think having continuous programming is 
necessary.
My biggest challenge would be having youth, like, having programing available to the youth when needed. When youth are agreeable to do something and it’s not available, youth lose momentum, lose further… don’t see the purpose in it. So trying to build that up. For example, youth anger management, it’s not offered all the time […] I had three youth who were interested. They went to the office and found out nothing was being offered at that time… only one of the three ever came back again.

Other justice participants spoke about challenges around staff shortages, overworked staff, and staff turnover as barriers to providing programming. As two service providers stated:

There is a high turnover; [the service users] want a consistent person to be working with them.

There’s a need for more people who do what I do. Sometimes my caseload is pushing 60 youths… it’s a mountain ahead of me…

One probation officer mentioned:

Definitely the mental health piece – I think that they could use a lot more workers […] probably a funding problem; staff burnout [among service providers] was a big problem.

Furthermore, justice personnel (particularly court workers) and service users noted that the Aboriginal community is currently not comfortable or equipped to work with more serious offenders (such as repeat offenders or those with concurrent mental health needs).

Sometimes Aboriginal agencies aren’t comfortable having clients with long-term supervision orders… it could still be low-end stuff, but with repeat offenders… that’s hard.
I know it’s hard when clients have severe concurrent disorders… it’s hard for the community council volunteers to work with them… it’s hard to get through to them if they’re not on medication…

Finally, there were concerns raised about the need for program development in three specific areas. One service provider expressed the need to establish a better system for obtaining mental health diagnoses for service users and establishing treatment plans:

… getting a proper diagnosis done. If you have a 14- or 15-year-old that possibly has undiagnosed FASD, or brain injury, or mental health problems… they’ll just agree to whatever… so maybe just getting proper assessments. One thing I’m involved in with a few other people working in different agencies […] is trying to find what juncture points to get assessments done. We realize [the youth] just keep going in and out [of custody]… so when they’re inside, why can’t we… what we’re looking at… it’s a good place to catch everyone when they’re in custody: Get them assessed so we know what they need when they’re released… so they can have a psychiatrist or housing or medical attention… hopefully this can slow down why people are offending.

Another justice system participant – one of the youth court workers – stated that there is a lack of Aboriginal-specific programming that addresses conflict resolution and peer relationships for Aboriginal youth service users:

I’ve started seeing a trend with the youth… most often 2/3 are charged with assault offences. A lot of group programming is mainstream – group programming for conflict resolution; I was starting to rely on those resources, and the court approached me and asked ‘why aren’t we utilizing Aboriginal programs?’ But I
never found something like the mainstream stuff [within the Aboriginal community]. That’s an area where programming needs to be developed – group programs for conflict resolution and peer relationships.

A third participant – another service provider – expressed the need to continue to develop programming that offers a positive, safe, and welcoming space for Two-Spirit people of the First Nations.

We have some youth who are engaged in sex work and some who identify as trans, LGBTQ, Two-Spirit… so we want to start building relationships with this [Aboriginal sexual health] agency because they have a restorative justice lens. They have a number of traditional knowledge keepers, Two-Spirit people… they have peer mentors […] It’s a fantastic new avenue, because there are only three agencies we have that deal with Two-Spirit people of the First Nations […] but their cultural safety isn’t strong.

Although the majority of participants did not speak about the lack of mental health assessments, Aboriginal-specific conflict resolution groups, and programming that welcomes and celebrates Two-Spirit people of the First Nations, this information points to potentially important gaps in programming that should be further investigated.

**Category 3: Barriers and Facilitators to Participation in Aboriginal-Specific, Community-Based Justice Programming**

**Theme 7: The extent to which Aboriginal service users identify with their Aboriginal culture and are connected with the Aboriginal community in Toronto varies extensively; participants spoke about this in relation to initial criminal involvement, as well as in relation to justice programming involvement.** Both
justice system participants and service users spoke about service users’ connection to their
cultural identity and to the urban Aboriginal community in Toronto, with this theme
appearing in 15 of the 16 interviews. One common belief that emerged from participants’
responses is that Aboriginal youth and young adults who are well connected in the
Aboriginal community, and who have a strong sense of their identity as an Aboriginal
person, are less likely to become involved in the justice system and – if they do become
involved – are more likely to be successful in their journey to rehabilitation and healing; in
other words, cultural identity and connection to community is seen as a resilience factor. As
one court worker explained:

Those that do have strong connections [in the Aboriginal community]… they don’t
get in trouble… they’re the ones we don’t see.

Likewise, one youth court judge said:

It’s a huge thing if they have [a strong connection to their culture]. […] I feel that as
a judge, [it’s] an absence of a barrier […] that will be a strong asset for them in their
life.

Additionally, a service provider noted:

I think that one of the main points of the youth who are successfully completing
[court ordered programming] are the ones who already have a standing relationship
with the agency and within the community too.

Participants in this study also discussed how some service users know very little about their
Aboriginal heritage; their first introduction to the Aboriginal community may arise through
their involvement in the justice system, when they are asked if they self-identify as
Aboriginal or if they have any relatives who are Aboriginal. As one judge remarked:
One of the young persons that came before me […] They had identified as Aboriginal, but in their history they had never seen themselves as Aboriginal. In the court […], once there, they started to appreciate their history.

A court worker similarly commented:

… he had knowledge that his mom has Aboriginal background, but she wasn’t the custodial parent… but he did have an interest in connecting and learning about his heritage…

Participants expressed that Aboriginal-specific community-based programming can serve to improve service users’ connection to their Aboriginal culture. According to one service provider:

I would say definitely [youth become more connected in their culture through their involvement with Aboriginal-specific justice programming]. And the first step is the hardest – walking through the door. There is a pride in who you are that comes from that, [from] inquiring about different ceremonies. Right now we’re just planning on doing a sweat with the youth… and it’s very well received… and I don’t know… it’s just… with any culture… once you know where you’re from, things get a lot easier, instead of having a big question mark over your head. And the thing with us, our culture, is that no matter where you’re from… you’re part of one big family. I’m from the Northwest Territories, and we have clients from Manitoba, the East Coast, they’re all the same and we all chill with each other.

Similarly, a service user explained:
For sure… I knew nothing about anything as I grew up… it wasn’t until I went to the [Aboriginal] diversion program, and the anger management, and working here that I learned more [about my culture]. Some service users, however, have a negative association with their Aboriginal heritage; in this case, these individuals may not wish to identify as Aboriginal, or access Aboriginal-specific justice programming. Additionally, the idea of service users feeling caught between mainstream Western culture and traditional Aboriginal culture was frequently discussed. In light of this, participants discussed the need for service users to have access to both Aboriginal-specific and mainstream services, based on their comfort level. One service provider explained:

At times, with the Aboriginal community, you can have a Native with blond hair and blue eye, or an individual who is half black and half Native… they may not feel comfortable with Aboriginal programming. They may feel more comfortable accessing mainstream programming.

According to another justice system participant:

I would say that as a court worker, a large majority of youth I was doing intake with had large connections with the welfare system… so that, or their parents... there’s cultural shame. So people choose not to engage in the [Aboriginal] community; so it can be an intergenerational piece as well.

Finally, a probation officer remarked:

A lot of youth were at a point where they weren’t sure whether they wanted to identify. There are options for traditional practice… sweat lodge, smudging… but they’re not sure they want to – or if they want to turn to mainstream Canadian
culture. Seeing it… they’re not sure where their identity lies. They’re having a hard
time finding a middle ground… being connected… they seem to want to pick one,
but they’re stuck.

Importantly, participants stated that the vast majority of Aboriginal service users appear
open to accessing Aboriginal-specific services, including those with established
connections to the Aboriginal community, as well as those with very little or no connection
to the Aboriginal community.

As one service user remarked:

> I like to do art and make dream catchers and stuff – things that are related to my
culture and stuff. I just like [Aboriginal programming] because I can understand it
more and I’m also Aboriginal myself.

Likewise, one probation officer recognized that Aboriginal-specific programming was
favoured by his Aboriginal clients who were well connected in the Aboriginal community:

> There’s a certain pride in being an Aboriginal person; [attending Aboriginal-
specific programming] was important for the [Aboriginal] clients I have worked
with.

One of the court workers stated:

> And then sometimes, all they know if that somebody [in their family] is Native, but
they don’t have that connection to the community. But most times they’re not
apprehensive… they’re open to identifying.

One of the probation officers made a similar observation:

> About 90% [of youth] were open to [traditional programming] […] They realized it
could give them the piece of identity they didn’t have […] just giving them the
opportunity to take part in it… with exposure, most youth were pretty accepting and wanted to try it out.

**Theme 8: Programming provided through an Aboriginal lens makes service users feel safe and comfortable.** When talking about the benefits of Aboriginal-specific programming, service users and justice personnel routinely spoke about the positive environment (safe, welcoming, caring, accepting, free of discrimination) that Aboriginal programming provides for Aboriginal service users. This theme was present in 12 of the 16 interviews (predominately in interviews conducted with service providers, service users, youth court workers, and to some extent youth probation officers). When asked what they enjoyed about Aboriginal-specific programming, the service users explained:

I think safety – just feeling safe and being in an environment you feel comfortable – where there’s no judgment, scrutiny, no tension most of the time… you develop a sense of self-worth and belonging – as Aboriginal. For some reason, whatever goes out on the street… people try to control it in here… I think people have a lot of respect for the things that go on in here.

Honestly, I think [I like it] because I’m comfortable here… there’s a sense of understanding… and respect, and loyalty.

Justice system participants also recognized that Aboriginal service users find comfort through participation in Aboriginal-specific programming. According to one probation officer:

I think there’s a certain comfort that my clients have experienced in a place where others have experienced certain, similar, things […] You don’t get many clients
from other backgrounds who have connections with places that serve the needs of youth. There’s not a lot of black youth who say, “I like hanging around with the guys from the African Canadian Legal Clinic”… but [my Aboriginal] clients had a previous connection to these places.

**Theme 9: Participation in programming for Aboriginal service users was linked to developing positive relationships with frontline service providers, having strong support from other people in their lives, and demonstrating maturity/motivation.** This theme was present in 13 of the 16 interviews; Frontline workers were seen as important support people in service users’ lives and it was suggested that service users were more likely to attend programming when positive relationships with staff were established. Trust, comfort, and feeling that the frontline worker genuinely cared were listed as important factors leading to positive relationships.

One service user nicely illustrated the importance that positive relationships with staff have for the healing process:

And, like, I’ve gone through… I have a history of abuse, addiction, and I’ve totally evolved from that. Just to have that kind of security with [staff] makes me want to keep going and change. A lot has to do with the staff, and what they know, what they can offer, and how genuine and real they are […] I’ve established quite a few relationships with social workers… like, all I know is they have my back. Like I can honestly say that with pride. They have my back.

Service providers, on their end, also appreciate the importance of forming genuine relationships with service users and encouraging these individuals on their journey:
I think that just being able to provide someone to lean on, someone to be there. Being that person with multiple hats. And I think, just, I had someone there for me always […] and it’s just paying it forward. I want to see our next generation go a little farther… and have more doctors, have more lawyers. Just because they have a charge doesn’t mean they can’t obtain those things. Just continually working with them, showing them that they are important. Sometimes youth may not feel important or special. Walk them through it… they are important, they are special… that anything is attainable.

Some participants suggested that having an Aboriginal worker facilitated the development of trust. As another service provider described:

One of my favourite comments that I’ve had since working here was from an individual fellow who, upon our second meeting, said, “[you’re] the first worker that I’ve had that I actually trust.” And I asked, “Am I the only Aboriginal caseworker you’ve had?” And he said “yes”.

Other service users recalled having positive, helpful relationships with non-Aboriginal justice personnel:

I had a really excellent criminal lawyer. He was non-Native. I think he was Jewish. He was very informed of the Aboriginal justice system. He had a passion for it, good knowledge… I don’t know what I would have done without him. His ability to work with Natives and non-Natives… he was excellent.

Moreover, having a parent or a partner who reminds service users to attend programming or who supports them while they are attending programming was described as a facilitator to
participation. When asked what facilitated her attendance at programming, one service user said, “I was motivated to go. And I had support from my mom”.

Another service user described having support from her partner and developing a positive relationship with her probation officer as being a particularly helpful combination that facilitated reporting for her, despite a history of non-compliance:

Probation… I never went. Failed to comply. Failed to show up. [But then] I ended up with a good probation officer. And my husband actually helped me go… they moved offices and [he] told me to go and reminded me to go and sometimes I’d be scared to go… and I ended up with a PO and she told me, “if you miss an appointment…” she said, “don’t be scared, just show up”. The last one I had… he was a man... and I don’t like male workers, and he was intimidating… because he was a male.

Finally, many participants listed variables such as maturity, independence, and motivation/readiness for change as important characteristics of service users who are more successful at completing programming. As one court worker remarked:

I think the ones I’ve seen be successful, they are independent […] One girl, she came to Toronto on her own; she found her own housing and accommodation while she was here; she was going to school […] she was involved with Native Child on her own…

Another service provider professed:

It could be they’re more mature […] just being ready, not having the “screw it” mentality. I encounter youth who aren’t ready… and that’s where the patience comes in… I think it would just be readiness to progress in life and to move forward
and to accept the things that have taken place… to realize there’s always room for improvement and to better themselves as a person.

Similarly, service users recognized these same factors as crucial in the process of rehabilitation:

I was motivated to go […] I think some people come in and they… it’s a joke to them… they don’t take it seriously… for those who want to do the work, it’s helpful.”

I had my son… and that’s really what it took for me to change.

A lot of it has to do with how willing you are to do it yourself, too. I think if you put the work in, [the staff will] do anything for you.

Discussion

The current study examined the perceptions of Aboriginal service users who have been involved in the justice system and who have participated in Aboriginal-specific, community-based programming, as well as the perceptions of youth court judges, crown attorneys, youth court workers, youth probation officers, and service providers (e.g., justice system participants) who have experience working with Aboriginal justice-involved youth.

The goals were to develop a better understanding of what justice personnel (both Aboriginal and non-Aboriginal individuals) and Aboriginal service users think about Aboriginal-specific justice programming and to determine the factors that impede and those that enable (a) referrals to, and provision of, Aboriginal-specific justice programming; as well as (b) participation in Aboriginal-specific justice programming.
To investigate these questions, I conducted in-depth, semi-structured interviews and, using a systematic coding procedure following Braun and Clarke’s (2006) method of thematic analysis, I analyzed the transcripts, which resulted in nine main themes. I chose to employ a qualitative, exploratory research design because very little is currently known about the experiences of Aboriginal justice-involved service users and the justice personnel who work with these individuals; moreover, a qualitative research design acknowledges the subjective nature of the research process, which is in-line with the interpretivist (Cresswell, 2013; Carson, Gilmore, Perry, & Gronhaug, 2001), postcolonial (Cunneen, 2012) and decolonizing (Smith, 2012) conceptual frameworks that were chosen to guide this study.

**Perceptions and Characteristics of Aboriginal-Specific, Community-Based Programming**

**Expressions of support.** Participating youth court judges, the crown attorney, youth court workers, youth probation officers, service providers, and service users all expressed support for Aboriginal-specific, community-based justice programming. Justice system participants communicated that they prioritize Aboriginal-specific, community-based programming over mainstream programming for their Aboriginal clients, and Aboriginal service users corroborated this assertion, indicating that they had observed that “the courts in Toronto… they try sticking Natives with the Native organizations.” Support for this type of programming came with recognition that connection to community and culture are important aspects of the rehabilitation process for all youth and, therefore, that Aboriginal-specific programming is particularly appropriate for Aboriginal service users. Given that the Youth Criminal Justice Act and the Criminal Code both contain clauses that instruct justice system personnel to pay particular attention to the culturally specific needs
of Aboriginal individuals who come before the courts and to consider all possible
alternatives to incarceration, it is not surprising that justice system personnel indicated their
support for Aboriginal-specific, community-based programming.

As discussed earlier, however, there is evidence that Aboriginal youth in Ontario
are underrepresented in terms of least invasive sanctions (Rudin & Zimmerman, 2014),
such as Aboriginal diversion programs (which would fall within the realm of Aboriginal-
specific, community-based programming); this study suggests that it is not lack of support
for Aboriginal-specific, community-based programing on the part of justice system
personnel or service users that is influencing this discrepancy; rather, other challenges exist
– such as poor communication between justice personnel and inconsistency in
programming availability, which were highlighted by participants are significant barriers to
referrals to Aboriginal-specific, community-based justice programming.

**Approaches to programming: Considering evidence-based practice and**

**the Risk-Need-Responsivity framework.** When considering programming for justice-
involved individuals, the importance of evidence-based practice cannot be underestimated.
As Latessa, Cullen, and Gendreau (2002, p. 46) explained, “quackery has long prevailed in
corrections because agencies have traditionally required no systematic evaluation of the
effectiveness of their programs.” However, there is a growing literature that demonstrates
what does *not* work in offender treatment, as well as what *does* work. The Risk-Need-
Responsivity framework (Andrews, Bonta, & Hoge, 1990) has a particularly strong
evidence base, with programming that adheres to its three principles leading to significant
reductions in recidivism (Andrews & Bonta, 2010b; Vieira, Skilling, & Peterson-Badali,
2009). The risk principle is concerned with *who* should receive programming (asserting that
higher risk individuals should receive higher intensity intervention). The need principle outlines the what of programming (emphasizing that factors empirically demonstrated to directly predict offending should be the target of intervention – e.g., criminogenic needs). The responsivity principle informs the how of programming: interventions should be evidence-based (general responsivity) and tailored to individual characteristics, such as culture or gender (specific responsivity). Within this framework, Aboriginal-specific cultural variables would be considered under specific responsivity and used not to assess risk, but to inform program delivery (Bonta, 2002).

Beyond investigating participants’ perceptions of Aboriginal-specific, community-based programming, I was interested in understanding how justice personnel who work with Aboriginal youth – and Aboriginal agencies in particular – conceptualize rehabilitation for Aboriginal justice-involved service users and how this fits with the Risk-Need-Responsivity framework.

**The need principle.** When asked about the most common treatment needs/rehabilitation goals for Aboriginal service users, participants talked about the following: family (improving relationships); education/employment (going back to school; creating a CV; accessing tutoring); peer relationships (developing pro-social relationships); leisure/recreational activities (outings to movies, concerts, etc.; participating in a sweat lodge); substance use (harm reduction programs; substance abuse treatment); and personality/behaviour (particularly anger). Interestingly, although Aboriginal-specific, community-based justice programming does not follow the Risk-Need-Responsivity framework, this framework also emphasizes these same areas of need (called criminogenic needs) and research demonstrates that successfully addressing these particular areas (as
well as attitude, which was not discussed by participants in this study) is significantly associated with reduced recidivism (Andrews & Bonta, 2010b; Vieira, Skilling, and Peterson-Badali, 2009). In other words, it appears that justice programming provided by Aboriginal-specific community agencies are addressing appropriate treatment goals (e.g., those that are significantly associated with recidivism); however, whether they are doing so effectively remains to be determined, given the paucity of evaluative studies. The Department of Justice Canada (2011) found preliminary support for the efficacy of Aboriginal community justice programming in reducing recidivism among Aboriginal youth, however information about the control group (e.g., whether these individuals refused treatment or participated in alternative treatment programs) and information about programming variables (e.g., treatment goals; features of the programming provided, etc.) were not included in the report, making it difficult to draw conclusions about the efficacy of these programs at addressing clients’ needs and reducing recidivism. Campbell Research Associates (2000) conducted an evaluation of the Community Council program for Aboriginal adult offenders who had been charged with an offence and diverted from the court system; although this study aimed to investigate variables associated with adherence to Community Council orders, as well as those associated with reduced recidivism, serious methodological limitations (lack of a control group; exclusion of information about Community Council orders – e.g., what programming was attended; absence of statistical evidence when discussing correlations, etc.) make it impossible to deduce meaning from

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5 Participation in the Community Council program involves attending a hearing before Community Council members (e.g., volunteers from the Aboriginal community), who determine the conditions that individuals must fulfill. Once an order is determined, individuals are assigned a Community Council caseworker to assist them in meeting these conditions (which may involve referrals to outside agencies, most often other Aboriginal-specific agencies, for programming).
The findings that were reported.

_The responsivity principle._ In addition to the client needs mentioned above (e.g., the criminogenic needs), housing, transient/nomadic lifestyles, and mental health issues (most participants made reference to diagnoses, while some also mentioned undiagnosed mental health problems) were discussed by participants as significant challenges that Aboriginal service users encounter and that Aboriginal programming attempts to address. Under the Risk-Need-Responsivity framework, these needs (e.g., housing, mental health) would be considered responsivity factors, as they are not strongly and directly predictive of offending; instead, addressing responsivity factors is seen as an important way to remove barriers to deal with criminogenic needs and may also increase service users’ motivation to participate in programming. Alongside housing and mental health (as well as age, gender, motivation, intelligence, personality, etc.), _culture_ is conceptualized as a responsivity factor (Bonta, 2002), although how programming and case management plans can respond to cultural responsivity factors has not been clearly articulated.

Interestingly – and in line with the specific responsivity principle – cultural components of Aboriginal-specific programming appear to be conceptualized as mechanisms that enhance treatment effectiveness and engage Aboriginal service users, rather than as treatment goals in and of themselves (at least as described by service providers and service users in this study). For example, in this study, service providers described that for an Aboriginal service user with anger problems, programming might include attending an anger management group (need principle) where each session begins with a smudge and includes discussions about balance through referencing the medicine wheel (specific responsivity principle). As one justice system participant nicely
summarized, “it’s the same issues – these are human responses to stress or whatever – so they may have the same manifestations of the problem, but the solutions might be different or the approaches might be different.”

Creating case management plans. Like programming that follows the Risk-Need-Responsivity framework, the focus of Aboriginal-specific, community-based justice programming is on healing and addressing the root causes thought to be underlying the offence (Department of Justice Canada, 2011). However, a key difference is that, while the Risk-Need-Responsivity approach is very standardized (e.g., actuarial risk-need assessments are used to assess risk and prioritize treatment goals), it appears that programing delivered through an Aboriginal lens (as reported by participants in this study) makes use of a more holistic, and informal, approach; it is not clear how certain treatment needs get selected over others, beyond coming to agreements with service users about their main priorities. It is important to consider this difference, given evidence indicating that it is imperative for rehabilitative programming to address only those needs that are relevant for the individual offender (Luong & Wormith, 2011; Vieira, Skilling, and Peterson-Badali, 2009). We know that accurate needs assessments are crucial; however, whether the use of current actuarial risk-need assessment measures, which are primarily normed on male, Caucasian samples, are beneficial for Aboriginal service users remains unclear. Although preliminary evidence indicates that risk-need scores are significantly predictive of recidivism among Aboriginal youth (Jung & Rawana, 1999; Luong & Wormith, 2011; Olver, Stockdale, & Wong, 2012; Olver, Stockdale, & Wormith, 2009; Schwalbe, 2009) and adult populations (Andrews et al., 2001; Bonta, 1989; Bonta et al., 1997; Gutierrez et al., 2013; Rugge, 2006; Wilson & Gutierrez, 2014), these risk-need instruments are less
predictive of offending for Aboriginal offenders than for non-Aboriginal offenders (Luong & Wormith, 2011; Wilson & Gutierrez, 2014) and Aboriginal agencies are apprehensive about their use, as these measures are perceived to reflect an exaggerated level of risk among Aboriginal individuals (J. Rudin, personal communication, July 24, 2013).

Moreover, many researchers have raised important concerns about how actuarial risk assessments indirectly discriminate against racial minorities, rather than producing the neutral effects that are intended (Durrance & Williams, 2003; Maurutto & Hannah-Moffat, 2007; Pridemore, 2004). Indeed, research shows that Aboriginal youth score higher on risk-need assessments than non-Aboriginal youth – including higher overall scores (Jung & Rawana, 1999; Luong & Wormith, 2011; Olver, Stockdale, & Wong, 2012), as well as higher scores on specific risk/need factors. Jung & Rawana (1999) found that Aboriginal youth scored higher than non-Aboriginal youth on three of the eight criminogenic need areas (negative peer relations, substance use, and lack of involvement in proactive recreational activities), while Olver, Stockdale and Wong (2012) demonstrated higher scores for Aboriginal youth (as compared to non-Aboriginal youth) on most criminogenic needs areas (with the exception of family, personality/behaviour, and attitude/orientation).

Even if these risk-need scores represent legitimately higher needs among Aboriginal youth in these areas, some argue that considering these scores without adequate contextual information (e.g., alongside an understanding of how colonization, discrimination, and social marginalization has uniquely affected Aboriginal people in Canada and contributed to offending behaviour) leads to discriminatory practices (Hannah-Moffat, 2013; Hannah-Moffat & Maurutto, 2010; LaPrairie, 1995; Martel, Brassard, & Jaccoud, 2011).

Future research should explore the decision-making process employed by
Aboriginal agencies with regard to establishing service users’ specific areas of need and the extent to which identified needs are addressed by programming. Even when formal assessment methods are employed in the probation context, research has shown that crucial client needs are often not appropriately addressed (Flores, Travis, & Latessa, 2004).

Evidence-based approaches to both needs-assessments and rehabilitation programming for Aboriginal justice-involved youth are critical (Latessa, Cullen, & Gendreau, 2002); therefore, research that investigates risk, rehabilitation, and recidivism among Aboriginal justice-involved youth and young adults is urgently needed. Such research should draw on established ‘best practices,’ but it is essential that Indigenous perspectives are incorporated into this body of work. Moving forward it will be important to gather a better understanding of how evidence-based practices are (or can be) incorporated into programming provided through an Aboriginal lens. Most importantly, mixed method approaches to evaluating the efficacy of Aboriginal-specific, community-based programming in reducing recidivism among service users are urgently needed.

**Approaches to programming: A client-centered focus.** Another very common theme that emerged from the interviews was the significance of client-centered approaches to working with service users. Although participants did not explicitly tie client-centered approaches to service users’ participation in, or successful completion of, programming, involving service users in treatment planning was seen as essential in terms of establishing appropriate rehabilitation goals and addressing the cultural diversity of Aboriginal service users (e.g., the presence of individuals from many different Nations). Considering research that demonstrates significant associations between involvement in goal setting and treatment adherence (Skeem, Louden, Manchak, Vidal, & Haddad, 2009; Schroder,
Sellman, Frampton, & Deering, 2009), the use of client-centered approaches with Aboriginal service users in the context of community justice programming is likely a beneficial style that should be encouraged.

**Barriers Encountered by Justice Personnel in the Context of Referrals to, and Provision of, Aboriginal-Specific, Community-Based Programming**

Consistent with existing literature (Rudin, 2008), in discussing access to Aboriginal-specific, community-based justice programming, participants made note of several barriers. In terms of the referral process, barriers included communication breakdown, lack of knowledge about Aboriginal culture and history in Canada, lack of awareness about available Aboriginal-specific programming, and inconsistency in the provision of many Aboriginal-specific, community-based programs. In terms of program delivery, barriers included inconsistent staffing, discomfort working with high-risk service users, and lack of programming in certain areas.

**Communication, collaboration, information-gathering, and information-sharing.** Poor communication between mainstream (non-Aboriginal) justice personnel and the Aboriginal community (including Aboriginal justice personnel and Aboriginal service users) was seen as a significant barrier to referrals to Aboriginal-specific, community-based justice programming. Although it is unclear why these communication difficulties exist, some participants suggested that problems stems from mistrust. Given the history of colonialism and discriminatory government policies (e.g., residential schools) in Canada, it would not be surprising if Aboriginal service users and justice personnel are wary of the intentions of mainstream justice personnel (such as judges or probation officers); on their
end, mainstream justice partners may lack trust in the efficacy of Aboriginal-specific programming due to lack of familiarity with, or knowledge of, these programs.

Positive relationships with mainstream justice partners are essential to ensuring access to Aboriginal-specific programs, as it is police, crown attorneys, judges, and probation officers who refer clients to these programs (Department of Justice Canada, 2011); it will be important, moving forward, that efforts are made to improve trust, communication, and collaboration between Aboriginal-specific and mainstream justice personnel. Key informants from the case study review of 13 Aboriginal-specific community justice programs in Ontario suggested that buy-in from mainstream personnel occurred as programming became more established and demonstrated effectiveness in their approach, and through program outreach to mainstream justice partners (Department of Justice Canada, 2011). Justice system participants in the current study similarly suggested the need for improved information-sharing about available Aboriginal-specific justice programming in Toronto, as well as the need for mainstream justice personnel to receive education about Aboriginal culture and history as it relates to both offending and rehabilitation.

Finally, as Rudin (2008) intimated, justice system participants revealed that, in the community-sentencing context, it is challenging to obtain adequate information from Aboriginal youth about the systemic or background factors that have affected them, in order to inform sentencing; it is not clear “how the necessary information will come before the court” (Rudin, 2008, p. 696). The issue is not so much in discovering whether a youth self-identifies as Aboriginal or not (duty counsel inquires about this formally); rather the difficulty lies in the process of uncovering the impact that certain historical and systemic
factors (e.g., colonialist government policies, such as residential schools and the Sixties Scoop) have had on youth, generally, and on offending behaviour, more specifically. Present-sentence reports are intended to discuss information specific to Aboriginal offenders; however, judges in this study indicated that these reports are still heavily weighted to the non-Aboriginal/mainstream side of the equation, with little consideration of Aboriginal perspectives. Additionally, Gladue reports – which are written by Gladue caseworkers at the request of the judge, defence, or Crown and “contextualize the offender’s personal and family circumstances within the history and treatment of Aboriginal people in Canada” (Hannah-Moffat & Maurutto, 2010, p. 276), as well as include concrete plans for alternatives to incarceration (Rudin, 2008) – are perceived to be effective, but uncommon; Campbell Research Associates (2006) found that: Crown attorneys often changed their sentencing position after reading a Gladue report; judges felt that Gladue reports provide a sound basis for a sentence; and defence counsel, Crown counsel, and judges all agreed that Gladue reports enable the courts to better meet the requirements of the Youth Criminal Justice Act with regard to the sentencing of Aboriginal offenders. Nevertheless, Gladue reports are rarely used for youth and only for more serious offences (when there is a high chance of incarceration) (Rudin, 2008); furthermore, there is a lack of empirical evidence to demonstrate that Gladue reports are effective at influencing sentencing decision or at guiding appropriate treatment goals. It is imperative that a better process of collecting unique systemic and background information about Aboriginal individuals who appear in court is established, alongside the development of collaborative relationships that engender trust (and improve communication) between mainstream justice partners and the Aboriginal
community, including Aboriginal service users. The courts will need to rely on Aboriginal agencies to help guide this process.

**Programming availability.** Another concern highlighted in this study was inconsistency in programming availability. Participants stated that many Aboriginal-specific, community-based programs are offered sporadically, making referrals difficult. Of particular concern to the justice system personnel interviewed in this study was the fact that service users lose motivation to attend programming if they are not successfully matched with services soon after expressing interest. Kuehn and Corrado (2011) also reported that the availability of Aboriginal community justice programs in Canada was problematic; youth probation officers in this study reported that Aboriginal-specific programs were among those that were the least likely to be available in their community (alongside female-only programs) and that availability only appeared to decrease from 2004 to 2007. Importantly, research suggests that *wait time* between initial contact and intake appointments is a significant predictor of program attendance (Sherman, Barnum, Nyberg, & Buhman-Wiggs, 2008). Therefore, it appears that investigating ways of ensuring regular, stable program offerings would benefit Aboriginal service users. In line with findings from other studies (Department of Justice Canada, 2011; Sookrage, Hutchinson, Evan, & Murphy, 2010), challenges with staffing at Aboriginal agencies were also highlighted by participants, particularly service provider burnout, turnover, and shortages. These challenges make it difficult for Aboriginal agencies to offer programming consistently, but also impede relationship building with service users, which is an important facilitator to program attendance, as discussed later.
**High-risk service users.** A few participants also mentioned that, in general, Aboriginal agencies are uncomfortable working with high-risk service users. Justice personnel in this study defined high-risk service users as clients with concurrent mental health concerns and repeat offenders. It is unclear whether it is a priority within the Aboriginal community to increase their capacity to work with such individuals. In general, accessing appropriate programming for high-risk offenders in community settings appears to be problematic (Hannah-Moffat & Maurutto, 2003; Haqanee, Peterson-Badali, & Skilling, in press). Notably, however, the Risk-Need-Responsivity framework articulates the importance of addressing the needs of high-risk offenders most crucially, citing evidence that it is the higher risk offenders who benefit most when treatment is of sufficient intensity (Andrews & Bonta, 2010b; Lipsey, 1999).

**Program development.** Finally, participants felt that there were areas in need of program development, including: (a) a better system of assessing the mental health of Aboriginal service users and providing diagnoses and treatment plans, as necessary; (b) Aboriginal-specific group programs for Aboriginal youth that address conflict resolution and peer relationships; and (c) justice programming that provides support for Two-Spirit individuals. Interestingly, Parent (2011) also reported that youth in her study communicated a need for Aboriginal organizations to provide “more education, awareness, and support related to two-spirited youth” and a recent project in Toronto highlighted several areas of need for Indigenous Two-Spirit, LGTB*QIA youth, particularly around homelessness (TASSC, 2013). As suggested by others (Department of Justice Canada, 2011; Sookrage, Hutchinson, Evan, & Murphy, 2010), improved funding policies are needed to help ensure that Aboriginal agencies are able to retain qualified staff, provide consistent programming,
and develop services where they are lacking. In addition to improving the ability of Aboriginal agencies to provide necessary programming for service users, developing strategies to help Aboriginal and mainstream justice partners improve and maintain collaborative relationships will greatly benefit service users.

**Barriers and Facilitators to Participation in Aboriginal-Specific, Community-Based Justice Programming Encountered by Service Users**

According to service users and justice system personnel, participation in Aboriginal-specific, community-based justice programming is influenced by service users’ connection to culture, the program environment, relationships with service providers, family support, and maturity/motivation.

**Culture and identity.** Respondents relayed that having a positive connection to one’s culture facilitates service users’ engagement in Aboriginal-specific justice programming, while feelings of shame around culture is a barrier to participation in Aboriginal services. This makes sense given that connection to culture has been posited as a resilience factor (Chandler & Lalonde, 1996) within Aboriginal communities. Within the Risk-Need-Responsivity literature, there is also recognition that culture should be considered during rehabilitation and that providing culturally relevant and sensitive approaches to evidence-based programming improves outcomes for service users (Andrews, Bonta, & Hoge, 1990; Bonta, 2002; Bonta, 1995), although quantitative investigations are lacking.

Importantly, Aboriginal-specific justice programming was described by participants as a means through which to help service users establish positive connections with the urban Aboriginal community, gain knowledge about Aboriginal culture and traditions, and
develop a sense of self-worth as an Aboriginal person (Department of Justice Canada, 2011). In this study, justice system participants expressed the perception that many Aboriginal young people are disconnected from their Aboriginal culture or, more commonly, feel caught between two cultures – which was a sentiment echoed by the service users in this study, as well as Aboriginal youth across Ontario (Provincial Advocate for Children and Youth, 2014). Interestingly, however, it was articulated that, other than rare occurrences of Aboriginal youth refusing to take part in Aboriginal-specific justice programming, the majority of service users are open to it, including those who are not strongly connected in the Aboriginal community. These findings indicate that there is interest among Aboriginal service users in Aboriginal-specific, community-based programming. Participants speculated that improving service users’ connection to their culture is associated with improved programming efficacy (e.g., more successful rehabilitation); research is required to help elucidate this relationship.

**Environment and relationships.** Participants described the environment offered by Aboriginal-specific, community-based organizations as *safe* and *comfortable*, and this was posited as a facilitator to attendance. Similarly, Aboriginal youth (Parent, 2011) and service providers (Sookrage, Hutchinson, Evan, & Murphy, 2010) in other studies have linked the safe, welcoming, positive environment found within Aboriginal community agencies (as compared to mainstream agencies) with increased interest among Aboriginal service users in attending programming. In addition to environmental factors, participants highlighted the importance of positive *relationships* between service users and frontline service providers in facilitating service users’ participation in programming, as was similarly suggested by Aboriginal agency representatives who were interviewed during a
case study review of community justice programming in Ontario (Department of Justice Canada, 2011). Indeed, research suggests that offenders are more likely to comply with rules when they have developed positive relationships with those implementing the rules (such as judges, probation officers, service providers) (Gottfredson, Kearley, Najaka, & Rocha, 2007; Skeem, Eno Louden, Polaschek, & Camp, 2007; Skeem, Louden, Manchak, Vidal, & Haddad, 2009); these positive alliances have also been associated with youth engagement, participation, and retention in programming (Cruz & Pincus, 2002; Connors, Carroll, DiClemente, Longabaugh, & Donovan, 1997; Frank & Gunderson, 1990; Karver, Handelsman, Fields, and Bickman, 2006; Schroder, Sellman, Frampton, and Deering, 2009; Shirk & Karver, 2003).

Although justice system personnel indicated that family involvement during judicial processes and community treatment is rare, as has been demonstrated in other studies (Peterson-Badali & Broeking, 2010; 2009), participants indicated that when support from family (including parents and partners) is available, it is a facilitator to service users’ participation in programming. Other studies have also demonstrated that youth outcomes are more positive when parents are actively engaged in the treatment process (Bertrand, Richer, Brunelle, Beaudoin, Lemieux, & Ménard, 2013; Broome, Joe, & Simpson, 2001; Plant & Panzarella, 2009, Yatchmenoff, 2005).

**Personal characteristics.** Additionally, this study suggests that service users who are mature, independent, and motivated/”ready” for treatment are more successful at attending and participating in programming. Other researchers have similarly found that treatment readiness and internal motivation are related to treatment retention (Fickenscher, Novins, & Beals, 2006; Olver, Stockdale, & Wormith, 2011; Schroder, Sellman, Frampton,
While some service users may begin programming with high motivation levels, this is not usually the case, especially for court-mandated programming (Coviello et al., 2013), therefore the issue is how can service providers and case managers help their clients develop motivation and readiness for change?

The use of motivational interviewing, first described by Miller (1983) and further expanded by Miller & Rollnick (1991), during case management and service provision might be beneficial for Aboriginal justice-involved service users. Some researchers have advocated expanding probation officers’ roles beyond supervision and referrals to that of a “change agent” (Bourgon, Gutierrez, & Ashton, 2011), which requires a more therapeutic approach; indeed, studies have shown that motivational interviewing in probation and therapy contexts can improve service users’ outcomes (Clark, Walters, Gingerich, & Meltzer, 2006; Czuchry, Sia, & Dansereau, 2006; Daley & Zuckoff, 1998; Harper & Hardy, 2000). However, there is also a body of research that demonstrates that despite lower motivation, service users who are mandated to treatment are just as likely, or in some cases more likely, to complete treatment programming compared to those who enter voluntarily – suggesting that motivation may not, in fact, be an important factor to consider among justice-involved service users in terms of programming engagement and retention (Brecht, Anglin, & Wang, 1993; Coviello et al., 2013; Farabee, Prendergast, & Anglin, 1998; Hiller, Knight, Broome, & Simpson, 1998; Kelly, Finney, & Moos, 2005; Martin et al., 2003).

**Study Limitations, Challenges, and Future Directions**

This study used a qualitative design to explore questions surrounding the experiences of justice personnel and the needs of Aboriginal justice-involved service users in a community context, with the purpose of uncovering major themes that can direct future
research in this area, rather than presenting generalizable findings. In line with qualitative, exploratory research, I made use of a small convenience sample. Participants were drawn from one youth court, one multi-service Aboriginal legal agency, and three probation offices – all of which are located within the city of Toronto. Given that the city of Toronto is quite unique, in that it has many established Aboriginal agencies that provide justice services, as well as the newly established Aboriginal Youth Court, it will be very important to explore the experiences and perceptions of justice system personnel and Aboriginal service users who reside in other areas of Ontario – and across Canada; comments made by service users in this study suggest that judicial experiences outside of the city may be much less favourable (e.g., lack of Aboriginal court workers). Additionally, although the sample included a range of justice system personnel who work within the criminal youth justice system, difficulties recruiting Aboriginal service users resulted in a sample of service users who were all female and older than I originally planned to include (24-31 years of age). Therefore, it is important to recognize that the themes presented in this paper suggest areas for further investigation, but by no means offer definitive conclusions, nor an exhaustive list of the observation and opinions held by justice personnel and service users about Aboriginal-specific, community-based justice programming. Younger service users, male service users, and participants from other areas of Ontario may encounter unique circumstance and challenges. Additionally, readers should keep in mind that the type of questions that I included in the in-depth interviews, as well as the depth and accuracy of responses provided by participants undoubtedly influenced the results that are presented in this paper.
In order to facilitate, and accelerate, the data analysis stage, I typed participants’ responses during the in-depth interviews, rather than audio-recording our discussions; although I saved time by eliminating the transcription process, this method made rapport building with interviewees more difficult and also impeded my ability to ask appropriate follow-up questions, as much of my attention during interviews was focused on accurately recording participants’ responses. It is possible that the depth of the interview data was compromised by the use of this method.

One of the major challenges that I encountered during this research included recruiting Aboriginal justice-involved service users. The time that it takes to gain entry into the community is considerable and needs to be taken into account (Kowalsky, Verhoeef, Thurston, & Rutherford, 1996; Meadows, Lengendyk, Thurston, & Eisener, 2003; Simpkins, 2010). I began to make connections with the multi-service Aboriginal legal agency one year before participant recruitment began and, encouraged by staff at this agency, I attended community events (e.g., drum circles) in order to increase my visibility among potential participants during the recruitment stage; this step was essential and I believe that a longer period of relationship building and community presence would have ultimately led to a more successful recruitment process. On a related note, the use of multiple techniques for recruiting service users (including posters, in-person presentations, and referrals from service providers) helped to clarify those methods that were most effective. The use of posters resulted in one telephone inquiry from an Aboriginal service user, who ultimately did not participate; likewise, referrals from service providers were also unsuccessful. In-person presentations at youth group meetings were the most effective technique employed, although this resulted in only three participants. Moreover, attempts to recruit Aboriginal
service users between 12-18 years of age proved quite difficult, as many of the youth in
tattendance at youth group were older than 18 (as the definition of youth employed at this
agency encompassed a much larger demographic). I believe that the addition of respondent-
driven sampling techniques (a variant of snowball sampling) would lead to a larger sample
size; this technique, where participants are offered incentives for recruiting peers, has been
used successfully in past research attempting to sample hard-to-reach populations
(Heckathorn, 1997; Kogan et al., 2011).

Although I received support and guidance from an Aboriginal scholar, as well as
from individuals associated with the Aboriginal Youth Court and with the participating
multi-service Aboriginal legal agency, I believe that future research in this area would
benefit from having an Aboriginal steering committee; this committee would include Elders
from the urban Aboriginal community, as well as other members of the Aboriginal
community who had an interest in community justice programming. Guidance from an
Aboriginal steering committee is an essential part of a Participatory Action Research design
and, ideally, committee members are involved in every stage of the research project, from
hypothesis formulation to the dissemination of results. Research conducted within
Aboriginal communities should address issues deemed relevant by the particular
community involved and an Aboriginal steering committee can help ensure that this occurs,
in addition to providing invaluable insights during the data collection and interpretation
stages.

Future research would also benefit from a longitudinal design, as well as a mixed
methods approach, which includes quantitative data (e.g., using referral information and
recidivism data as outcome measures), in addition to in-depth interviews; such
improvements would allow findings to progress beyond an understanding of justice personnel and service users’ perceptions about barriers and facilitators, to the discovery of causal relationships between social contextual- and individual-level factors (such as the quality of communication that occurs between justice personnel, staff’s level of knowledge about Aboriginal culture and history, or the motivation level of service users) and outcome measures (such as increased referrals to Aboriginal-specific justice programming, engagement in Aboriginal-specific programming, or reduced recidivism among service users attending Aboriginal-specific justice programming).

Conclusion

Although limitations exist, this exploratory study is one of the first to qualitatively examine the perceptions of justice personnel and Aboriginal service users about judicial procedures related to the provision of Aboriginal-specific, community-based justice programming and, as such, has illuminated some important issues that should be considered by future researchers conducting work in this field, frontline workers who are engaged with Aboriginal justice-involved youth and young adults, as well as those involved in youth justice policy decisions. Although the sample size was small, the use of multiple informant groups is a significant strength and lends support to the validity of the themes presented here (Golafshani, 2003).

The results from this qualitative, exploratory study suggest that, when considering how to best meet the needs of Aboriginal justice-involved service users, access to Aboriginal-specific, community-based justice programming is essential. The Youth Criminal Justice Act (2003) clearly indicates that judges are required to consider, whenever possible, culturally appropriate alternatives to incarceration for Aboriginal youth who come
before them; indeed, justice system participants in this study agreed that this protocol should be followed and that services provided by Aboriginal agencies are more relevant than mainstream justice programs for Aboriginal service users. However, much more work is required – both in research and in practice – to ameliorate the experiences and outcomes of Aboriginal justice-involved youth. We still know very little about “what works” in the context of Aboriginal-specific programming due to a dearth of research in this area.

Despite alarming rates of Aboriginal overrepresented in the youth justice system, discussions about race remain largely neglected by mainstream legal/correctional practices. Research appears focused on confirming the existence of culture-neutral approaches to risk assessment and rehabilitation, with limited investigation into how the unique life experiences of Aboriginal offenders are implicated in offending and healing.

Reconciling Indigenous and non-Indigenous (e.g., actuarial) approaches to healing and rehabilitation requires cross-cultural and cross-discipline discussions and collaboration. Most critically, Indigenous perspectives must be at the forefront of developing an understanding of “what works” for Aboriginal justice-involved individuals. Initiatives that recognize and embrace the knowledge and priorities of the Aboriginal community are those that are most likely to succeed.
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Table 1. Participant Groupings

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<thead>
<tr>
<th>Affiliation</th>
<th>Participants</th>
<th>Number (%)</th>
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<tr>
<td>Justice System Participants</td>
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<td></td>
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<tr>
<td>Aboriginal Youth Court</td>
<td>Youth Court Judge</td>
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<tr>
<td>Aboriginal Youth Court</td>
<td>Crown Attorney</td>
<td>1 (6.25)</td>
</tr>
<tr>
<td>Multi-Service Aboriginal Agency</td>
<td>Youth Court Worker</td>
<td>2 (12.5)</td>
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<tr>
<td>Multi-Service Aboriginal Agency</td>
<td>Youth Case Worker</td>
<td>3 (18.75)</td>
</tr>
<tr>
<td>Probation Offices (3)</td>
<td>Youth Probation Officer</td>
<td>5 (31.25)</td>
</tr>
<tr>
<td>Service Users</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Multi-Service Aboriginal Agency</td>
<td>Service User</td>
<td>3 (18.75)</td>
</tr>
</tbody>
</table>

N = 16 (100)
Appendix A

Consent Forms

Information Letter for Adolescents 16 years or older (on U of T Letterhead)

We are interested in understanding the experiences of Aboriginal youth in the justice system. To do this, we are conducting a study to find out about parents’ and young people’s feelings around cultural identity, how parents and young people think about what happens in court, how they perceive their interactions with judges, lawyers, and probation officers, and their experiences with probation and other court-related services. I am a M.A. student at the Ontario Institute for Studies in Education (OISE), University of Toronto, working under the supervision of Dr. Michele Peterson-Badali, a professor in the department of Applied Psychology and Human Development. We would like to invite you to participate in this study.

The study involves a short individual interview in which I would ask you questions that focus on four different themes: feelings of cultural identity, experiences with youth justice system personnel such as lawyers and probation officers, experiences and views about the services in which you have participated, and factors that have made it easier or harder for you to attend/complete these services. I will also ask you to provide some background information (e.g., age, languages spoken, education, and employment).

I will contact interested participants to arrange a convenient place and time for the interviews. Total participation time will be 30-60 minutes. While there are no direct risks or benefits to participating, most people find it to be an interesting experience. As a thank you, each participant will receive a $10 gift certificate to a local restaurant.

Please note that this study is not affiliated with the Ontario youth justice system or with any other associated community agencies. This is an independent research project being conducted by members of the Youth Justice Lab at the University of Toronto. Your participation is completely voluntary. If you choose not to participate, this will not affect your involvement with the court, probation, or other services. You may stop participating at any time, and can choose not to answer questions that you do not want to.

Once you have agreed to participate in the study, we will record your name and contact information during the informed consent process; however, only the research team will have access to your personally identifiable information and this information will not be linked with your interview responses, which will be kept confidential, except as required by law (this includes any indication that an individual will cause harm to him/herself or to others; also concerns about child abuse must be reported to a child welfare agency). Additionally, if you tell us about new crimes, we cannot keep this secret. The interview materials will be kept in a locked filing cabinet at the university until the study is complete then stored in the university archives for 5 years, after which they will be securely destroyed.

The results of the study will be used for student research, scholarly publications, and presentations.

If you have questions please feel free to contact us by phone or email. If you have questions regarding your rights as research participants, please feel free to contact the Office of Research Ethics at (416) 946-3273 or ethics.review@utoronto.ca. To schedule a time/place for an interview, please contact Sonia Finseth at: sonia.finseth@mail.utoronto.ca. If you would like to be included in the study, please fill in the form that is attached to this letter and bring it to the interview, once arranged. Please keep a copy of this form and this letter for your records. Thank you very much for taking the time to consider participating in this study!

Sincerely,

Sonia Finseth, BA
M.A. Student
sonia.finseth@mail.utoronto.ca

Michele Peterson Badali, Ph.D., C. Psych.
Professor
(416) 978-0937 m.petersonbadali@utoronto.ca
Consent Form for Adolescents 16 years or older

Study name: Meeting the Needs of Aboriginal Youth in the Ontario Justice System: A Qualitative Investigation

Investigators: Sonia Finseth, BA  Michele Peterson-Badali, Ph.D
M.A. Student  Professor
Department of Applied Psychology & Human Development
Ontario Institute for Studies in Education, University of Toronto
sonia.finseth@mail.utoronto.ca  m.petersonbadali@utoronto.ca

• I understand that the purpose of this study is to explore Aboriginal youths’ and parents’ feelings of cultural identity, their experiences with key players in the youth justice system (such as lawyers and probation officers), their experiences and views about the court-related services that youths have participated in, and the factors that have made it easier or harder for youths to attend/complete these service programs.

• I understand that the study will take approximately 30-60 minutes and involves responding to an individual semi-structured interview.

• I understand that I may withdraw from the study at any time; that I may choose not to answer any questions that I do not wish; that there are no direct risks or benefits from participating in this study; and that court personnel, probation officers, or service providers will not be informed about who chooses to participate.

• I understand that every attempt will be made to keep all information from the study confidential. Only the researchers will have access to study information, and it will be released to others only if required by law. Your answers are private and your name will not be used. Your identity will be a secret, but if you tell us about new crimes, or about abuse that you have experienced, or that someone else may be hurt, then we cannot keep this secret. We may have to call the police and/or the Children’s Aid Society.

• I understand that if I have any questions, I may contact the project investigators or the University of Toronto Research Ethics Office at the phone/emails provided in the information letter.

Please indicate below whether or not you agree to participate in the study. Keep one copy of the form and information letter for your records.

___ I consent to participate in the University of Toronto study on parents’ and young people’s experiences in the justice system

________________________    __________________________
Print your name    Signature

________________________    __________________________
Date    Date
Information Letter for Probation Officers (on U of T Letterhead)

Probation Officers are key figures in the effective case management of youth in the justice system, yet we know little about their views, especially with regard to their experiences with Aboriginal youth clients. I am a M.A. student at the Ontario Institute for Studies in Education (OISE), University of Toronto, working under the supervision of Dr. Michele Peterson-Badali, a professor in the department of Applied Psychology and Human Development. Together, we are conducting a study to examine the experiences and views of key players within the justice system about several aspects of their work with their Aboriginal youth justice clients. We would like to invite you to participate in the study.

If you agree, you will be asked to participate in a 45-60 minute individual semi-structured interview at a time and place convenient for you. Questions focus on four different themes: your perceived familiarity with Aboriginal culture, your decision-making process with respect to probation and other court-related services, your experiences and views about currently available probation and other court-related services for clients, and the facilitators and barriers that you encounter during case management. You will also be asked to provide some brief background information, such as how long you have been practicing in your profession, and working with Aboriginal youths. While there are no direct risks or benefits to participating in this study, most people find it an interesting experience.

Please note that this study is not affiliated with the Ontario youth justice system or with any other associated community agencies. This is an independent research project being conducted by members of the Youth Justice Lab at the University of Toronto. Your participation is completely voluntary. You may stop participating at any time and can choose not to answer questions. Whether or not you choose to participate will have no bearing on your employment and we will not be advising supervisors regarding who chooses to participate.

Once you have agreed to participate in the study, we will record your name and contact information during the informed consent process; however, only the research team will have access to your personally identifiable information and this information will not be linked with your interview responses, which will be kept confidential, except as required by law (this includes any indication that an individual will cause harm to him/herself or to others; also concerns about child abuse must be reported to a child welfare agency). The interview materials will be kept in a locked filing cabinet at the university until the study is complete then stored in the university archives for 5 years, after which they will be securely destroyed.

The results of the study will be used for student research, scholarly publications, and presentations. If you have questions please feel free to contact us by phone or email. If you have questions regarding your rights as research participants, please feel free to contact the Office of Research Ethics at (416) 946-3273 or ethics.review@utoronto.ca. To schedule a time/place for an interview, please contact Sonia Finseth at: sonia.finseth@mail.utoronto.ca. If you would like to be included in the study, please fill in the form that is attached to this letter and bring it to the interview, once arranged. Please keep a copy of this form and this letter for your records. Thank you very much for taking the time to consider participating in this study!

Sincerely,

Sonia Finseth, BA
M.A. Student
sonia.finseth@mail.utoronto.ca

Michele Peterson-Badali, Ph.D., C. Psych.
Professor
(416) 978-0937 m.petersonbadali@utoronto.ca
Consent Form for Probation Officers

**Study name:** Meeting the Needs of Aboriginal Youth in the Ontario Justice System: A Qualitative Investigation

**Investigators:**
- Sonia Finseth, BA (M.A. Student)
- Michele Peterson-Badali, Ph.D (Professor)
  Department of Applied Psychology & Human Development
  Ontario Institute for Studies in Education, University of Toronto
  sonia.finseth@mail.utoronto.ca  m.petersonbadali@utoronto

- I understand that the purpose of this study is to explore Probation Officers’ perceived familiarity with Aboriginal culture, their decision-making process with regard to diversion/treatment programming, their experiences and views about currently available probation and court-related services for clients, and the facilitators and barriers they encounter during case management.

- I understand that the study will take approximately 45-60 minutes and involves responding to an individual semi-structured interview.

- I understand that I may withdraw from the study at any time; that I may choose not to answer any questions that I do not wish; that there are no direct risks or benefits from participating in this study; and that supervisors or other administrative personnel will not be informed about who chooses to participate.

- I understand that every attempt will be made to keep all information from the study confidential and that personally identifiable information will not be linked with interview responses. Only the researchers will have access to study information, and it will be released to others only if required by law (this includes any indication that an individual will cause harm to him/herself or to others; also concerns about child abuse must be reported to a child welfare agency).

- I understand that if I have any questions, I may contact the project investigators or the University of Toronto Research Ethics Office at the phone/emails provided in the information letter.

---

Please indicate below whether or not you agree to participate in the study. Keep one copy of the form and information letter for your records.

___ I consent to participate in the University of Toronto study on Probation Officers’ experiences in the justice system

________________________________________    _________________________________

Print your name

________________________________________    _________________________________

Signature                                          Date
Information Letter for Service Providers (on U of T Letterhead)

Service providers are key figures in the effective rehabilitation of youth in the justice system, yet we know little about their experiences providing probation and court-related services, especially for Aboriginal youths in the justice system. I am a M.A. student at the Ontario Institute for Studies in Education (OISE), University of Toronto, working under the supervision of Dr. Michele Peterson-Badali, a professor in the department of Applied Psychology and Human Development. We are conducting a study to examine the experiences and views of key players within the justice system about several aspects of their work with their Aboriginal youth justice clients. We would like to invite you to participate in the study.

If you agree, you will be asked to participate in a 45-60 minute individual semi-structured interview at a time and place convenient for you. Questions focus on four different themes: your perceived familiarity with Aboriginal culture, your decision-making process with respect to diversion/treatment programming, your experiences and views about currently available diversion/treatment services for clients, and the facilitators and barriers that you encounter when working with your Aboriginal youth clients. You will also be asked to provide some brief background information, such as how long you have been practicing in your profession, and working with Aboriginal youths. While there are no direct risks or benefits to participating in this study, most people find it an interesting experience.

Please note that this study is not affiliated with the Ontario youth justice system or with any other associated community agencies. This is an independent research project being conducted by members of the Youth Justice Lab at the University of Toronto. Your participation is completely voluntary. You may stop participating at any time and can choose not to answer questions. Whether or not you choose to participate will have no bearing on your employment and we will not be advising supervisors regarding who chooses to participate.

Once you have agreed to participate in the study, we will record your name and contact information during the informed consent process; however, only the research team will have access to your personally identifiable information and this information will not be linked with your interview responses, which will be kept confidential, except as required by law (this includes any indication that an individual will cause harm to him/herself or to others; also concerns about child abuse must be reported to a child welfare agency). The interview materials will be kept in a locked filing cabinet at the university until the study is complete then stored in the university archives for 5 years, after which they will be securely destroyed.

The results of the study will be used for student research, scholarly publications, and presentations.

If you have questions please feel free to contact us by phone or email. If you have questions regarding your rights as research participants, please feel free to contact the Office of Research Ethics at (416) 946-3273 or ethics.review@utoronto.ca. To schedule a time/place for an interview, please contact Sonia Finseth at: sonia.finseth@mail.utoronto.ca. If you would like to be included in the study, please fill in the form that is attached to this letter and bring it to the interview, once arranged. Please keep a copy of this form and this letter for your records. Thank you very much for taking the time to consider participating in this study!

Sincerely,

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Michele Peterson Badali, Ph.D., C. Psych.
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Consent Form for Service Providers

Study name: Meeting the Needs of Aboriginal Youth in the Ontario Justice System: A Qualitative Investigation

Investigators: Sonia Finseth, BA Michele Peterson-Badali, Ph.D
M.A. Student Professor
Department of Applied Psychology & Human Development
Ontario Institute for Studies in Education, University of Toronto
sonia.finseth@mail.utoronto.ca m.petersonbadali@utoronto

• I understand that the purpose of this study is to explore Service Providers’ perceived familiarity with Aboriginal culture, their decision-making process with regard to diversion/treatment programming, their experiences and views about currently available probation and court-related services for clients, and the facilitators and barriers they encounter during service provision.

• I understand that the study will take approximately 45-60 minutes and involves responding to an individual semi-structured interview.

• I understand that I may withdraw from the study at any time; that I may choose not to answer any questions that I do not wish; that there are no direct risks or benefits from participating in this study; and that supervisors or other administrative personnel will not be informed about who chooses to participate.

• I understand that every attempt will be made to keep all information from the study confidential and that personally identifiable information will not be linked with interview responses. Only the researchers will have access to study information, and it will be released to others only if required by law (this includes any indication that an individual will cause harm to him/herself or to others; also concerns about child abuse must be reported to a child welfare agency).

• I understand that if I have any questions, I may contact the project investigators or the University of Toronto Research Ethics Office at the phone/emails provided in the information letter.

Please indicate below whether you agree to participate in the study. Keep one copy of the form and information letter for your records.

[ ] I consent to participate in the University of Toronto study on Service Providers’ experiences working with Aboriginal youth clients and their views on currently available probation and court-related services

_________________________________           _______________________________           
Name (please print)                     Signature

_____________________________________________           
Date
Information Letter for Youth Court Judges and Assistant Crown Attorney
(on U of T Letterhead)

We are interested in understanding the experiences of Aboriginal youth in the justice system as well as the experiences of the justice system personnel who work with these youths. To do this, we are conducting a study to examine the experiences and views of key players within the justice system about several aspects of their work with Aboriginal youth. I am a M.A. student at the Ontario Institute for Studies in Education (OISE), University of Toronto, working under the supervision of Dr. Michele Peterson-Badali, a professor in the department of Applied Psychology and Human Development. Youth court judges and assistant crown attorneys are crucial to the effective rehabilitation of youth in the justice system; however, very little is known about judges’ experiences in practice. We would like to invite you to participate in the study.

If you agree, you will be asked to participate in a 45-60 minute individual semi-structured interview at a time and place convenient for you. Questions focus on three different themes: your perceived familiarity with Aboriginal culture, your decision-making process with respect to sentencing and diversion, and your views on the currently available diversion/treatment services for clients. You will also be asked to provide some brief background information, such as how long you have been practicing in your profession, and working with Aboriginal youths.

Please note that this study is not affiliated with the Ontario youth justice system or with any other associated community agencies. This is an independent research project being conducted by members of the Youth Justice Lab at the University of Toronto. Your participation is completely voluntary. You may stop participating at any time and can choose not to answer questions. While there are no direct risks or benefits to participating in this study, most people find it an interesting experience.

Once you have agreed to participate in the study, we will record your name and contact information during the informed consent process; however, only the research team will have access to your personally identifiable information and this information will not be linked with your interview responses, which will be kept confidential, except as required by law (this includes any indication that an individual will cause harm to him/herself or to others; also concerns about child abuse must be reported to a child welfare agency). The interview materials will be kept in a locked filing cabinet at the university until the study is complete then stored in the university archives for 5 years, after which they will be securely destroyed.

The results of the study will be used for student research, scholarly publications, and presentations.

If you have questions please feel free to contact us by phone or email. If you have questions regarding your rights as research participants, please feel free to contact the Office of Research Ethics at (416) 946-3273 or ethics.review@utoronto.ca. To schedule a time/place for an interview, please contact Sonia Finseth at sonia.finseth@mail.utoronto.ca. If you would like to be included in the study, please fill in the form that is attached to this letter and bring it to the interview, once arranged. Please keep a copy of this form and this letter for your records. Thank you very much for taking the time to consider participating in this study!

Sincerely,

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M.A. Student
sonia.finseth@mail.utoronto.ca

Michele Peterson Badali, Ph.D., C. Psych.
Professor
(416) 978-0937 m.petersonbadali@utoronto.ca
Consent Form for Youth Court Judges and Assistant Crown Attorney

**Study name:** Meeting the Needs of Aboriginal Youth in the Ontario Justice System: A Qualitative Investigation

**Investigators:** Sonia Finseth, BA  Michele Peterson-Badali, Ph.D
M.A. Student  Professor
Department of Applied Psychology & Human Development
Ontario Institute for Studies in Education, University of Toronto
sonia.finseth@mail.utoronto.ca  m.petersonbadali@utoronto.ca

- I understand that the purpose of this study is to explore youth court judges’ and assistant crown attorneys’ perceived familiarity with Aboriginal culture, their decision-making process with regard to sentencing/diversion, as well as their views on the currently available probation and court-related services for Aboriginal youths in the justice system.

- I understand that the study will take approximately 45-60 minutes and involves responding to an individual semi-structured interview.

- I understand that I may withdraw from the study at any time; that I may choose not to answer any questions that I do not wish; and that there are no direct risks or benefits from participating in this study.

- I understand that every attempt will be made to keep all information from the study confidential and that personally identifiable information will not be linked with interview responses. Only the researchers will have access to study information, and it will be released to others only if required by law (this includes any indication that an individual will cause harm to him/herself or to others; also concerns about child abuse must be reported to a child welfare agency).

- I understand that if I have any questions, I may contact the project investigators or the University of Toronto Research Ethics Office at the phone/emails provided in the information letter.

Please indicate below whether you agree to participate in the study. Keep one copy of the form and information letter for your records.

________ I consent to participate in the University of Toronto study on youth court judges’ and assistant crown attorneys’ experiences working with Aboriginal youth clients and their views on currently available probation and court-related services

_________________________________           _______________________________
Name (please print)  Signature

_____________________________________________
Date
We are interested in understanding the experiences of Aboriginal youth in the justice system as well as the
experiences of the justice system personnel who work with these youths. To do this, we are conducting a study to
examine the experiences and views of key players within the justice system about several aspects of their work with
Aboriginal youth. I am a M.A. student at the Ontario Institute for Studies in Education (OISE), University of
Toronto, working under the supervision of Dr. Michele Peterson-Badali, a professor in the department of Applied
Psychology and Human Development. Youth court workers are crucial to the effective rehabilitation of youth in the
justice system; however, very little is known about their experiences in practice. We would like to invite you to
participate in the study.

If you agree, you will be asked to participate in a 40-60 minute individual semi-structured interview at a time and
place convenient for you. Questions focus on four different themes: your perceived familiarity with Aboriginal
culture, your decision-making process with respect to programming, your experiences and views about currently
available diversion/treatment services for clients, and the facilitators and barriers that you encounter when working
with Aboriginal justice-involved youth. You will also be asked to provide some brief background information, such
as how long you have been practicing in your profession, and working with Aboriginal youth.

Participation in the research is voluntary. You may stop participating at any time and can choose not to answer
questions. While there are no direct risks or benefits to participating in this study, most people find it an interesting
experience.

Once you have agreed to participate in the study, we will not record your name, address, or other information that
could identify you. Only the research team will have access to study information, which will be kept confidential,
except as required by law (this includes any indication that an individual will cause harm to him/herself or to others;
also concerns about child abuse must be reported to a child welfare agency). The interview materials will be kept in
a locked filing cabinet at the university until the study is complete then stored in the university archives for 5 years,
after which they will be securely destroyed.

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your records. Thank you very much for taking the time to consider participating in this study!

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sonia.finseth@mail.utoronto.ca
Michele Peterson Badali, Ph.D., C. Psych.
Professor
(416) 978-0937 m.peteronbadali@utoronto.ca
Consent Form for Youth Court Workers

Study name: Meeting the Needs of Aboriginal Youth in the Ontario Justice System: A Qualitative Investigation

Investigators: Sonia Finseth, BA  Michele Peterson-Badali, Ph.D
M.A. Student  Professor
Department of Applied Psychology & Human Development
Ontario Institute for Studies in Education, University of Toronto
sonia.finseth@mail.utoronto.ca  m.petersonbadali@utoronto.ca

• I understand that the purpose of this study is to explore youth court workers’ perceived familiarity with Aboriginal culture, their decision-making processes with respect to programming, their experiences and views about currently available diversion/treatment services for clients, and the facilitators and barriers that are encountered when working with Aboriginal justice-involved youth.

• I understand that the study will take approximately 40-60 minutes and involves responding to an individual semi-structured interview.

• I understand that I may withdraw from the study at any time; that I may choose not to answer any questions that I do not wish; and that there are no direct risks or benefits from participating in this study.

• I understand that every attempt will be made to keep all information from the study confidential, and that no names or other identifying information about individuals will be gathered. Only the researchers will have access to study information, and it will be released to others only if required by law (this includes any indication that an individual will cause harm to him/herself or to others; also concerns about child abuse must be reported to a child welfare agency).

• I understand that if I have any questions, I may contact the project investigators or the University of Toronto Research Ethics Office at the phone/emails provided in the information letter.

Please indicate below whether you agree to participate in the study. Keep one copy of the form and information letter for your records.

________ I consent to participate in the University of Toronto study, which examines the experiences and views of key players within the justice system about several aspects of their work with Aboriginal youth

________________________________________
Name (please print)  Signature

________________________________________
Date
Appendix B

Materials

Background Information Questionnaire
(for justice system participants)

1. Please indicate your age range:
   - [ ] Under 30
   - [ ] 30-39
   - [ ] 40-49
   - [ ] 50-59
   - [ ] 60+

2. What is your gender?

3. How would you describe your ethnicity/ancestry?

4. What is your current occupation and job title?

5. How many years have you practiced your current occupation?

6. Have you worked with Aboriginal justice-involved youth in any other capacity (other than your current occupation)? If yes, please explain.

7. Please indicate your highest level of education:
   - [ ] Some high school
   - [ ] High school graduate (or equivalent)
   - [ ] Some university/college
   - [ ] University/college graduate
   - [ ] Post-graduate/professional degree
Example Interview Guide (for justice system participants)

A. Questions Addressing the Rehabilitative Decision-Making Process for Aboriginal Youth

1. To start, could you describe how you see your role as a probation officer?
2. As you know, this study is particularly interested in the experiences of Aboriginal youth who are on probation (or who have been diverted). In your time as a PO in Toronto, have you worked with many Aboriginal youth?
3. In your experience, have the Aboriginal youth you’ve worked with had any unique treatment needs, as compared to your non-Aboriginal youth clients?
4. Would your approach to case management differ in any way?

B. Questions Addressing Perceived Familiarity with Aboriginal Cultural

1. How would you describe your connection to, or relationship with, Aboriginal culture and history?
2. Tell me, in detail, the kinds of things you have done (through work or on your own) to learn about Aboriginal culture and history? (e.g., formal vs. informal; readings; professional development, etc.)
   a. What motivated you to learn about Aboriginal culture and history?
   b. How familiar do you feel that you are with Aboriginal culture and history?
3. Can you tell me about a time when any of your knowledge around Aboriginal culture and history had a positive impact on your work with a youth.
4. Can you tell me about a time, when working with an Aboriginal youth, where a cultural misunderstanding may have negatively impacted your interaction?
5. In your opinion, is there a need for more formal education about Aboriginal culture and history (or perhaps cultural considerations in general) within the justice system?
6. Tell me, in detail, the kind of information about an individual youth that you take into consideration when making a decision about the particular services that you will have the youth complete.
7. How do you gather this information?
8. Is there any additional or distinct information that you use to inform case management for Aboriginal youth?
9. Once you have identified a youth’s areas of need - how do you decide what to work on first?
10. Have any of the Aboriginal youth who you have worked with received a Gladue report?

C. Questions Addressing the Availability and Range of Probation Diversion programs and Treatment Programs in Ontario

1. Tell me about the Aboriginal specific (culturally sensitive) services that you know of in Toronto that you would refer youth to. I’m interested in things like the program name, the focus of the service, as well as intensity and duration.
   a. For each program mentioned:
      • What kind of service(s) do they provide?
• Is the service drop-in based or is it a set-length program?
• Did the youth receive credit for their participation in the program?

2. How do you learn about the Aboriginal specific services that are available in Toronto? (How are you informed of them?)
3. How often would you say that Aboriginal youth attend culturally sensitive versus mainstream programming through probation?
4. Under what circumstances would you refer an Aboriginal youth to mainstream programming, instead of Aboriginal specific programming?
5. Based on what you have observed, or what youth have reported to you, what aspects of culturally specific programming are beneficial for youth?
6. Do you believe that Aboriginal youth are being successfully linked to appropriate community programs?
7. Can you think of any services or programs that are currently lacking for Aboriginal youth in the justice system?
8. Tell me about the particular needs that currently available Aboriginal-specific programs are successfully addressing, for Aboriginal youth?
9. Is there sufficient awareness of Aboriginal-specific programming in Toronto?
10. What would help probation officers (and other individuals who work with justice-involved Aboriginal youth) increase their awareness of the culturally specific programming that is available in Toronto?

D. Questions Addressing the Facilitators and Barriers Encountered During Case Management

1. Thinking about the Aboriginal youth who you have worked with, what challenges have they encountered that made it difficult for them to attend or complete treatment programs?
   a. Are any of these challenges unique to Aboriginal youth?
2. Are there any personal characteristics or environmental factors that make it easier for Aboriginal youth to attend and complete programming?
   a. Are any of these characteristics unique to Aboriginal youth?
3. What challenges have you encountered when trying to match Aboriginal youth with Aboriginal specific services?
4. What makes it easier for you when trying to match Aboriginal youth with Aboriginal specific services?
   a. How do you attempt to motivate a youth who is uninterested in a program you want them to attend?
5. Is there anything else you would like to add?
Example Interview Guide (for service users)

A. Program Experiences

1. Right now, you’re going to youth group on Thursdays
   a. How long have you been doing that?
   b. When did you start coming?
   c. How often do you attend?
2. What are some reasons why you might not make it to group some weeks?
3. Does anyone keep track of how often you attend?
4. How did you get connected with the program here?
   a. Who referred you/set you up with this program?
   b. Were you given a choice in programs?
5. Is group different in any way from what you expected?
6. What do you think the goal of attending group is?
7. What do you like about group?
8. What do you NOT like about group?
9. Has attending group been helpful for you in any way?
10. Is there any way that you think the program could be improved?
11. Do you participate, or have you participated, in any other programs through this agency?
   a. What kind of program?
   b. What did it address?
   c. What was the structure?
      1) What did you like about this program?
      2) What did you NOT like about this program?
      3) Did attending that program help you in your life in any way?
12. Have you had to do anything else – like attend other programs through other organizations – as directed by the court?
   a. What kind of program?
   b. What did it target?
   c. What was the structure?
   d. Was it a mainstream or Aboriginal specific program?
      1) What did you like about this program?
      2) What did you NOT like about this program?
      3) Did attending that program help you in your life in any way?
13. From what I understand, programs at this agency are different from many mainstream services because they have an Aboriginal approach that is inclusive of traditional teachings. Tell me what you like about attending a program like that.
14. Tell me what you do NOT like about attending a program that has an Aboriginal approach that’s inclusive of traditional teachings.
15. Can you think of a time when you experienced discrimination or unfair treatment while attending court or while attending a program through the court?
16. Can you think of any particularly positive experiences or relationships that have occurred while attending court or while attending a program through the court?
B. Facilitators and Barriers

1. Thinking about all the different programs you’ve participated in… What makes it **harder** for you to attend programs?
   *You can talk about things about yourself or your life that make it harder, or things about the program that make it harder.*
2. What makes it **easier** for you to attend programs?
   *You can talk about things about yourself or your life that make it harder, or things about the program that make it harder.*
3. Are there any services for youth that do NOT currently exist, but that you think would be helpful for you or for other young people who are involved in the justice system?

C. Individuality, Culture, and Identity

1. I’d love for you to tell me a little bit about yourself. You can talk about things you like and things you don’t like; you can talk about what you look like, or the things you think about, or what you do with your time; you can talk about your sexuality, or gender; you can talk about your family, your friends, your neighbourhood, your childhood, or what you want to do in the future. Tell me anything you want about yourself.
2. Some people include *culture or community* as part of their identity – but culture and community are both very broad terms and they means something different to everyone. What does *culture and/or community* mean to you?
3. Thinking about the way that you just described what *culture or community* means to you… Has the way you relate to your culture/to your community changed in any way as you’ve grown up?
   a. Has attending group changed how you relate to your culture/community
4. Do you think that how you relate to your *culture* or to your *community* is something that should be considered by people in the justice system when they’re making decisions about sentencing or about what programs/services they’re going to ask you to complete?
5. Do you feel that the people you deal with in the justice system (the judge, your lawyer, the youth court worker, probation officer, etc.) understand your (Aboriginal) culture?
6. Do you feel that the people you deal with in the justice system (the judge, your lawyer, the youth court worker, probation officer, etc.) consider your (Aboriginal) culture when making decisions in the courtroom?

D. Youth Background Information Questionnaire

1. How old are you?
2. What is your gender? How do you identify… male, female, trans, genderqueer or do you feel a need to identify?
3. How would you describe your First Nations, Métis or Inuit identity/ancestry?
4. Where were you born?
5. Who do you live with?
6. Where do you live currently?
a. Have you always lived there?
   b. If not, where else have you lived?
7. What language(s) do you speak?
   a. What was your first language?
8. Are you in school, learning a trade, working, or volunteering right now?

*Is there anything else you want to tell me about?
Are You an Aboriginal Youth with Experience in the Youth Justice System?
We Want to Hear From You!

You must be between 12-18 years of age
(Or a parent/guardian of a 12-18 year old)

Interviews last 30-60 minutes
Participants receive a $10 gift card in thanks

Interested?
Please email Sonia at: sonia.finseth@mail.utoronto.ca
*Interviews take place at a time and place convenient for YOU*

We are students and faculty researchers at the University of Toronto.
We are interested in everything that has to do with young people’s experiences
in the justice system.

We want to know about:
+ Your relationships and interactions with judges, lawyers, and probation officers
+ Your experiences with court programs or treatment services
+ Your feelings around identity

We are also interested in talking with parents and guardians of Aboriginal youth in the justice system

Thank You!