Initial security classification in Canadian prisons: A qualitative content analysis examining actuarial risk assessment tools as reproducing a settler colonial logic of elimination

Sahr Malalla

Thesis submitted to the University of Ottawa in partial fulfillment of the requirements for the Master of Arts in Criminology

Department of Criminology

Faculty of Social Sciences

University of Ottawa

ABSTRACT

Actuarial risk assessment tools have been part of the initial security classification process in Canadian prisons since the 1990s. Developed initially on a white, homogenous male prison population (Hannah-Moffat, 2015b), actuarial instruments have been championed by researchers in the field of corrections and psychology as an "objective" instrument that can standardize the classification procedure (Andrews et al., 1990; Barnum & Gobeil, 2012). However, the universal application of such tools has been met with resistance, criticized for having not been validated on an Indigenous prison population and thus culturally inappropriate for use (Martel et al., 2011; Monture-Angus, 1999; Webster & Doob, 2004).

This thesis intends to examine how Correctional Service Canada (CSC) has legitimated the use of actuarial tools in its initial security classification and penitentiary placement procedure. Guided by the theoretical framework of governmentality (Foucault, 1991) and the logic of elimination (Wolfe, 1994; 2006), this study undertakes a qualitative content analysis of seven CSC research documents that evaluated the empirical validity and reliability of the Custody Rating Scale (CRS), a 12-item structured instrument that calculates a prisoner's recommended security classification level. I put forth the argument that, in the process of legitimating actuarial instruments by appealing to justifications grounded in an actuarial rationality, CSC simultaneously facilitates the ontological erasure of Indigenous people in prison that is consistent with a logic of elimination inherent in settler colonial societies.

***Keywords*:** Risk management, initial security classification, actuarial risk assessment tools, governmentality, logic of elimination

ACKNOWLEDGMENTS

I extend a tremendous thank you to my co-supervisors, Dr. Vicki Chartrand and Dr. Bastien Quirion. Without your collective expertise, guidance, and patience, this Master's thesis would not be what it is today.

Erin and Nicole, during times in graduate school when I yearned for "home", it was your friendship that grounded me. Thank you for everything.

To "The Tatoes"— you have been my rocks since day one of academia. Thank you for always creating a space of positivity, for the self-care reminders, and for celebrating every step of my thesis journey.

Patrick and Emily, I could not have imagined meeting more supportive, kind, and intelligent friends during the Master's program. Your friendship provided the motivation that was needed to reach the finish line. Our shared experience was a source of comfort, and I am grateful to have been witness to our collective success in graduate school. We did it.

Finally, my mom and brother, thank you for being my forever cheerleaders. Thank you especially for the unconditional love, unwavering support, and for always encouraging me to pursue my career aspirations.

ACRONYM LIST

CCRA – Corrections and Conditional Release Act

CCRR – Corrections and Conditional Release Regulations

CJS – Criminal Justice System

CRS – Custody Rating Scale

PCC – Psychology of Criminal Conduct

RNR – Risk-Need-Responsivity

SCC – Supreme Court of Canada

TABLE OF CONTENTS

INTRODUCTION

In June 2018, the Supreme Court of Canada (SCC) rendered a decision in *Ewert v. Canada* that found Correctional Service Canada (CSC) to have breached its obligation under s. 24(1) of the *Corrections and Conditional Release Act* (CCRA, 1992) to Jeffrey Ewert, an imprisoned, Métis individual serving two concurrent life sentences. This obligation under s. 24(1) of the CCRA (1992) requires that "[t]he Service shall take all reasonable steps to ensure that any information about an offender that it uses is as accurate, up to date and complete as possible". This breach was found to have been the result of CSC's use of five actuarial risk assessment tools[1] that had not been previously validated on an Indigenous prison population, thus requiring CSC to empirically test the appropriateness of the tools for Indigenous people in prison prior to continuing with their use *(Ewert v. Canada,* 2018, paras 61, 80). The SCC acknowledged that, because the impugned tools can be scientifically validated, the information derived from them are useful, thus imposing "an obligation on CSC to take reasonable steps to ensure that the information is accurate" (*Ewert v. Canada*, 2018, para 41). This case is significant in that the SCC recognized CSC's failure to address Ewert's concerns surrounding the utilization of the impugned tools on Indigenous people in prison without having previously validated the tools on this group, which has the potential to produce inaccurate information (*Ewert v. Canada*, 2018, paras 66, 86). In light of this decision, however, there nonetheless exists room to interrogate the notion that scientifically validated actuarial instruments used on the Indigenous prison population will produce accurate information for classification. Herein is the

[1] Although this thesis examines CSC research reports as it pertains to the performance of the CRS, the impugned tools in *Ewert v Canada* (2018) were five psychological and actuarial risk assessment tools. They were the following: (1) Hare Psychopathy Checklist-Revised (PCL-R), (2) Violence Risk Appraisal Guide (VRAG), (3) Sex Offender Risk Appraisal Guide (SORAG), (4) Static-99, and (5) Violence Risk Scale – Sex Offender (VRS-SO).

point of departure for this thesis. I intend to critically examine how CSC legitimizes the use of actuarial tools among Indigenous peoples, as well as to render visible the rationality that prioritizes the empirical testing of validity and reliability that in turn facilitates a settler colonial "logic of elimination" (Wolfe, 2006).

As it stands, the initial security classification procedure in federal penitentiaries is comprised of several assessments, both actuarial and non-actuarial, including a caseworker's clinical appraisal, psychological assessments (if applicable), and the completion of the Custody Rating Scale (CRS; see Appendix "C" for a copy of the instrument), an actuarial instrument that is mandated for *all* prisoners upon entering the prison system (CSC, *Commissioner's Directive 705-7*, 2018). The CRS was introduced into CSC's operations in 1991 and is an actuarial instrument that is divided into two subscales: (1) Institutional Adjustment (IA) and (2) Security Risk (SR) (Rubenfeld, 2014). The IA and SR subscales each consist of five and seven items respectively, that are intended to measure the risk an imprisoned person poses for negative institutional conduct or charges and the risk posed to the public in the event of an escape (Rubenfeld, 2014). Each item receives a score based on the information provided in a prisoner's file (Rubenfeld, 2014). The scores are then totaled and the subscale with the higher score determines the prisoner's recommended classification level (Webster & Doob, 2004).

The universal application of the CRS (and actuarial instruments generally) has been met with criticism, such as those from Webster and Doob (2004) who have argued that the CRS systematically over-classifies Indigenous women. The authors point to data that demonstrates the unwarranted higher classification level of Indigenous women, compared to their non-Indigenous counterparts, despite the lack of their involvement in institutional incidents (Webster & Doob, 2004). Similar sentiments are shared by Hannah-Moffat (1999; 2004) and Kilty (2006) who have argued that biases are introduced in actuarial tools through a conflation of "risk" and "need" because of the gender-neutral framework that informs the development of the tools and which precludes an understanding or consideration of gendered pathways into criminality. Given these criticisms, in addition to the *Ewert v. Canada* (2018) case, it is interesting to note that actuarial tools nonetheless remain a part of the security classification procedure. To understand how actuarial tools have been legitimated for use as part of the initial security classification procedure, this thesis deploys a qualitative content analysis on seven, publicly available CSC research documents pertaining to the use of the CRS. Specifically, the purpose of this research is to answer the following research questions: How has CSC legitimated the use of actuarial risk assessment tools, despite how the tools disproportionately classify Indigenous people in prison as higher risk? Furthermore, how has CSC responded to criticisms with respect to how it assesses the Indigenous prison population?

This research project is informed by the theoretical framework of governmentality (Foucault, 1991) and the logic of elimination (Wolfe, 2006). This framework serves as a lens for interrogating the taken-for-granted utilization of actuarial tools within a particular "regime of practice" (Dean, 2010), namely the security classification and penitentiary placement procedure. I draw upon the work of Dean (1998; 2010) to theorize actuarial tools as a "techne" component of government, imbued with a rationality that provides logical coherence to its application. The logic of elimination, a concept introduced by Patrick Wolfe (2006) and which provides a framework for understanding how characteristics associated with Indigeneity are viewed as a threat to be managed and eliminated, is particularly useful for centering settler colonialism when discussing the use of actuarial tools on Indigenous people.

This thesis is divided into five chapters, proceeding first with a review of literature on both actuarial tools within the field of corrections and settler colonial studies on dispossession and the policing of spaces. Chapter Two will delve deeper into the theoretical framework outlined above and will discuss how the regulation of Indigeneity is problematized. Chapter Three introduces the methodological approach. Here, I will present my research design and outline the decision-making process for my selection of data, sampling, coding techniques, and data analysis procedure. In Chapter Four, I will present my findings of the qualitative content analysis and demonstrate how I draw upon the literature review and theoretical framework to make sense of the findings. Finally, in Chapter Five, I will provide a discussion of my findings and highlight directions for future research.

CHAPTER ONE: LITERATURE REVIEW

Actuarial risk assessment tools are statistically structured, “objective” instruments that have been integrated into the criminal justice system to assist legal and government personnel in reaching various decisions pertaining to a prisoner’s sentencing, institutional risk classification level, programming needs, and parole eligibility and conditions (Bourgon et al., 2018; Hollin, 2002). Actuarial tools provide an opportunity for institutional personnel to locate prisoners’ “needs” based on assessments about their risk for recidivism, and to provide correctional programming options accordingly (Bourgon et al., 2018; Cormier, 1997). The adoption of such tools into the Canadian correctional system first began during the 1980s to assist in probation and parole decision-making processes, later prompting the development and proliferation of diverse tools that would assist in the security classification procedures (Bourgon et al., 2018). The implementation of actuarial tools in the CJS reflect what Feeley and Simon (1992) have referred to as the “new penology”, which characterizes the system’s shift in correctional objectives from that of clinical, individualized treatment of the individual to that of managerialism:

> The new penology is neither about punishing nor about rehabilitating individuals. It is about identifying and managing unruly groups. It is concerned with the rationality not of individual behaviour or even community organization, but of managerial processes. Its goal is not to eliminate crime but to make it tolerable through systemic coordination (Feeley & Simon, 1992, p. 455).

As a result of the impact the tools have on the trajectory of a prisoner’s carceral experience, researchers have sought to evaluate the predictive powers of such tools and, specifically, whether the tools perform similarly across diverse prison populations. This line of inquiry arises out of an interest in whether an “objective” measurement tool is suitable for use on disadvantaged groups, such as Indigenous peoples.

It has been widely documented that a greater proportion of Indigenous peoples in Canadian prisons receive higher security level designations than their non-Indigenous counterparts (see for example Blanchette et al., 2002; Monture-Angus, 2006). Beyond receiving higher security classification ratings, Indigenous people in Canadian prisons have been documented, since the 1970s, to account for a significant portion of the prison population despite only comprising 5% of the general population (Office of Correctional Investigator [OCI] Annual Report, 2020; OCI, *Spirit Matters: Final Report*, 2012). Accordingly, this project's topic of study is to examine the use of actuarial tools to assess the initial security classification level of Indigenous people in prison and seeks to address the following core research question: How has CSC legitimated the use of actuarial risk assessment tools, despite how the tools disproportionately classify Indigenous people in prison at higher risk? Furthermore, how has CSC responded to criticisms with respect to how it assesses the Indigenous prison population?

This literature review is divided into two sections. The first will delve into the development of actuarial tools, and examine the studies that have assessed the issue of empirical validity. In addition, the literature that critically examines the appropriateness of such tools for use on Indigenous people in prison will be highlighted as well as underscoring the gendered and cultural differences in criminal behaviour. By focusing on this risk literature, it will be possible to bring colonial logics into productive tension, which forms the latter half of this review. In the second section, the managing and controlling of Indigenous peoples will be explored through literature that examines processes of erasure through dispossession and disappearance, particularly with respect to the policing of spaces. The goal of this literature review is to situate the topic of study within current debates in the field of risk and within postcolonial literature, where the former necessitates the latter in order to move forward into an investigation of the reproduction of settler colonial logics.

1.1 Actuarial instruments

This section will begin with a brief contextualization of the paradigmatic shift in the penal system that gave rise to the implementation of actuarial tools, and the model in which these tools are based. In turn, the issue of empirical validity will be explored, particularly with respect to the Indigenous population in prison so as to underline the reasons for the lack of universal acceptance of the tools' use among all prisoners within the field of corrections. This literature will then explore arguments put forth by critical criminologists with respect to the erasure of gendered and cultural differences in (re)offending, as well as the ways in which the tools "manage" the prison population. Review of this literature is necessary for understanding how and why risk tools function in a way that differentially impacts Indigenous people in prison, which will assist in a later exploration of the tools as a conduit for settler colonial logics to be mobilized.

1.1.1 Risk-Need-Responsivity (RNR) model and evidence-based correctional management practices

The dominant model on which actuarial instruments are based is the risk-need-responsivity model (RNR; Andrews et al., 1990; Andrews et al., 2006; Bourgon et al., 2018), which materialized in response to the "what works" movement of the 1990s (Cullen & Gendreau, 2001). The "what works" movement gained traction amidst a paradigmatic shift in criminology that spanned the 1970s through to the 1980s (Cullen & Gendreau, 2001). During this time in the United States, social and political unrest increased rapidly, which ultimately created mass distrust in government welfare policies and prompted researchers in the field of criminology to critically engage in processes of "knowledge destruction" surrounding the effectiveness of correctional programs, otherwise known as the "nothing works" movement (Cullen & Gendreau, 2001; Martinson, 1974). At its core, the "nothing works" movement advanced the notion that the state's attempts to rehabilitate offenders and reduce crime were futile (Cullen & Gendreau, 2001). Canadian psychologists, however, offered an alternative, individualized and scientific-based perspective on crime-reduction efforts, subsequently pushing against the "knowledge destruction" preoccupancy that characterized the "nothing works" ideology (Cullen & Gendreau, 2001). It was during the 1990s that evidence-based practices began to shift the punitive ethos of corrections towards that of targeted correctional interventions—that is, putting forth ideas of "what works" in behavioural interventions (Cullen & Gendreau, 2001). Cullen and Gendreau (2001) cite the work of Canadian psychologists D. A. Andrews and James Bonta, who have been credited with the empirical research on correctional programming that is nestled within a psychological understanding of criminal behaviour (see for example, Andrews et al., 1990; Andrews, 2000). In this vein, the RNR model serves as an example of the evidence-based practices that the tenets of the "what works" ideology espoused and, further, is grounded in a "psychology of criminal conduct" (PCC) theoretical framework (Andrews et al., 2006).

The PCC framework encompasses the theories of general personality and social psychology (Andrews et al., 2006). These theories focus on an individual's behavioural and antisocial personality patterns that pertain to criminality, with an understanding that individual dispositions vary from one person to the next (Andrews et al., 1990; Andrews, 2000). Andrews et al. (1990) distinguishes PCC from mainstream criminology:

> First, the psychology of criminal conduct is concerned with understanding variation in the criminal conduct of individuals (e.g. recidivism), while mainstream criminology is

> preoccupied with interpreting aggregated crime rates, law and order, and with overcoming structured inequality in the distribution of societal wealth and power (p. 21).

Insofar as the goal of corrections is to reduce individual reoffending, Andrews (2000) contends that operating from a perspective other than PCC would not achieve correctional objectives. The authors in support of evidence-based practices suggest that, through a process of identifying appropriate and relevant covariates related to criminality, a "shared language" among professionals in the field can be established (Andrews et al., 1990; Andrews et al., 2006). In this vein, Andrews (2000) developed eighteen principles that he advocated correctional management should adopt if its practices are to be effective, which includes the identification of "criminogenic needs" through the use of actuarial tools.

According to Andrews and colleagues (1990), the RNR model is an apt framework for achieving optimal reduction in recidivism likelihood (Andrews et al., 1990). Within the context of validation studies, recidivism has been measured for both general and violent dimensions; general being *any* record of re-offence and violent recidivism referring specifically to violent re-offence, including crimes of a sexual nature (Bonta et al., 1998; Gutierrez et al., 2013). The authors contend that this model achieves its purpose by promoting efficiency, effectiveness and accuracy in rehabilitative efforts (Andrews et al., 1990). For the authors, effective correctional programming is that which is based upon three related principles, namely the principles of risk, need, and responsivity, and a fourth principle of professional override (Andrews et al., 1990). The risk principle encompasses both prediction and matching, whereby the risk level a person occupies determines the intensity of the intervention required (Andrews et al., 1990). The need principle refers to the amenability of "criminogenic needs"—that is, factors related to criminality that can be altered through targeted intervention to reduce the likelihood of recidivism, otherwise known as "dynamic" needs (for example, substance use; Andrews et al., 1990; Campbell et al., 2009). The responsivity principle refers to matching a prisoner to programs that are conducive to the prisoner's learning style in order to optimize the impact of the program (Andrews et al., 1990). Finally, the professional override principle refers to professionals stepping beyond the aforementioned three principles, when warranted, to render a final decision in a prisoner's rehabilitative programming (Andrews et al., 1990).

The identification of criminogenic needs has been achieved through meta-analyses of prisoner groups, which, in turn, have been referred to in the literature as the "central eight" factors (Andrews et al., 2006). These factors include the following: (1) history of antisocial behaviour; (2) antisocial personality patters; (3) antisocial cognition; (4) antisocial associates; (5) family and/or marital; (6) school and/or work; (7) leisure and/or recreation; and, (8) substance abuse (Andrews et al., 2006). Of these eight factors, criminal history, pro-criminal attitudes, pro-criminal associates, and antisocial personality patterns are considered the "big four", which are factors that signify the greatest propensity for criminality (Gutierrez et al., 2013). Each of the eight factors are risk factors that can be translated into a criminogenic need—that is, a dynamic need that can be "corrected" with intervention (Andrews et al., 2006). For example, the risk factor of antisocial personality pattern involves "adventurous pleasure seeking, weak self-control, restlessly aggressive" (Andrews et al., 2006, p. 11) and is amenable to change (dynamic) through building "problem-solving skills, self-management skills, anger management and coping skills" (Andrews et al., 2006, p. 11). Actuarial risk assessment tools, then, have been formulated to assist practitioners in identifying the risks and needs that are most prevalent for a prisoner, and to build a correctional plan accordingly.

To date, there have been four generations of risk assessment practices (Andrews et al., 2006). Briefly, the first generation of risk assessment, unstructured professional judgment, involved conducting unstructured interviews with prisoners and assessing their potential for criminal reoffending (Andrews et al., 2006; Zinger, 2004). This first generation of assessments were not actuarial in nature, and were highly criticized for being "prone to error and bias" because of its dependency on the human actor as the decision maker (Campbell et al., 2009, p. 568). The second generation of tools are empirical instruments based on statistical calculations of static factors (those that cannot be changed through intervention, such as past criminal record) that demonstrated a relationship to engaging in future criminality (Andrews et al., 2006; Zinger, 2004). This generation of tools, however, are void of theoretical grounding and further underwent scrutiny for assessing risk solely on the basis of static factors, which has been argued to be unsuitable for targeted intervention efforts (Andrews et al., 2006; Campbell et al., 2009). The third generation of tools continue to be empirically based, but evolved by grounding its development within PCC theory, and consists of both static and dynamic factors (Andrews et al., 2006). In line with third generation tools' assessment of both static and dynamic factors, the fourth generation of tools, known as "structured professional judgment" (SPJ), retains the actuarial dimension and expands its focus to include an inmate's supervision and treatment for the purpose of public protection (Andrews et al., 2006). These tools are administered throughout a prisoner's incarceration period to assess progress in their correctional plan (Campbell et al., 2009). In a meta-analytical review of risk tools used across Canadian jurisdictions, Bourgon and colleagues (2018) identified twenty different instruments that fall into three broad, distinct categories: (1) general risk tools; (2) intimate partner violence (IPV) risk tools; and (3) sexual risk tools. In contrast to the tools that generally predict recidivism, such as the Level of Service/Case Management Inventory (LS/CMI), IPV (for example, Spousal Assault Risk Assessment (SARA)) and sexual risk tools (for example, Static-99R) are geared towards predicting recidivism for *specific* types of offences, including offences of a violent nature. Thus, the predictors used on such scales differ from those found in general risk instruments (Bourgon et al., 2018). It is the fourth generation of tools that have primarily been the subject of validation studies, which, as I outline below, have produced divisive findings.

1.1.2 Assessing the predictive powers of actuarial tools on an Indigenous prison population

The development and administration of actuarial tools assumes that risk factors were relevant to all individuals whose characteristics correspond to the population group, irrespective of culture and race (Bonta et al., 1997; Rugge, 2006). Researchers have sought to test the assumptions underpinning PCC that criminogenic needs are relevant to all individuals, independent of their racial background. The proceeding section will offer an overview of studies that have been conducted on the empirical validity—that is, whether the tool is accurately measuring what it intends to measure (Webster & Doob, 2004)—of various actuarial tools and will also highlight the critiques put forth in response to the applicability of the tools for Indigenous people in prison.

Gutierrez et al. (2016) emphasizes that although differences exist from one prisoner to the next, an important consideration for correctional management is ensuring that the tools being used are predictively valid for prisoners despite their varying differences. The term given to an instrument's universal application is "dimensional identity", which captures the notion that a tool is generalizable across diverse population groups (Schwalbe et al., 2006). In other words, dimensional identity can only be asserted "[w]hen the empirical relationship between a risk assessment instrument and recidivism is the same for males, females, white offenders, and minority offenders…" (Schwalbe et al., 2006, p. 308). Failing to achieve generalizability results in variable predictive validity across subgroups (Schwalbe et al., 2006). This proposition has been studied extensively and has generated conclusions that are largely consistent with those drawn by Bonta and colleagues who support the use of actuarial instruments (see for example, Greiner et al., 2015; Gutierrez et al., 2016; Morash, 2009; Taylor & Blanchette, 2009; Wilson & Gutierrez, 2014).

In an early study conducted by Bonta et al. (1997) on the applicability of the Manitoba Risk-Needs Scale for both Indigenous and non-Indigenous imprisoned groups, the issue of generalizability was explored. The study found that, despite the fact that the tool's development was based on a non-Indigenous sample, it nonetheless was able to predict recidivism adequately for both groups (Bonta et al., 1997). There were three exceptions, however, that were not significantly relevant to predictions of recidivism for Indigenous people is prison, which were the following factors: family/marital, mental ability, and academic/vocational (Bonta et al., 1997). Nonetheless, Bonta et al. (1997) argued that since the Manitoba Risk-Needs assessment tool predicts recidivism *overall*, this is supportive of the notion that criminogenic risk factors can be understood universally. This conclusion has also been echoed by Rugge (2006) when examining the applicability of some of Canada's most widely used actuarial tools on a male, Indigenous population in prison, which included the Level of Service Inventory—Revised (LSI-R), the Statistical Information on Recidivism Scale (SIR), and the Custody Rating Scale (CRS). Through an examination of the studies conducted on these three instruments, Rugge (2006) concludes that *most* of the central eight criminogenic risk/need factors are indeed applicable for predicting recidivism for both Indigenous and non-Indigenous groups. Rugge (2006) notes, however, that based on an unpublished *Public Safety Canada* research report authored by Bonta et al. (2004, as cited in Rugge, 2006), the CRS should not be used on Indigenous people in prison as it performed poorly on both measures of reliability and validity. Although Rugge (2006) did not include what the outcomes were for the statistical analyses on reliability and validity, it was noted that the authors of the unpublished report concluded that further research was needed to assess the applicability of the CRS for the Indigenous population in prison. It is important to note that the CRS nonetheless remains a part of CSC's classification procedure today.

The general proposition that the central eight are applicable universally has been confirmed elsewhere, specifically in a meta-analysis that was conducted by Gutierrez et al. (2013). The authors found that the central eight factors demonstrated predictive validity for both general and violent recidivism for Indigenous prisoners. The significance of the predictive validity, relative to that of their non-Aboriginal counterparts, however, was considerably lower for certain factors, including criminal history, substance use, and antisocial personality patterns (Gutierrez et al., 2013). Similarly, in a meta-analysis of the predictive powers of the Level of Service Inventory (LSI), which was initially developed on a white male prison population, Wilson and Gutierrez (2014) sought to determine whether or not the LSI differentially predicts the likelihood of recidivism for Indigenous and non-Indigenous people in prison. Overall, Wilson and Gutierrez (2014) found that the LSI was able to similarly predict violent recidivism for both groups, but that the LSI was slightly weaker in predicting general recidivism for the Indigenous group. Further, Wilson and Gutierrez (2014) discovered that five out of the eight subscales predicted general recidivism far weaker for the Indigenous group than it did for the non-Indigenous group. These subscales were (1) criminal history; (2) education/employment; (3) companions; (4) alcohol/drugs; and, (5) pro-criminal attitude (Wilson & Gutierrez, 2014). These five subscales were not as relevant for low-scoring Indigenous groups who showed an unexpectedly high rate of recidivism (Wilson & Gutierrez, 2014). The authors attributed this inconsistency to potential calibration issues, wherein the LSI instrument operates more accurately for medium- to high-scoring individuals than it does for low-scoring individuals (Wilson & Gutierrez, 2014). This finding suggests that low-scoring Indigenous prisoners demonstrated recidivism rates higher than what was predicted, which raises the possibility that the LSI *under-classifies* low-scoring Indigenous prisoners (Wilson & Gutierrez, 2014). On this basis, the authors of the study suggest that further research should examine the possibility of adjusting the operationalization of certain risk/need factors or to include items that better reflect the "unique experiences" of Indigenous peoples to account for those factors that may not be captured by the LSI and that, in turn, under-classifies low-scoring Indigenous prisoners (Wilson & Gutierrez, 2014). The authors conclude that, "[d]espite the lower predictive validity of several subscales, the usefulness of the Central Eight with Aboriginal offenders should not be ignored" (Wilson & Gutierrez, 2014, p. 216). The authors further conclude that Indigenous people in prison who score low on the LSI may "more closely resemble medium-scoring offenders…it may be that low-scoring Aboriginal offenders could benefit from greater treatment opportunities than would be afforded to them if they continued to be classified as low risk" (Wilson & Gutierrez, 2014, p. 216). In this vein, Wilson and Gutierrez (2014) suggest that any "useful" treatment opportunities that could be afforded to Indigenous people in prison is not possible without further replication studies on the LSI.

Conversely, in a review of the literature on the applicability of risk factors that measure violence for Indigenous people in prison, as well as the violence risk instruments currently in use in Australia, Shepherd et al. (2014) found that all risk factors discussed (offending history, education and unemployment, substance use, mental health and family violence) were not only prevalent but were also experienced to a high degree by Indigenous people in prison and the general Indigenous population. Importantly, Shepherd et al. (2014) draw attention to literature that has emphasized the importance of interpreting mental health issues within a context of colonization. Shepherd et al. (2014) further draw attention to literature that has examined the impact of transitioning from a traditional to a mainstream environment, describing this impact as "acculturative stress", which manifests itself in negative behavioural outcomes. With respect to instruments specifically assessing violence, this review recommends that, due to the extent that these factors are experienced by Indigenous peoples, as well as the historical and cultural context that gives rise to the actualization of these factors, instruments should be developed in a manner that is comprehensive and captures the totality of one's positioning in society (Shepherd et al., 2014). Although Shepherd et al. (2014) found the instruments under review to have demonstrated predictive accuracy for Indigenous prioners, the authors nonetheless advocate for further research that more clearly discriminates between those factors that have a strong influence on violent behaviour from those that exert a lesser influence.

The CRS has also generated criticism by Webster and Doob (2004) and Leitch (2018), who advance the argument that the effect size—that is, the strength of the association between variables—becomes negligible when assessing the association *between* Indigenous and non-Indigenous people in prison. For example, in an analysis of the CRS, it was found that, for those female Indigenous prisoners assigned to a minimum-security classification level, only 28.6% of them were involved in institutional misconduct as opposed to 40% for their non-Indigenous counterparts (Webster & Doob, 2004). Webster and Doob (2004) further discovered that while only 26.8% of Indigenous women in medium-security institutions were involved in institutional infractions, this percentage is almost doubled for non-Indigenous women in the same security level. Accordingly, both Webster and Doob (2004) and Leitch (2018) advance the argument that CSC's data on the predictive ability of the CRS demonstrates that Indigenous women are being over-classified by the tool. This is in direct contradiction to research commissioned by CSC that contend Indigenous people in prison are not over-classified but rather are over-represented in higher security levels (see for example Barnum & Gobeil, 2012).

In an Australian study by Hsu et al. (2010), it was found that Indigenous prisoners had scored higher on every scale of the LSI-R compared to their non-Indigenous counterparts. Interestingly, the study by Hsu et al. (2010) found that substance use was not a strong predictor of reoffending for Indigenous people in prison, whereas Rugge (2006) cites a study by Bonta et al. (1997) indicating that substance use was a "better" predictor. It is important to note, however, that the statistical significance of the relationship found between predictors was weak to moderate (Rugge, 2006). The variability that exists between studies, with one indicating a factor's applicability and the other not, complicates the foundational assumption (that is, of the universal applicability of "criminogenic needs" across groups) upon which actuarial tools are based.

Indeed, researchers in the field of risk assessments are not unanimously in favour of the use of the tools in the CJS. Moreover, as noted in the aforementioned studies, neither are researchers unanimous in the conclusion that actuarial tools provide strong measures of risk for Indigenous people in prison. As noted in the Introduction, the *Ewert v. Canada* (2018) case represents one such example of the debate. Jeffrey Ewert began his complaints against CSC by filing numerous grievances to challenge the cultural appropriateness of the following five tools: (1) Hare Psychopathy Checklist—Revised (PCL—R), (2) Violence Risk Appraisal Guide (VRAG), (3) Sex Offender Appraisal Guide (SORAG), (4) Static—99, and (5) Violence Risk Scale—Sex Offender Version (VRS—SO) (Hart, 2016). All five of Ewert's grievances were dismissed, the reasons for which ranged from CSC claiming an ongoing investigation into the appropriateness of the tools to CSC contending that the tools are appropriate because they are not used in isolation, but rather are used in conjunction with structured professional judgment (Hart, 2016). These dismissals prompted Ewert to appeal at the Federal Court (Hart, 2016), thus beginning the lengthy litigation that would span many years.

In 2007, the Federal Court dismissed Ewert's case on the grounds that CSC had expressed in the grievance decisions that it was undergoing investigation into the tools, concluding that CSC's dismissals were reasonable (Hart, 2016). In 2015, Ewert commenced a new action. Maintaining that the crux of the argument was that the tools are culturally inappropriate for Indigenous persons, Ewert introduced statutory and constitutional challenges of the *Corrections and Conditional Release Act* and the *Canadian Charter of Rights and Freedoms*, respectively (Hart, 2016). Considering the expert evidence that was provided by both the Plaintiff and the Defendant, the judge issued an Order that stated CSC was to cease use of the impugned tools on Indigenous persons, including Ewert, until research was conducted that confirms the appropriateness of the tools on Indigenous inmates (Hart, 2016). The issuance of the interim Order was appealed by the Government of Canada at the Federal Court of Appeal (*Canada v. Ewert,* 2016). Contrary to the Trial Judge, the Appeal Judge allowed the appeal on the basis that Ewert failed to establish, on a balance of probabilities, that the tools used in risk assessments result in false results (*Canada v. Ewert*, 2016, para 4). The Appeal Judge based this decision primarily on the expert evidence of Dr. Hart, noting that Dr. Hart's contention that the tools may vary in the extent to which they are biased was *not enough* to establish that CSC's reliance on the tools would *definitively* produce bias results (*Canada v. Ewert*, 2016, para 24). Accordingly, the Appeal Judge overturned the Trial Judge's ruling (*Canada v. Ewert*, 2016, para 35). Ewert then moved for leave to appeal, which was granted by the SCC (*Ewert v. Canada*, 2018). As discussed in the Introduction, on June 13, 2018, the SCC rendered a decision that found CSC to have breached its obligations under s. 24(1) of the *CCRA*. In response to this decision, the Canada Agency for Drugs and Technologies in Health (CADTH) prepared a report for CSC in which the five tools were assessed for validity, finding that all the assessed tools displayed moderate to high predictive accuracy (CSC, 2019).

In an article discussing the cross-cultural validity of the impugned tools in *Ewert v. Canada* (2015), Stephen D. Hart, an expert witness for the Applicant, advances the argument that actuarial tools pose significant concerns with respect to cultural bias: "…quantitative evaluative devices such as the actuarial tests in question are susceptible to intrinsic cultural bias—that is, cultural bias that is 'built-in' or inherent to test scores" (Hart, 2016, p. 84). Hart (2016) further notes that many of the violence risk factors that instruments assess are the conditions that Indigenous peoples have been documented to experience, such as "poor infrastructure and resources, family disruption, chronic poverty and unemployment, trauma, substance abuse" (p. 84). Beyond the methodological concerns of studies that do confirm medium to strong predictive validity for diverse Indigenous groups in prison, Hart (2016) nonetheless cautions against the universal acceptance of these conclusions as applicable to *all* imprisoned individuals.

Despite the inconsistent prediction patterns between Indigenous and non-Indigenous groups in prison, the authors of meta-analyses nonetheless advocate for the continued use of actuarial instruments as their studies revealed that, *overall*, these instruments are not only able to predict recidivism, but are superior to other forms of risk assessments that are neither "objective" nor empirically based (Gutierrez et al., 2013; Wilson & Gutierrez, 2014). This conclusion has also been reached by Olver (2016) in response to the 2015 Federal court decision in Ewert's case. Olver (2016) examined the predictive validity of several tools (PCL-R, VRS-SO, Level of

Service (LS) scales, and Statistical Information on Recidivism (SIR)) to explore the predictive ability for an Indigenous population. The conclusions drawn were favourable towards the continued use of actuarial tools because of the relatively accurate ability to predict recidivism (Olver, 2016). In keeping with the notion that actuarial tools are superior to other forms of risk assessments, such as clinical assessments, Olver (2016) contends that to do away with these tools would be to inflict more harm than good as it would prevent decision-making bodies (for example, judges, lawyers, and government agencies) from having access to accurate and reliable information. A similar sentiment is reached by Zinger (2004), who contends that, "[i]n the absence of alternatives, the field would be predisposed to return to clinical judgment, which is far more prone to prejudice and bias than actuarial risk assessment" (p. 616). Of course, in 2018, however, the SCC ruled that in the absence of evidence that demonstrates the impugned tools are valid for Indigenous people in prison, further research must be conducted (*Ewert v. Canada*, 2018, paras 65-67).

The literature that explores the issue of generalizability for diverse prison populations, particularly as it pertains to Indigenous people in prison, has clearly been divided in its analyses of findings and the conclusions drawn therein. As this section explored, the assumption underpinning the RNR model that risk factors are predictive of recidivism for all prisoner groups, despite varying racial and cultural backgrounds, has been both accepted and critically challenged. The assertion that the tools lack generalizability begets further interrogation into how and why it is possible for the tools to decrease in predictive power for some groups while remaining strong for others. The following section sets out an alternative line of inquiry within the actuarial tools literature, which pivots its focus on the erasure of unique individual differences that the tools cannot capture on its actuarial scales.

1.1.3 Erasure of gendered and cultural differences in criminal (re)offending

Academics have questioned the "objective" nature of the tools that proponents espouse, and the lack of attention paid to gendered pathways into crime. This inattention is said to have introduced biases in the management of prisoners, particularly for Indigenous and non-Indigenous women (Hannah-Moffat, 2004; 2015a; Kilty, 2006; Martel et al., 2011; Webster & Doob, 2004). By introducing arguments pertaining to gendered offending, this section will underline the doubt that is cast upon the use of actuarial tools within the correctional context. Highlighting the arguments put forth regarding gendered offending will augment the investigation some scholars have undertaken into the lack of consideration for cultural differences (see for example, Monture-Angus, 1999). The goal for objectivity through actuarial tools thus raises concerns that, in the process of attempting to achieve standardization in the CJS, individual characteristics that may have an impact on the trajectory of a prisoner's rehabilitative programming, are abandoned.

Hannah-Moffat (2004) conducted interviews with practitioners to assess the importance of gender in making decisions on women's risk/need criteria and how, in the absence of institutional guidelines pertaining to women specifically, discretion is exercised to reach risk assessment decisions. This challenges the proposition that the risk assessment procedure is an objective one. Hannah-Moffat (2004) found that practitioners responded to gendered offending in three ways: (1) with gender-neutral discourse, (2) with caution, and, (3) with supplementation (Hannah-Moffat, 2004). Hannah-Moffat (2004) observed that the practitioners were often unable to discern the difference between a risk and a need and, during their respective interviews, were observed to conflate the two. The practitioners interviewed raised a concern about the objective nature of the tools and the lack of attention given to factors more relevant to women than to men, such as intimate relationships, social support, victimization and parenting issues (Hannah-Moffat, 2004). In acknowledging this shortfall, practitioners compensated by invoking a combination of their own professional judgment and the information obtained during gender-sensitivity training provided by CSC when rendering a risk assessment (Hannah-Moffat, 2004). As noted by Hannah-Moffat (2004), not only is the "expert" invoking discretion, but is also engaging knowledge gained from CSC's gender-sensitivity training that often perpetuates gender stereotypes. These interviews bring a qualitative dimension to the predominately quantitative discussion that surrounds risk assessment tools and raises doubt regarding its so-called "objective" nature.

The conflation of "risk" and "need" observed by Hannah-Moffat (2004) has also been discussed by Kilty (2006) in the context of CSC's policies for imprisoned, self-injurious women, which gives primacy to institutional security. Kilty (2006) adds to the literature by reviewing CSC's policies through a feminism lens, which uncovers complexities that are blind to the dominant risk management ethos. In particular, Kilty (2006) illuminates how the invocation of administrative segregation in instances where a woman has self-injured unnecessarily transforms her needs into a security threat to the prison, demonstrating how risk and need are conflated and the distinctions blurred. In conflating the two, Kilty (2006) takes the position that CSC is subjecting women to a course of intervention that may not be appropriate for their circumstances and lived experiences (Kilty, 2006). The statistical language—and nature—of actuarial tools renders it challenging to capture gendered differences in criminal offending as they rely solely on statistical algorithms to determine the relevancy of risk factors (Hannah-Moffat, 2009; 2015b). Moreover, Hannah-Moffat (2009) contends that in adopting a narrow perspective on crime – that is, a gender-neutral perspective – it reduces the CJS's knowledge on what constitutes a risk for a *female* prisoner. The statistical nature of actuarial tools precludes gendered nuances that are intimately tied to an imprisoned person's motivations for engaging in criminal behaviour (Hannah-Moffat, 2009). The inclusion of risk/needs factors are based on whether an empirical association exists with the likelihood of reoffending. This decision-making process on the part of tool developers takes place without the input of prisoners (Hannah-Moffat, 2015b; Kilty, 2006). In doing so, the institutional perspective dominates what is considered a relevant "need", thus removing an imprisoned person's agency (Hannah-Moffat, 2015b; Kilty, 2006). Moreover, by solely evaluating the inclusion of needs on the basis of one dimension (recidivism), CSC is excluding factors, such as women's experiences of trauma, and abuse and self-esteem issues that may be just as useful to address for successful rehabilitative intervention to take place (Hannah-Moffat, 2004).

Paradoxically, the relatively recent implementation of the recommendations set out in the *Creating Choice* report by the Taskforce on Federally Sentenced Women (Government of Canada, 2002), which included the creation of Healing Lodges, has nonetheless retained the use of actuarial tools. The report advocates for culturally appropriate and gender sensitive approaches to the management of Indigenous and female prisoners generally (Hannah-Moffat, 2004). The creation of the Healing Lodge only allows access for minimum-level security classification prisoners, despite evidence pointing towards the higher classification levels that are given to Indigenous people in prison (Leitch, 2018), which subsequently introduces another barrier to successful rehabilitation. By retaining current actuarial assessment practices, it is argued that the CSC is encouraging the continuation of its operations within the RNR model (Hannah-Moffat, 2015b), as well as excluding access to "culturally-sensitive" rehabilitative programming for whom the programming was created. Evidently, risk discourse has been criticized as contributing to a narrative that forces the marginalization of an already disadvantaged group and it is through the adoption of the RNR model that gendered and, as I outline below, cultural differences are erased.

The formation of risk assessment tools on the basis of knowledge collected primarily on a white male homogenous population requires scrutiny because gender is not merely a dichotomous relationship of male versus female, but rather is bound up with social, cultural, and historical experiences of the person (Hannah-Moffat, 2015a). This complex sociocultural relationship becomes especially acute when studying Indigenous women and Indigenous people in general. As discussed by Monture-Angus (1999), the individual scales used to assess risk will inevitably result in a higher security risk classification level for Indigenous women. For example, Indigenous women are more likely to obtain a higher score on the individual scale of "community functioning" because colonialism has severely impacted the healthy functioning of Indigenous communities (Monture-Angus, 1999). In fact, Monture-Angus (1999) argues that receiving an elevated risk score is "predetermined" for Indigenous people in prison because of the oppression that created the circumstances in which instruments tend to assess. Moreover, Monture-Angus (1999) contends that current correctional management praxis runs counter to how Indigenous peoples come to understand relationships: "[p]eople (or any "thing" with spirit) were not intended to be managed but rather respected" (p. 4). Monture-Angus (1999) brings to light the importance of interconnectedness; actuarial tools that detangle the community from the individual cannot accurately assess the "risk" of an Indigenous person because these two entities—the person and the community—are inextricably bound together (Monture-Angus, 1999). In other words, the multiplicity of an individual personality cannot simply be captured on the very narrow, single-axis philosophy that actuarial risk management practices are premised upon (Hannah-Moffat, 2015a; Monture-Angus, 1999).

Martel et al. (2011) share a similar sentiment when discussing the ways in which Canadian prisons have engaged in an "Aboriginalization" of its practices—that is, through the use of risk assessment tools and the subsequent categories that are generated, prisons are participating in a form of "structured racialization". The authors contend that, because Indigenous people in prison are more likely to be found in higher security classification levels, they are excluded from accessing the appropriate recidivism-reducing programming (Martel et al., 2011). Martel et al. (2011) argue that it is because of the (often) lower social positioning that Indigenous peoples occupy, due to conditions of poverty and lower employment and educational access, it produces individuals inherently marked as "risky". Accordingly, the authors argue that culture becomes conflated with social disadvantage, transforming one's identity into a dynamic factor that can be altered:

> Although is it the particular social positioning attributed to aboriginals—as citizens in permanent isolation—which is thought to confer a risk for criminality, this risk is generally redirected towards culture. Although ethnicity or race tend to be considered static factors…their association with one's social positioning facilitates their linkage to risk factors, hereby turning ethnicity—via the notion of culture—into a dynamic factor…that one can improve.
>
> …if criminogenic needs are to be addressed by correctional organizations in order to reduce offenders' risk of recidivism and if the lack of cultural (read *traditional*) identity and group membership are seen as dynamic risk factors, then aboriginal offenders' lack of cultural identity and group membership become criminogenic needs to be addressed (Martel et al., 2011, pp. 240-241, emphasis in original).

Through this argument, Martel et al. (2011) highlight the problematic outcomes associated with adopting the assumption that Indigeneity is mutable (through programs that target dynamic factors) and can be altered to lower one's risk level. Canadian prisons have seen the implementation of culturally-sensitive programming for Indigenous people in prison, but it has been argued that these programs are based on a Western understanding of Indigeneity (Anthony, 2013a; Martel et al., 2011). Martel et al. (2011) scrutinize these programs, not because they have not evinced recidivism-reducing outcomes, but because they require Indigenous people in prison to subsume a hegemonic understanding of Aboriginality to reduce the likelihood of re-offending. In this way, cultural identity is conflated with social disadvantage insofar as CSC subjects its prisoners to programming intended to "improve" connectedness to culture to decrease levels of risk. For example, Martel et al. (2011) highlight how "culturally-sensitive" programming offered by CSC, such as smudge ceremonies, are based on a totalizing idea of Aboriginal culture, one that does not recognize the diversity that exists between groups in regions across the country. Indigenous people in prison are thus subjected to Western ideals of what it means to be Indigenous and are subsequently "transformed" into the "ideal" Indigenous prison subject (Hannah-Moffat, 2005; Martel et al., 2011).

In a similar vein, Goddard and Myers (2017) discuss the use of actuarial-based instruments within the American youth CJS. Goddard and Myers (2017) refer to the assessment process as a "laundering" of racial bias whereby the social inequalities that plague disadvantaged and racialized groups are turned into factors that elevate their risk score on an assessment instrument. To highlight this point, Goddard and Myers (2017) suggest a possible explanation for the high rates in which Black individuals are incarcerated. Goddard and Myers (2017) contend that past criminal history is used to explain disproportionate engagement in criminality, however, this reporting of criminal behaviour is a result of the significantly higher contact with police and the CJS that Black individuals experience more frequently than their white counterparts. Goddard and Myers (2017) argue similarly to Martel et al. (2011) in that actuarial instruments produce high-risk scores for some groups over others because of static factors that are likely a result of the social positions they occupy.

1.1.5 Actuarial tools as organizational tools

Some researchers have critically responded to the penal shift that has adopted methods of categorization, managerialism and control (Feeley & Simon, 1992; Rigakos, 1999; Silver & Miller, 2002). The adoption of evidence-based practices can be argued as operating within a penology that takes as its primary focus the management of its prison population (Feeley & Simon, 1992). This type of "new" penology departs markedly from the "old" penology, which was characterized by individual-based *treatment* (Feeley & Simon, 1992). The adoption of the tools by the penal system is viewed through a social control framework that fractions the prison population alongside lines of: the risky versus the non-risky; the normal versus the abnormal and so on (Silver & Miller, 2002).

Silver and Miller (2002), for example, discuss the use of actuarial tools as a "taxonomic organization" whereby individuals are categorized into groups that share similar characteristics for the purpose of controlling, or minimizing, future negative outcomes. The authors contend that "actuarial risk assessment is more useful in labeling individuals than it is in understanding and resolving their problems. In fact, understanding why a particular individual behaves in a particular way in rendered irrelevant" (Silver & Miller, 2002, p. 147). Silver and Miller (2002) explain that this becomes the case with the use of actuarial instruments because the concern is not with *individual* behaviours but rather the extent to which an individual displays characteristics consistent with a population in which risk can be measured. Indeed, as noted by Rigakos (1999), "[f]or actuarial regimes to function, however, individual case assessments must be based on the statistical aggregates of past populations" (p. 141). Silver and Miller (2002) discuss the potential for actuarial tools to afford experts access to a wide range of information concerning individuals, which extends the reach of surveillance, allowing for a more intimate yet, “at a distance”, control of the human body. This Foucauldian perspective moves away from assessing the predictive powers of the tools and delves into how the tools are transforming the way individuals are managed and controlled by the penal system.

In a similar vein, Hannah-Moffat (2019) adds to the literature by bringing to the forefront a new wave of technological advancements, which has been given the name “big data”. In their article, Hannah-Moffat (2019) makes distinctions between big data and traditional psychological-based actuarial tools. Although strikingly different in nature, primarily through the public availability of the former, big data remains a potential tool for governmental surveillance (Hannah-Moffat, 2019). Hannah-Moffat (2019) describes big data as “algorithmic governance”, whereby personal information is collected, aggregated, and synthesized to create programs and software to be bought by corporations and the government (Hannah-Moffat, 2019). As an example, Hannah-Moffat (2019) cites an article by Dan Tynan in *The Guardian* that reports on the increased adoption of tablet technology in U.S. prisons that allows those imprisoned to access e-mails and listen to music (Tynan, 2016). New technologies, beyond actuarial tools, are moving into the penal realm and offering the government a new avenue through which personal information can be collected (Hannah-Moffat, 2019). As Hannah-Moffat (2019) explains, “[t]hese tablets allow for the collection, collation, manipulation and storage of vast amounts of data about individual prisoners, their families, including forms of data that are unrelated to prison…” (p. 454). This literature, including the arguments put forth by Rigakos (1999) and Silver and Miller (2002), evidently takes issue with the prioritization given to collecting individuals’ personal information over and above that of privacy. As discussed by Rigakos

(1999) and Silver and Miller (2002), the concern for the CJS is not with the root causes of crimes located in social structures and systems, but rather in creating managerial systems that are efficient, predictively powerful and accurate. In other words, actuarial tools are not a preventative response to crime, but are reactive in the sense that understanding *why* individuals engage in crime is pushed to the periphery in favour of an approach that identifies *proclivities* for criminality so they can be neutralized—brought in line with the "normal" citizen (Silver & Miller, 2002). As it will become evident in the proceeding section, this literature aligns closely with settler colonial studies as tactics for the purposes of managing and controlling the movements of Indigenous peoples feature prominently.

1.2 Colonial logics in the modern era

This section focuses primarily on literature in colonial studies that outline the ways in which the state draws upon its legal powers to effectively "control" the public and private lives of Indigenous peoples, including expressions of language and culture. First, I draw upon the works of Anthony (2013a; 2013b) and Cunneen (2017) as these authors outline how overt, physical violence enacted by the state was justified and normalized at the outset of the initial colonial invasion. Although writing primarily in the Australian context, it is a nation that is nonetheless colonized by settlers and highlights the logics that underpin the global colonial project. This work will then be outlined vis-à-vis the implementation of residential schools and the Sixties Scoop in Canada. Moreover, the literature contained herein will describe how settler colonial dispossession is an *ongoing* project in Canada—one that presents itself in neoliberal tactics of governance. In turn, this section will contribute to the problematization of actuarial tools as instruments that may facilitate the ongoing colonial project, specifically within the penal realm.

1.2.1 “Creating” the Indigenous identity within a colonial framework through processes of (in)action

Within the Australian context, Anthony (2013b) explains how, prior to the creation of colonial legislative bodies, the seizure of land by the British took place primarily through forceful and violent means and was justified on the basis that Indigenous activity was perceived as resistance to the colonial project. Violent punishment, such as whippings and public execution, was seen as the rational response to Indigenous resistance because colonizers perceived Indigenous peoples as a lawless group, unable to comprehend their wrongs unless met with violence (Anthony, 2013b). Moreover, violence was justified on the basis that Indigenous peoples posed a threat to the colonizer’s pursuit of land (Anthony, 2013b). Anthony (2013b) further provides historical context for the periods in which the Protectionist and Assimilationist policies came into effect in Australia and the subsequent impact these policies had on the lives of Indigenous people. Cunneen (2017) highlights how, during the nineteenth century, mass murder and removal of Indigenous people from land to facilitate British expansion was overlooked, thus legitimating the suspension of the rule of law and police practices that fell outside the confines of the law. This, Cunneen (2017) contends, sheds light on the relationship between police and Indigenous communities today: “Historically, Indigenous communities have not been policed by consent in Australia. In this sense, police legitimacy has not existed in Indigenous communities” (p. 3). The Protectionist policies of the twentieth century took as its objective the reformation of the Indigenous body as a “civilized” body, one that resembled the same social standards as the British (Anthony, 2013b; Cunneen, 2017). The policies took effect by moving Indigenous people to settlements where they were inundated with colonial values tied to work ethic and familial relationships (Anthony, 2013b; Cunneen, 2017). Following the Protectionist policies, the Assimilationist policies were introduced during the mid-twentieth century and brought with it a heavy focus on “cultural absorption”, which occurred primarily through allowing Indigenous peoples to leave their settlements and live in towns among the settlers (Anthony, 2013b). The purpose of these policies was to allow Indigenous people to enjoy liberal freedom, however, this freedom was differentially experienced; barriers to equal employment, pay, and housing were experienced by Indigenous peoples (Anthony, 2013b). Although unique to Australia, the historical context provided by Anthony (2013a; 2013b) and Cunneen (2017) nonetheless bears resemblance to Canada’s initial colonial invasion and history of settler colonial dispossession.

The displacement—or, rather, the elimination—of Indigenous governments, traditions, and worldviews with that of the British was a prominent goal of Canada’s Aboriginal policy (Chartrand, 2019; Napoleon & Friedland, 2014; TRCC, 2015). Through a discussion on Indigenous legal traditions and its matters that are similar to criminal law in the British tradition, Napoleon and Friedland (2014) highlight how Indigenous forms of punishment were “the ones first criminalized by colonial states, which monopolized the legitimate use of coercive force as part of the ‘civilizing’ project” (p. 231). Indigenous-based responses to legal matters were viewed by the settlers as “irrational barbarism” (Napoleon & Friedland, 2014, p. 232). From early settlement (1763-1867) through to the period of nation building (1867-1910), Chartrand (2019) notes how legal apparatuses were created for the purposes of establishing and securing British sovereignty. Included in this process was the creation of the prison, which served as a modern form of “civil” or “humane” punishment from which Indigenous people were largely excluded through racialized differences: “[r]acial themes of pathology and contamination were a part of a colonial logic in penal administration to segregate populations and serve the biopolitical function of increasing the utility and health of the settler state” (Chartrand, 2019, p. 74). Chartrand (2019) further explains that the “penal administration did not see Indigenous people as having the same capacities or needs as settler convicts" (p. 74). In this way, regulation of the "Indian problem" took place through mechanisms such as the residential school and child welfare systems, which were part of the assimilation era during the period of 1910-1960 (Armitage, 1995; Chartrand, 2019; TRCC, 2015).

Sherene Razack (2015) explores the power conferred onto specific legal processes that mobilize a particular narrative about the Indigenous person and the policies that have contributed to the "making up" of Indigenous identity. For example, the purpose of the residential schools was to "save" Indigenous children from life on the reserve (Razack, 2015; TRCC. 2015). However, the outcomes were detrimental to the health and well-being of the children as they had experienced violence, abuse, and death as well as a trauma and violence that persisted beyond the confines of the schools (Razack, 2015). The Sixties Scoop also presents another example in which the Canadian government enforced policy for the mass removal of Indigenous children from their biological parents' homes and into non-Indigenous homes for the purpose of assimilation, which took place during the late 1950s and well into the 1960s and 1970s (Cardinal, 2018; MMIWG Final Report, 2019). Colleen Cardinal (2018) takes the reader through the experience of growing up in a white household and the grave impact this had on her physical and mental health, as well as how she came to understand and make sense of her identity as an Indigenous woman. Cardinal (2018) describes the Sixties Scoop as a process in which the "federal government was harvesting Indigenous children to be farmed out to good 'white' homes in a way very similar to the Residential Schools initiative to 'take the Indian out of the child'" (pp. 5-6). For example, between 1967 and 1969, Saskatchewan had in place the "Adopt Indian Métis" program, the purpose of which was to "increase adoptions of First Nations and Métis children already overrepresented in the child welfare system" (MMIWG Final Report, 2019, p.

281). A logic of colonialism is located within such practices of dispossession. Indeed, as discussed by Chartrand (2019), "[a]dvanced through discourses of modern progress, colonial logics made invisible a construction of the colonized as inferior that subordinated their welfare to the colonizer" (p. 72). As discussed below, the Canadian child welfare system can be described as taking on similar form to how the Sixties Scoop operated—the goal being forced assimilation.

The ongoing colonial project not only occurs spatially vis-à-vis land procurement, but also operates within the intimate confines of one's home, evidenced through the Canadian child welfare system (de Leeuw, 2016). Citing the Auditor General Report of 2008, de Leeuw (2016) notes that Indigenous children are six times more likely than non-Indigenous children to be taken into government care for reasons linked to poverty. Indigenous mothers were also deemed "unfit" (MMIWG Final Report, 2019, p. 280). As documented in the National Inquiry's Final Report on Missing and Murdered Indigenous Women and Girls (MMIWG), the closure of several residential schools during the 1950s coincided with a 50-fold increase in Indigenous children "in care", becoming "a new way of stealing children" (p. 280). Evidently, social workers operate within a set of standards deemed suitable by the government and failure to meet those standards results in apprehension rather than recourse for improving life conditions (de Leeuw, 2016). In this way, the process of removing children from their homes offers one example to demonstrate the Canadian government's creation of *standards* for familial "normalcy" and, by extension, setting a threshold that Indigenous peoples must meet to avoid government intervention.

1.2.2 Policing of space and mechanisms of dispossession and disappearance

A body of literature has advanced a line of argument that colonialism can be understood as a structure, and not an event (Wolfe, 2006), operating on a set of colonial logics that are evident in modern advances that we see today, particularly within the rise of the neoliberal state (Lloyd and Wolfe, 2016; Quijano, 2007; Wolfe, 2006). This "new mode of accumulation" is characteristic of the privatization of certain sectors, such as schooling, health care and social welfare (Lloyd & Wolfe, 2016). Academics contend that colonialism operated on a set of logics, which advanced notions of discoverability, citizenship, prosperity, and, importantly, created tangible lines of difference among groups of people (Anthony, 2013a; Lloyd and Wolfe, 2016; Monaghan, 2013; Quijano, 2007; Wolfe, 2006). Chartrand (2019) describes how modern structures, such as penal institutions, operate under a guise of modern progression, but give rise to new ways for populations to be controlled and managed. Recalling the line of inquiry engaged by academics such as Rigakos (1999) and Silver and Miller (2002) (refer to section 1.1.5), actuarial tools are embedded within a model that necessitates the categorization of individuals into normative subgroups to determine their security classification placement and manage their rehabilitative programming. When discussing actuarial instruments as a tool used for the management of the prison population to differentiate the "risky" from the "non-risky", this literature on colonial studies becomes highly relevant in furthering an understanding of the effects that stem from an imposition of such managerial tactics on a subgroup that has historically been, and is presently, subject to routine control by the state.

In untangling the concept of settler colonial governmentality, Monaghan (2013) provides examples of surveillance strategies employed by the Canadian government during the nineteenth century. In particular, Monaghan (2013) points to the sale of land of what is now known as the Northwest Territories. Monaghan (2013) explains how the Canadian government invoked the legal power of treaties to forcefully remove Indigenous peoples from the land and onto reserves. In turn, the reserves served as a ground where the movements of Indigenous peoples could be monitored by various officials, including officers and religious personnel, for the detection of resistance to the colonial project (Monaghan, 2013). The effects arising from surveillance tactics are profound, contends Monaghan (2013), whereby racial subjectivities are formed and allow for the creation of categories, such as the good versus bad "Indian", which constitutes a "racializing surveillance" and reifies negative stereotypes (Browne, 2012, as cited in Monaghan, 2013, p. 492). Importantly, these categories are formed based on a colonial/European understanding of what characterizes a productive, liberal subject:

> Sorting between good and bad conduct based on racial distinctions between whiteness and Others, racializing surveillance simultaneously confirms notions of indigeneity as abnormal and illiberal, while disaggregating within indigenous populations between worthy and unworthy life; those who can be transformed and those who can be killed…racializing surveillance seeks out any expressions of indigenous practices, sovereignty, or autonomy as immediate threats to the health and security of settler expansionism (Monaghan, 2013, p. 492).

The relationship between Indigenous people and white colonial settlers is symptomatic of the ongoing colonial project that, as discussed above, operates in accordance with perceptions of Indigeneity as "abnormal and illiberal" and thus a threat to the colonial project (Monaghan, 2013, p. 492). Again drawing upon Razack (2015), I will illustrate below how the legal realm is complicit in the maintenance of such perceptions towards Indigenous peoples.

Razack (2015) argues that the relationship between settlers and Indigenous peoples is "spatially and racially organized as one between modern subjects and those who must be assisted into modernity" (Razack, 2015, p. 32). The removal of Indigenous people from white colonial spaces is a move towards preserving the space as *their* (white colonial) space. Razack (2015) explores how the episteme deriving from legal processes, particularly inquests and inquiries, operate to maintain the status of Indigenous peoples as inferior to their non-Indigenous counterparts. Razack (2015) suggests that inquests and inquiries are able to dispense a particular narrative about Indigenous peoples through a defiling of their being. For example, by reporting on the "fatty livers, mental illness, alcoholic belligerence, and a mysterious incapacity to cope with modern life", Razack (2015) advances the argument that inquests and inquiries routinely perpetuate and maintain the "narrative of a dying race", one that is ill-equipped to enter modernity (p. 4). Moreover, Razack (2015) contends that reference to pathologies and, further, the notion that Indigenous death is inevitable because of their physical state and/or mental conditions, lends the state a guise for exercising overt violence.

By utilizing actuarial tools, government officials are given the opportunity to identify those individuals who belong in one category as opposed to another. Indeed, Monaghan's (2013) explication of the formation of racial subjectivities aligns with the previous discussion (see section 1.1.3) on CSC's trend toward the "Aboriginalization" of correctional programming (Martel et al., 2011). As discussed, prisons have sought to transform the "risky" Indigenous offender into one that is reconnected with their "traditional" culture, filtered through a colonial lens, thus reducing their level of riskiness (Martel et al., 2011). Actuarial tools are thus the conduit from which this process can materialize.

1.3 Conclusion

This literature review highlighted the main ideas within two different, albeit complementary, fields of study, namely that of risk (with a focus on actuarial tools) and colonial logics. Through a review of actuarial risk assessment literature, particularly with respect to how Indigenous people in prison fare as subjects of risk, it is evident that a deep divide exists between those who support the use of the tools and those who denounce its practice within correctional policy. Although this project is not concerned with assessing the tools' empirical validity, but rather with how CSC legitimates the continued use of the tools, the polarized debate within this literature serves as a departure point for questioning *why* actuarial tools have not been universally accepted as appropriate. Indeed, as some academics have claimed, the purported "objective" nature of actuarial risk assessment tools differentially impacts Indigenous peoples with respect to their classification level and programming eligibility. Furthermore, there exists a group of academics that take issue with the tools on a whole, contending that the tools serve as a mode through which the government can further categorize and manage groups. Through an exploration of competing perspectives, the assertions emerge that either "better", more responsive tools to Indigenous people in prison are needed, or the practice of utilizing actuarial instruments should be abandoned in its entirety. Locating these assertions within the broader Canadian penal context, one that is witnessing an "Aboriginalization" shift (Martel et al., 2011), requires a synthesis with literature exploring the operation of colonial logics in the modern era. By exploring themes of dispossession, assimilation, and policing of spaces, actuarial tools can be understood as a possible mechanism through which colonial logics are mobilized.

CHAPTER TWO: THEORETICAL FRAMEWORK

Studies in the social sciences that are guided by the conceptual framework of "governmentality" have focused on varying objects of inquiry, not least of which is the study of correctional risk management in the field of criminology. First theorized by Michel Foucault (1991), governmentality is, at its essence, the 'government of conduct' of a population. The concept of governmentality provides an explanatory framework for understanding how political rationalities and techniques are strategically mobilized for the fulfilment of specific ends (Dean, 2010). Foucault's successors have endeavoured to build on the original ideas he had posed in his lectures at Collège de France (Bröckling et al., 2011; Burchell et al., 1991; Dean, 2010; Garland, 1997; Miller & Rose, 1990; Rose et al., 2006), and they have applied them as an explanatory framework for the study of a wide net of social issues, particularly those in which the notion of power features prominently. The strong appeal of governmentality as an analytical framework is its nuanced approach to interrogating power relations, but to do so in a way that does not endeavour to "expose" inequality or "hidden agendas" of the powerful. During the time of Foucault's publications on power, his ideas were viewed as a radical shift from a state-centred understanding of power: "[m]any of those analyzing these issues had already recognized that these studies undermined the conventional view of the state as origin, animator, beneficiary, or terminal point of power" (Rose et al., 2006, p. 86). What Foucault brought to the field of social sciences was a way of understanding power beyond what Marxist social theories had to offer by way of economic modes of production (Rose et al., 2006). Instead, governmentality allows for an interrogation into the seemingly natural positioning of actors and institutions in society—that is, power is examined as existing *relationally*, at the level of population (Foucault, 1979).

However, as it will become apparent in this chapter, governmentality, as it was first understood by Foucault, lacked any meaningful attention to race and colonialism. Foucault began a tracing of the genealogy of racism, but his work went unfinished (Rasmussan, 2011).[2] Since then, scholars have developed Foucault's genealogy of racism, and have integrated a colonial analysis to the work on governmentality (see for example, Crosby & Monaghan, 2012; Scott, 1995). For my purposes, it is necessary to understand the role of settler colonialism in producing those conditions that actuarial tools evaluate when assessing one's risk of recidivism. As such, settler colonialism, as a structure that operates in accordance with a "logic of elimination" (Wolfe, 1994; 2006), must be attended to in order to account for the specificity surrounding the relationship between Indigeneity and risk within CSC's risk management context. I will integrate Patrick Wolfe's (2006) concept of the logic of elimination that underpins settler colonial practices to complement the conceptual framework of governmentality, the ideas of which will lend itself to a fuller, more comprehensive understanding of this project's topic of study.

This present chapter will explore the themes and concepts that lend internal coherence to the governmentality lens, as well as delineate Patrick Wolfe's (2006) concept of the logic of elimination. At the outset, it is important to note that the conceptual framework of governmentality is not intended to be prescriptive – that is, it does not seek to "diagnose" a social problem nor offer a normative account of *how things ought to be*. Rather, governmentality, as an analytical lens (Dean, 2010), guides the investigation into an object's *natural occurrence*; its

[2] Rasmussan (2011) cites Foucault's final lecture at Collège de France in 1976 as the lecture in which Foucault conceptualized racism in two distinct ways: "Racism, on the one hand, operates within the boundaries of biopower insofar as it articulates a caesura between worthy and unworthy life; on the other hand, racism operates between different forms of power as a form of governmentality. In other words, Foucault theorizes racism as biopolitical government…" (p. 40). Foucault's later works never returned to notions of racism and instead shifted from a focus on biopower to one of governmentality (Rasmussan, 2011).

existence as "matter-of-course"—the rules and procedures that make it so—are rendered intelligible.

2.1 Understanding "governmentality": Central concepts and themes

Michel Foucault (1991) argued that, from the eighteenth century onwards, the rise of the modern liberal state brought with it a concern for the security and welfare of the population. In order to optimize security 'for each and all' against the ails of a market economy, such as unemployment, disease, and poverty, it would be necessary to "govern" the population—to direct behaviour such that misfortunes are avoided (Foucault, 1991). To understand the "government of conduct", it is first necessary to differentiate between two forms of power: that of sovereignty and that of discipline which I will do so by drawing primarily upon Garland's (1990; 1997) reading of Foucault's works. By outlining this difference, and the critiques therein, it becomes clear that the power that emanates through the government of conduct is a type of power that builds upon and extends that of sovereignty and discipline.

Sovereignty is described as being exercised over a territory and by extension, the individuals who reside within the territory (Foucault, 1991). Moreover, sovereignty is a top-down, political power; it is what creates the law, and the law is the instrument that perpetuates and legitimizes sovereignty (Foucault, 1991). In other words, sovereignty is self-fulfilling. Discipline, on the other hand, was conceived as being a specific mode of power (Garland, 1990). It is within Foucault's (1979) text, *Discipline and Punish: The Birth of the Prison*, where the prison serves as an apt illustration of an institution's control over individual bodies; the disciplinary power described therein takes on the form of training the body to normalize it—that is, 'correct' it so as to align with society's law-abiding, conforming individuals (Foucault, 1979; Garland, 1990). The techniques and practices associated with training the body relies upon the knowledge/power dyad (Garland, 1990), which are not to be confused as two discrete entities. In contrast to sovereign power, which radiates from a centralized apparatus, disciplinary power takes on a diffused characteristic; it is not a type of power that is *possessed* by individuals or institutions, but rather exists when social relations exist (Foucault, 1982) and is "to be thought of as productive in effect rather than repressive in so far as power shapes the actions of individuals and harnesses their bodily powers to its ends" (Garland, 1990, p. 138). To shape the actions of individuals, knowledge about the population, its limits and capacity for change, is necessary (Garland, 1990; Miller & Rose, 1990). In this respect, disciplinary power necessitates the assumption that the population is amenable to change. Importantly, Foucault (1979) describes this disciplinary power in a very specific way, emphasizing that the disciplinary power produces 'docile' bodies, ones that are efficient and obedient. Foucault's conceptualization of disciplinary power, however, was criticized for its illustration of individuals as non-active objects (Garland, 1997). Following *Discipline and Punish*, Foucault addressed such criticisms through his subsequent work on governmentality and processes of subjectification in which individuals come to govern themselves (Foucault, 1991; Garland, 1997).

The notion of governmentality was realized through Foucault's (1991) tracing of the genealogy of the modern state (Foucault, 1991). Following the eighteenth century, Foucault (1991) contends that earlier conceptions of the sovereign state are displaced with that of a governable state; one that is more aptly referred to as the "governmentalization" of the state (Foucault, 1991). The burden of governing the population is located with actors and institutions that exist independently of the formal state apparatus (Dean, 2010; Garland, 1997; Rose et al., 2006). This displacement marked a shift in rationality whereby the notion of security gained prominence, the goal being the social protection of a state's population that would allow individuals within that population to maneuver their daily lives within the conditions of possibility (Bröckling et al., 2011; Burchell et al., 1991; Foucault, 1991). In this vein, the cultivation and realization of a "healthy" population, according to Foucault (1991), is achieved through "apparatuses of security", which are the mechanisms and processes internal to that of governing bodies. It is here that governmentality takes form, encompassing the multifarious rationalities that underpin the processes and techniques by which conduct is directed—that is, through which conduct is governed (Dean, 2010). Although it retains and presupposes the always present enactment of the knowledge/power dyad that is characteristic of disciplinary power, governing power conceptualizes individuals as *active*—rather than passive or docile—subjects: "…the subjects of government are to be conceived of as active in the process of their own government, rather than the passive effects of powers over which they exert no control (Garland, 1990, p. 175). Accordingly, governmentality is comprised of two, co-producing aspects: one being technologies of the self, and the other being authoritative bodies (for example, schooling institutions, prisons, and hospitals) that deploy *tactics* for the purpose of population management (Bröckling et al., 2011; Garland, 1997). For example, prison authorities organize inmates' daily schedules, including mealtimes, correctional programming, physical activity, and the like, for the purposes of managing and cultivating the subjectivities of the population. In other words, it is through the deployment of tactics that individuals will come to act upon themselves in the self-direction of their behaviour (Bröckling et al., 2011). Such tactics take on a multitude of forms and operate within specific 'regimes of practices' (Dean, 2010), which will be outlined in the proceeding discussion.

At this juncture, however, it is important to note that Foucault (1991) theorized that the population is both subject and object; simultaneously a subject with desires and an object that is conscious of those desires only because it is blind to the governmental power that renders them possible. That is to say, individuals are “free” to the extent that governmental power shapes one’s field of possibilities (Foucault, 1991). The improvement of the population’s condition (its health, productivity, and so on) is realized through the *rational* shaping of conduct, the “cultivation of subjectivities in specific forms” (Dean, 2010; Garland, 1997, p. 175). This rational shaping of conduct is “any form of thinking which strives to be relatively clear, systematic and explicit about aspects of ‘external’ or ‘internal’ existence, about how things are or how they ought to be” (Dean, 2010, pp. 18-19). Thus, the goal of governmentality is the production of subjects that, through the process of subjectification, come to be able to govern themselves without the direction of authoritative institutions. Within the penal context, risk management practices operate in accordance with specific ends, namely that of reducing the risk a prisoner poses to the security of the institution and the public; ends that are achieved through correctional programming that in turn facilitates the cultivation of subjectivities, the identification of which is initiated at the initial security classification and penitentiary placement procedure. It is this process of subjectification that forms the basis of the analysis within Mitchell Dean’s (2010) characterization of the “analytics of government”.

Dean’s (2010) unpacking of the analytics of government borrows significantly from the original ideas in governmentality put forth by Foucault and builds upon the ideas of those who have developed Foucault’s ideas over the years. Dean (2010) successfully organizes the analytics of government in such a way that paves the way for future systematic studies in governmentality to be conducted. This approach to analyzing governmentality will now be discussed in turn and will be augmented by the ideas put forth by Miller and Rose (1990) in their discussion on the government of national economic life. The contributions from these authors will assist in guiding the problematization of actuarial tools as a "technological" component of the field of corrections.

2.2 "Analytics of government": An approach to theorizing governmentality

According to Dean (2010), an "analytics of government" is a perspectival study in governmentality that begins with locating a particular instance in which the "conduct of conduct" is brought into question. Rather than providing a formulaic recipe for theorizing, an analytics of government is more of a lens, and invites us to ask specific questions about the way in which government proceeds (Dean, 2010). The analysis of government is not a descriptive exercise that merely seeks to identify and describe the power relations in society and the positions individuals occupy. Rather, it is interested in the advancement of an understanding of *how* those power relations engender change and are themselves subject to change. In turn, an analytics of government seeks to understand the emergence and transformation of the social sphere, particularly the conditions that cultivate the actualization of specific practices, at the individual level and institutionally.

Primarily, this lens is concerned with answering questions associated with "*how* we govern and are governed within different regimes" (Dean, 2010, p. 33, emphasis in original). The regimes to which Dean (2010) refers are "regimes of practices", which are simply "coherent sets of ways of going about doing things" (Dean, 2010, p. 31). To "do things", regimes of practices rely upon its constitutive parts, such as the administrative and bureaucratic processes of an institution that carry out specific functions (Dean, 2010). For example, Dean (2010) identifies punishment as a regime of practice, and the prison as being one of many sites in which punishment proceeds. Within the prison, there are a wide host of actors, authoritative groups, and programmes that serve to carry out the functions of the prison, but also operate in accordance with their own desires and goals. The prison serves to highlight the heterogeneous nature of governing, which Dean (2010) emphasizes throughout his text. It is this heterogeneity that serves as a significant tenet in governmentality studies—that is, a recognition that the "conduct of conduct" proceeds in a multiplicity of ways (Dean, 2010). In this vein, it is important to note that although punishment has affinity with the institution of the prison, it does not necessarily mean that the prison constitutes *the only* site in which punishment is performed; the family and schooling institutions are also places in which the regime of punishment can take form (Dean, 2010).

Furthermore, regimes of practices refer to a systematic, normative set of ideas of how "things" ought to be (Dean, 2010). That is to say, these ideas are imbued with a sense of logical coherence that constitute the rational shaping of conduct (Dean, 2010). The knowledge from which regimes of practices borrow are those derived from expert knowledge, such as criminologists in the social sciences or psychologists within the life sciences (Dean, 2010). Such knowledge formulates the object (for example, the criminal) that is subject to intervention within regimes of practices, which reinforces power relations and confers agents and institutions with the knowledge necessary for going about achieving their purpose(s) (Dean, 2010; Miller & Rose, 1990). As discussed by Miller and Rose (1990), the rendering of the "knowable" object for intervention is derived from information gained through sources such as data reports, charts, statistics, and the like. The utilization of this information and the mechanisms deployed to mobilize such information, serves as the technological aspect of government. As discussed by Dean (2010) in his outline of the four dimensions[3] along which regimes of practices can be

[3] The four dimensions offered by Dean (2010) are (1) visuality of government, (2) technology of government, (3) knowledge of government, and (4) identity formation through the process of governing. The four dimensions underline the notion that the governing of conduct is not reducible to any one element. As my thesis, however,

analyzed, the “techne” of government is the technological aspect of government that necessitates the utilization of mechanisms for the active deployment of tactics. In other words, the technological aspect of government is that which puts thoughts into action (Dean, 2010).

Closely tied to regimes of practices, and which are internal to the regimes, are “programmes” that operate in accordance with goal-attaining procedures, such as programming in a prison (for instance, anger management classes) that aim to reduce the likelihood of recidivism (Dean, 2010). Since these recidivism-targeted programmes are designed with the goal in mind of changing behaviours to reduce risk of recidivism, they are *problematized*—that is “[t]he action of calling into question some aspect of the ‘conduct of conduct’” (Dean, 2010, p. 38). The point at which an aspect of government becomes problematized is the point at which an analysis into government begins (Dean, 2010). Here, it is possible to conceive of how Indigeneity can become a problematic for governance within the context of CSC, and how actuarial risks are used as a management technique. As a mechanism designed to fulfill CSC’s obligation of assigning prisoners with a security classification, the CRS, for example, asks assessors to provide an analysis of Aboriginal Social History (ASH) factors in the cases of Indigenous individuals (CSC, 2018). This process was introduced as a component of the risk assessment procedure to include Indigeneity as a form for penal management, thereby rendering Indigeneity a problematic for governance.

2.3 Actuarial rationality of risk governance

This section aims to further comment on the notion that “governmentality work is an empirical mapping of governmental rationalities and techniques” (Rose et al., 2006, p. 99).

---

examines one component of government, I draw upon the second dimension to elucidate how I theorize actuarial instruments within the initial security classification process.

Within the formulation of the analytics of government, correctional risk management can be understood as consisting of a set of programmes within the prison, implemented to achieve specific ends. The processes involved during the initial intake of inmates is one such area where CSC endeavours to manage risk. The Security Classification and Penitentiary Placement comprises one stage of the initial intake assessment process and it is during this stage that the Custody Rating Scale (CRS) and accompanying assessments are completed for the determination of a prisoner's security risk classification level, Actuarial tools, then, are one of the technologies used to assist in carrying out the purposes of correctional risk management, one of which is to evaluate an individual's future risk for recidivism. With the aim being to manage prisoners' risk for recidivism through the assistance of actuarial tools, delving into what a rationality of actuarial governance entails is a natural starting point.

As suggested by Dean (2010), an analytics of government normally begins by identifying the point at which an aspect of the conduct of conduct is called into question—that is, *problematized*. In the previous section, I noted that Indigeneity becomes a problematic for governance through the procedural requirements of the initial risk classification process in relation to the Indigenous population in prison. Through the process of requiring assessors to provide an analysis of Aboriginal Social History (ASH) factors in the case of an Indigenous person, and insofar as this process has any bearing on the risk score received, the conduct of "conducting" Indigeneity is problematized. In seeking to answer the question of "how we govern and are governed", it is necessary to render visible the *rationality* that underpins the purpose for directing conduct, and that turns specific practices, programmes, and techniques into a taken-for-granted operation.

On its surface, practices and procedures appear to be naturally occurring, however, there is a logical coherence or set of logics that exist that provide force to the practices deployed; governmental rationalities operate with specific aims, and those aims are brought to fruition through purposeful practices (Dean, 2010). As discussed by Dean (2010) and Miller and Rose (1990), undertaking an analysis into such governmental rationalities will render visible the logic in which regimes of practice operate, and the knowledges they produce and upon which they depend. Dean (2010) acknowledges the multiplicity of governmental rationalities that exist, one of which is a calculative rationality of risk governance. More broadly, the governing of risk is subsumed under an actuarial logic. This type of rationality is central to what Dean (1998) referred to as "reflexive government", or the "governmentalization of government" in advanced liberal societies of the twenty-first century. Whereas the governmentalization of the state sought to transform society through practices of intervention that existed independent of the formal state apparatus, the governmentalization of government seeks transformation through the "regulation of regimes of regulation" (Dean, 1998, p. 39). In other words, techniques of the governmentalization of government is the securitization of those techniques; the aim being to ensure that such processes of intervention are operating to the fullest, in an "efficient, accountable, transparent, and democratic" (Dean, 2010, p. 223) manner and in line with the interests of the regime.

2.3.1 Conceptualizing "risk" as a category

Dean (2010) utilizes Ulrich Beck's sociological notion of the "risk society" to emphasize the unique markers associated with discussing risk in relation to the analytics of government. Contrasting how risk is conceptualized within differing schools of thought is useful in comprehending the way in which risk is understood within governmentality studies specifically, as well as why I have chosen this specific conceptualization over any other. Dean (2010) contends that there is a peculiarity associated with the notion of risk within governmentality that distinguishes it from how risk is conceptualized within Beck's risk society. Of significant difference to note is that Beck's risk society is a *realist* perspective—it assumes that risk is a real feature of societies undergoing particular transformations (Dean, 2010). When discussing risk within the analytics of government framework, what is being discussed is a type of rationality that guides governing practices (Dean, 1998; 2010). Evidently, the sociological realism adopted by Beck is one that operates in accordance with specific ontological assumptions concerning the nature of being. Moreover, risk, as it is theorized within the analytics of government, is not a singular entity signaling danger or the proliferation of dangerousness (as is the case within Beck's risk society; Burchell et al., 1991) nor is it merely a homogenous rationality (Dean, 2010); the notion of risk manifests itself differently depending on the techniques being utilized to achieve specific ends (Dean, 2010). This is particularly useful when discussing actuarial tools within the context of correctional management, as the use of the tools have a particular purpose for achieving particular ends, independent of the other programmes that may exist under the umbrella of correctional risk management.

Castel (1991) traces the emergence of the actuarial logic and highlights how, during the nineteenth century, clinical intervention was based on an individualized understanding of "dangerousness". During this time, intervention was based on whether an individual displayed characteristics, such as alcoholism and sexual promiscuity, that were deemed "objective risks" for the materialization of threatening acts (Castel, 1991). From the twentieth century onwards, however, clinical evaluations were criticized for allowing psychiatrists to operate in an advisor capacity and for creating competition amongst clinicians who varied in their level of qualifications, thus engendering a shift in the logics that underpinned the field of intervention (Castel, 1991). Dangerousness, grounded in a therapeutic logic, was replaced with 'risk' as the new target of intervention, underpinned by an actuarial logic (Castel, 1991). As noted by Garland (1997), "[t]he discretionary powers of clinical experts are being displaced by central management decisions based upon actuarial expertise. New diagnostics apply risk factor analysis to the 'profile' of a case rather than engage in face-to-face examinations of individual patients" (p. 182). Within an actuarial logic, risk is not that which is embodied, but that which is the *effect* of an accumulation of factors—a "profile"—that "render probable the occurrence of undesirable behaviour" (Castel, 1991, p. 287). Earlier conceptions of the individual subject is supplanted with the notion of factors that are statistically correlated with producing an outcome of interest. What is important for this conceptualization of risk is the probabilistic dimension that is attached to it.

This is a move away from intervention targeted at inherent dangerousness to one aimed at preventing the actualization of undesirable risk factors (Castel, 1991), thus rendering the individual subject as an aggregate of those risk factors. In a discussion on risk-based reasoning, Garland (1997) similarly contends that the use of actuarial tables transforms the individual from a "distinct, unique person, to be studied in depth and known by his or her peculiarities" to one that is "a point plotted on an actuarial table" (p. 182). Garland (1997) further comments the following:

> Actuarial reasoning about risk gives rise to distinctive techniques for managing risk. Risk-management is forward-looking, predictive, oriented to aggregate entities and concerned with the minimization of harms and costs, rather than with the attribution of blame or dispensation of individual justice. It relies upon actuarial knowledge of populations and statistically-produced risk groupings, not upon a clinical knowledge of individuals (Garland, 1997, p. 182).

In the following section I will address how an actuarial rationality simultaneously engenders a totalizing and individualizing conception of the human actor.

Risk, in the governmentality sense, is not an actual entity that exists "out there" in society but rather is a *category*. As noted by Dean (1998):

> If the task of critique—after the work of Michel Foucault—is to investigate the historical conditions of true knowledge, then the critique of risk will investigate the different *modes* of calculation of risk and the moral and political technologies within with such calculations are to be found (p. 25, emphasis added).

According to Dean (1998), risk is mobilized as a category of understanding; it is a way rendering objects and relations knowable and governable:

> What is important is not risk itself, but the forms of knowledge that make it thinkable from statistics, sociology, and epidemiology to management and accounting, the techniques that discover it from the calculus of probabilities to the interview, the social technologies that seek to govern it from risk screening, case-management and social insurance to situational crime prevention, and the political rationalities and programmes that deploy it, from those that dreamt of a welfare state to those that imagine an advanced liberal society of prudential individuals and communities (Dean, 1998, p. 25).

To illustrate, it is useful to turn to François Ewald's (1991) essay, *Insurance and Risk*, which discusses how the notion of risk is enmeshed in the field of insurance, and how this particular type of rationality shapes the way insurance companies calculate the probability of events occurring. For Ewald (1991), "nothing is a risk in itself" (p. 199), but we can speak of the risk—the likelihood—of something occurring when a population absorbs, albeit to varying degrees, the characteristic(s) or factors that give rise to a situation or event (see also Burchell et al., 1991). In other words, although "nothing is a risk in itself", any entity or event can be considered a risk if its probability for occurrence can be calculated. In this way, Dean (1998) contends that the rise of insurance in society epitomizes the "individualization of risk" that is characteristic of the advanced liberal society whereby forms of government assume individuals to be a responsible and prudential actor, moving about in their lives and making decisions based on the risk that they individually, but collectively, bear. For example, if we are to say that one individual has higher car insurance than the next individual, it may be the case that the first individual has a lengthier history of motor vehicle accidents and so are deemed more "at risk" of collision, thus requiring insurance companies to charge a higher rate because of the higher risk status posed. This is not to say that the individual is inherently "risky" or dangerous, but that they bear certain characteristics or factors that, when combined, are conceptualized as having a higher probability of being involved in an accident (Burchell et al., 1991). The individuals contractually agree that this is the case and "buy into" the insurance because this insurance provides them with a safety-net when in the face of unfortunate circumstances (Garland, 1997). The rise of insurance in liberal societies marked one way in which social security was provided to individuals within a population (Garland, 1997). Herein we can see that insurance is an example of what Foucault meant by "apparatuses of security" (Garland, 1997). Moreover, in the essay *Making Up People*, Ian Hacking argued that "statistics contribute to the shaping and self-governing of people's selves, as they adjust their self-conception and behaviour to fit with 'the normal' or with other social types that are statistically produced" (Hacking, 1986, as cited in Garland, 1997, p. 180). The reliance on statistics for the formulation of risks evidently serves to organize and (re)produce behaviour in specific ways.

The rise of insurance was not the only field in which a calculative rationality could be located, however. Case management risk and clinical risk will be discussed below, the combination of which will help guide an understanding for the instrumentality of actuarial tools within correctional risk management.

2.3.2 Case management and clinical risk: Two sides of the same coin

Similar to the calculative rationality underpinning insurance practices, case management and clinical risk are also governing strategies. Departing from the quantitative and collective 'burden' of risk that is characteristic of insurance, case management and clinical risk attach a qualitative dimension to governing practices because of the heavy reliance upon such things as expert judgment, an individual's case file, and interviews, which feature prominently in the evaluative process (Dean, 1998). In this way, both case management and clinical risk place emphasis on the individualization of risk management, which is reflected in correctional risk management practices (for example, through the building of one's 'correctional plan').

Clinical risk, as discussed by Dean (1998), is a type of rationality that depends upon health statistics of a population to screen individuals who are "at risk", and in turn subject them to a course of treatment:

> Mobilizing risk screening techniques, and combining them with modes of face-to-face diagnosis, clinical risk seeks to attach risk to the bodies of individuals so they might become objects of more intensive surveillance and treatment (Dean, 1998, p. 33).

These risk screening techniques involve both the quantitative analysis of correlative factors, as well as expert judgment (for example, doctors), which comprises the qualitative component. Case management risk, on the other hand, is similar in that assessments of risk are based on the results from quantitative analyses, but emphasis is placed on reaching a decision by means of the individual's case file, as the name suggests (Dean, 1998; 2010). Dean (2010) identifies general courses of "treatment" or intervention for those individuals identified as being at high risk of undesirable life patterns (for example, unemployment or criminality), with the goal being to either eliminate them from the spaces in which they occupy or to reduce their at-risk status by means of "normalization"—that is, transforming them into the ideal, law-abiding subject. These tactics can take on therapeutic/disciplinary, or sovereign form, which can include such things as counselling, confinement to a prison, or training programmes (Dean, 2010).

Keeping in line with the responsible and prudential actor of advanced liberal societies, these governing tactics named above, according to Dean (1998), are implemented either at the level of the individual or at the level of a governing body—that is, by "technologies of agency" or "technologies of performance", respectively. "Technologies of agency" aim to activate the self-managing capacities of individuals by engaging them in programmes that will enable them as empowered and confident individuals, "…the object being to transform their status, to make them active citizens capable, as individuals and communities, of managing their own risk and purchasing those services that fit their needs" (Dean, 1998, p. 36). Here, notions of the responsible and prudential actor, those who are able to act upon themselves, are espoused. "Technologies of performance", on the other hand, are reflective of the governmentalization of government (Dean, 1998) discussed in the previous section. These technologies are evaluative of the programmes that are engaged by the technologies of agency, which are mechanisms that aim to assess the performance of governing mechanisms (Dean, 1998). Robert Castel's (1991) essay on dangerousness and risk provides a fruitful example to illustrate how the rationality of risk became the dominant logic with respect to the regulation of conduct.

This section provided an overview of risk rationalities within governing practices to serve as a foundation for analyzing rationalities in a specific field of intervention: the correctional system. In the section that follows, I will briefly describe the limitations of governmentality as a stand-alone concept for my project, which will augment my discussion on why the integration of Patrick Wolfe's (2006) notion of the "logic of elimination" in my framework is necessary. By situating the use of actuarial tools in Canadian correctional facilities vis-à-vis settler colonial practices, it will be possible to interrogate CSC's continued use of the tools in three very specific ways. First, the tools will come to be understood as a technology, within the Foucauldian sense. Second, it will be possible to render visible the logic—the rationality—that legitimates this particular correctional management policy. Third, the governmentality lens, in conjunction with the logic of elimination, will be especially useful in understanding how the adverse conditions created by colonialism and felt by Indigenous people become transformed into a risk factor under CSC's risk management agenda. Bringing to light the rationality that underpins CSC's justification for the continued use of the tools, despite the known disproportionate classification levels assigned of Indigenous people, will provide clarity as to why Indigenous people in prison continue to be adversely affected by correctional management policies.

2.4 Augmenting governmentality with a "logic of elimination"

Although an analytics of government framework is fruitful for interrogating how the conduct of conduct is operationalized in correctional management of risk, it falls short in adequately attending to the role of settler colonial relations in the Canadian context. Indeed, scholars have noted that Foucault's genealogy of the modern state failed to provide any meaningful attentiveness to European colonialism (Su Rasmussan, 2011; Venn, 2009). This is a crucial shortcoming that this research will address to provide greater insight into why a larger proportion of Indigenous people in prison, compared to their non-Indigenous counterparts, continue to be designated to higher levels of security classifications, *despite* CSC's awareness of this disparity (see Office of Correctional Investigator [OCI] Annual Report, 2020). As some scholars point out, this understanding cannot be achieved without contextualizing and centering the ongoing colonial project that pervades the CJS (Martel et al., 2011; Chartrand, 2019). Indeed, Martel et al. (2011) emphasizes, there is no doubt that imprisoned Indigenous people continue to face precarious life conditions, both structural and social, due to colonial policies; the very same conditions in which actuarial tools assess for one's likelihood of recidivism. How, then, do actuarial tools embody settler colonial tendencies?

Building on Chartrand's (2019) contention that "the prison took over as the new expression of colonialism" (p. 77), this research will draw from Patrick Wolfe's popular work on the "logic of elimination" (Wolfe, 1994; 2006) to gain insight into how Indigeneity is problematized through an "Aboriginalization" (Martel et al., 2011) of corrections, specifically through the initial risk assessment procedure, that simultaneously conceals processes of Indigeneity erasure. This logic of elimination, as it will be explained in more detail in the following section, is an inherent feature of settler colonial societies and helps to explain the range of state strategies that maintain settler dominion (Wolfe, 2006). Drawing upon Wolfe's (2006) conceptualization of the logic of elimination, Crosby and Monaghan (2012) contend that dominant settler society operates by positioning its own security "in relation to perceptions of indigeneity as insecurity. Coded as sources of threat, expressions of indigenous values, practices, knowledges and subjectivities must be eliminated through various mechanisms of security to ensure prosperity of settler society" (p. 422). In what follows, I will briefly discuss the differences between colonialism and settler colonialism to establish how the concept of the logic of elimination (Wolfe, 2006) is specific to settler colonial contexts. Following this, I will theorize actuarial instruments, as tools used for the identification of "problematic" social and behavioural characteristics that predict reoffence, as offering one avenue in which the visibility of settler colonialism's structure, vis-à-vis the logic of elimination, may be located.

2.4.1 Distinguishing between colonialism and settler colonialism

Veracini (2011) differentiates settler colonialism from colonialism in terms of the "end goals" to be achieved. Whereas systems of colonialism are cyclical in that they embody a sense of permanence—that is, requiring a continuous, overt recognition of difference between the colonizer and the colonized, systems of settler colonialism, on the other hand, strive for the eventual dissolution of its system, so as to enter into a "postcolonial" society:

> This permanence is not present under settler colonialism, which, on the contrary, is characterised by a persistent drive to ultimately supersede the conditions of its operation. The successful settler colonies 'tame' a variety of wildernesses, end up establishing independent nations, effectively repress, co-opt, and extinguish indigeneous alterities, and productively manage ethnic diversity. By the end of this trajectory, they claim to be no longer settler colonial (they are putatively 'settled' and 'postcolonial'—except that unsettling anxieties remain, and references to a postcolonial condition appear hollow as soon as indigeneous disadvantage is taken into account). Settler colonialism thus covers its tracks and operates towards its self-suppression (Veracini, 2011, p. 3).

This, Veracini (2011) contends, is achieved through strategies that neutralize Indigenous difference (Veracini, 2011). Indeed, as Tuck and Yang (2012) remark, "[s]ettlers become the law, supplanting Indigenous laws and epistemologies" (p. 6). Crucially, the settler comes to stay (Tuck & Yang, 2012). To highlight how this occurs, it is useful to consider how Indigenous resistance prevents the dissolution of the settler colonial project. Veracini (2011) contends that Indigenous *resistance* disrupts, or poses a hindrance to, the absolute "completion" of the settler colonial project. In other words, the "way out" of settler colonialism's endeavour to erase Indigeneity is through the survival of Indigeneity: "…whereas settler colonialism is designed to produce a fundamental discontinuity as its 'logic of elimination' runs its course until it actually *extinguishes* the settler colonial relation, the struggle against settler colonialism must aim to keep the settler-indigenous relationship ongoing" (Veracini, 2011, p. 7, emphasis in original). It is this notion of neutralization that assists us in understanding why the logic of elimination is specific to settler colonial contexts. The logic of elimination, introduced by Wolfe (1994) to illustrate the continuities of Australia's past with its present policies, is an inherent feature of settler colonial tendencies. I will now discuss this logic in more detail in the following section, focusing primarily on strategies of assimilation and "settler moves to innocence" (Tuck & Yang, 2012) that operate with a purpose of disappearing Indigeneity.

2.4.2 Defining the "logic of elimination"

The logic of elimination was first introduced by Patrick Wolfe (1994) to support the argument that Australia's contemporary government policies bear close resemblance to how the initial invasion of Australia proceeded; policies that are merely "repackaged" under a guise of "inclusivity". This identification of the continuities between the past and the present strengthens Wolfe's (1994) proposition that "invasion emerges as a structure rather than an event" (p. 96). According to Wolfe (1994), the logic of elimination is "…a sustained institutional tendency to supplant the Indigenous which reconciles a range of historical practices that might otherwise seem distinct" (p. 96). Wolfe (1994) effectively identified a broad logic—supplanting Indigenous life with a settler society—that would assist in locating and explaining why and how settlers deploy the type of eliminatory techniques that they do. As Lloyd and Wolfe (2016) note, these techniques range "from outright homicide to various forms of removal and/or confinement, and…in the post-frontier era, to Natives' assimilation into settler society—techniques that have met with mixed success in the face of Native modes of resistance…" (p. 111). To this end, what are the purposes and outcomes of those strategies that are buttressed within a logic of elimination?

The logic of elimination is characterized by negative and positive components in the sense that this logic both takes away and creates something new (Wolfe, 2006). In the former, the logic of elimination seeks the eradication of Indigenous societies, whereas in the latter, a new society is built on the previously destroyed one (Wolfe, 2006). Importantly, then, the procurement of territory gives force to settler colonial practices that are defined by an eliminatory logic. With access to territory being of utmost importance for the settler, the elimination of threats to its accumulation is thus necessary (Wolfe, 2006). For settlement, accumulation of territory is paramount because land represents market production, which supposedly characterizes a "civilized" society (Tuck & Yang, 2012). As Tuck and Yang (2012) highlight in their discussion on decolonization, Indigenous peoples represent a threat to the settler's access to territory because Indigenous people's relationship to land—that is, how they come to understand the world through land—fundamentally diverges from the white settler's epistemological and ontological relationship to land; viewing land as property to be owned and that from which wealth can be extracted. Insofar as Indigenous peoples are perceived as obstructions to the attainment of land by the settler, their removal from settler spaces will continue. Crosby and Monaghan (2012) echo this sentiment in their postulation that, so long as Indigenous peoples assert their resistance to Canadian land claims and settler efforts to undermine Indigenous sovereignty, this resistance will be coded as a security threat: "Interpreted as resistance to the legitimacy of Canadian rule, traditional governance is delegitimized as politically and economically backwards and a source of insecurity to the settler population" (p. 434).

It is useful to turn to Wolfe' (2006) example of how Indigenous and Black bodies have been racialized in opposing ways to support state formation: "[a]s opposed to enslaved [Black] people, whose reproduction augmented their owners' wealth, Indigenous people obstructed settlers' access to land, so their increase was counterproductive" (p. 388). Wolfe (2006) describes how Black and Indigenous bodies are constituted based on the "amount" of their ancestry, which takes form in "blood quantum'" regulations. For Indigenous peoples, any amount of non-Indigenous ancestry threatened the ability to call oneself Indigenous (Wolfe, 2006). Tuck and Yang (2012), drawing upon Wolfe (2006), note that the rigidity to which blood quantum regulations restricted who can be Indigenous furthered the settler colonial project because it would mean fewer people who are Indigenous and, therefore, fewer people who pose a hindrance to territorial claims. Management of Indigenous reproduction thus becomes one of elimination. "Removal", however, does not only mean the physical removal of Indigenous bodies (Wolfe, 2006), such as through forceful containment on reserves, but it can also refer to an *ontological* removal whereby what it means to be an Indigenous person (language, culture, relationship to land) is actively diminished—indeed, eliminated—from the body (Tuck & Yang, 2012). As I will outline below, the utilization of actuarial instruments facilitates this ontological erasure of Indigeneity because of the rationality that underpins the tools' use; an actuarial rationality that is necessarily restrictive to a particular mode of thinking that precludes an understanding of subjects as individuals, in all their particularities.

2.4.3 Strategies of assimilation for elimination

Wolfe (1994) separates settler colonial strategies into three broad categories: (1) confrontation, (2) carceration, and (3) assimilation. Each of these phases encompasses a host of strategies deployed by settlers to transform Indigenous peoples from existing outside of the settler society to existing *as part of* settler society (Wolfe, 1994). For the purposes of my project, I am paying particular attention to strategies of assimilation for elimination. The reason for this is that, within my theoretical framework, Indigeneity is problematized to the extent that it is *regulated* through the initial security classification procedure—the goal of which is to measure prisoners' risk, within a risk management framework, so that "appropriate" correctional programming can be assigned accordingly. As noted by Tuck and Yang (2012), "[e]verything within a settler colonial society strain to destroy or assimilate the Native in order to disappear them from the land…" (p. 9). In what follows I will draw upon various works to illustrate two ways in which assimilation can be observed: (1) practices aimed at cultivating subjectivities to align with white settler attitudes (Klein, 2020), and (2) collapsing or homogenizing Indigeneity to create an "ever-dwindling category" (Wolfe, 1994, p. 107; Tuck & Yang, 2012; Razack, 2015).

(i) Cultivating subjectivities

In a study that examined trials of an Australian income management program, the Cashless Debit Card (CDC), the author (Klein, 2020) took the position that assimilation via welfare policies can function in an eliminatory capacity. The CDC, which was introduced to a predominately First Nations community in which the proportion of residents were largely welfare recipients, was intended to instill "responsible" spending behaviour (Klein, 2020). It did so by limiting individuals' possession of cash to discourage engagement in activities that normally require cash transactions, such as the purchasing of illegal drugs, partaking in gambling, and alcohol use (Klein, 2020). Klein (2020) put forth the argument that the CDC's intention to manage the spending of welfare recipients aims for the promotion of behaviours that align with neoliberal attitudes of the responsible, contributing member of society (Klein, 2020). In Klein's (2020) study, what was observed was an attempt to assimilate the "homo economicus subjectivity" (p. 268) that features prominently in neoliberal societies. It is through a process of molding subjectivities to align with a settler worldview that the erasure of Indigeneity is attempted (Klein, 2020).

The legitimacy of the CDC program was given credence by government narratives that promoted a skewed version of "truth" by effectively managing it; responsibilizing the individual and de-centering the importance of a colonial context, as well as claiming collaboration with the community in the development of the program (Klein, 2020). These strategies, according to Klein (2020), exhibit tactics utilized by the state to uphold the ascendancy of a settler colonial nation. Indeed, the notion that behaviours need to be altered for the betterment of oneself and society is reminiscent of Wolfe's (1994) discussion on Australian assimilationist policies:

> Firstly, so far as Australian ideology is concerned, the assimilation policy was not held out as a strategy for eliminating the Aboriginal population. On the contrary, it was almost invariably couched in a *rhetoric of improvement* which echoed the missionary project of uplifting and civilising. Whether reserve rejects of the 1880s or stolen children of the 1960s, they were to be privileged with the same opportunities as Whites" (Wolfe, 1994, p. 107, emphasis added).

The use of a "rhetoric of improvement" disguises the state's active endeavour to disappear Indigeneity. In my analysis of findings, I will show how a rhetoric of improvement can be located within CSC's justification for the use of the CRS on Indigenous people in prison. CSC demonstrates a denial of Indigenous peoples as being over-classified by the CRS and suggests instead that their elevated "risk" be addressed through "intervention" (see Gobeil, 2011). According to CSC's *Commissioner's Directive 700 – Correctional Interventions*, the purpose of interventions are "[t]o ensure correctional interventions contribute to the rehabilitation of offenders and their successful reintegration into the community" (CSC, *Commisioner's Directive 700*, 2017). Notable features of intervention that CSC outlines are that they are to "address dynamic factors contributing to the offender's criminal behaviour" and "consider factors which do not contribute to criminal behaviour but which require structure and guidance to enhance the potential for reintegration" (CSC, *Commissioner's Directive 700*, 2017). Improvement assumes defectiveness—that something requires alteration to *become better*. As argued by Klein (2020), instilling values associated with neoliberalism—values that are inextricably tied to settler colonial attitudes of land as capital—is a form of cultural genocide (Altman, 2018; Klein, 2020) and thus eliminatory (Klein, 2020).

(ii) *Homogenizing Indigeneity*

Settler practices that subsume all Indigenous people into one category (Tuck & Yang, 2012) or gestures that give a cursory "nod" towards Indigenous peoples' inclusion in society without acknowledging colonialism (Razack, 2015; Tuck & Yang, 2012) can be understood as assimilative mechanisms insofar as the particularities surrounding the Indigenous person are erased, discounted, and enveloped within the broader population. Such mechanisms are illustrated through Tuck and Yang's (2012) discussion on "settler moves to innocence" and Razack's (2015) discussion on how inquiries into Indigenous deaths in custody circulate a discourse of medicalization rather than one of ongoing colonial dispossession. Below, I outline examples of how these settler colonial instances transform Indigeneity into a unidimensional category.

Through a discussion on the disingenuous "absorption" of decolonization into settler colonial social justice frameworks, Tuck and Yang (2012) put forth the argument that the presence of Indigeneity provokes settler anxiety, which in turn activates settler moves to innocence. Settler moves to innocence are defined as the following:

> Settler moves to innocence are those strategies or positionings that attempt to relieve the settler of feelings of guilt or responsibility without giving up land or power or privilege, without having to change much at all. In fact, settler scholars may gain professional kudos or a boost in their reputations for being so sensitive or self-aware. Yet settler moves to innocence are hollow, they only serve the settler (Tuck & Yang, 2012, p. 10).

The remainder of the article features a discussion on six ways in which settlers engage in such moves to innocence, one of which is through a process of "colonial equivocation" (Tuck &

Yang, 2012). The authors describe this move to innocence, broadly, as an ambivalence towards colonialisms (Tuck & Yang, 2012). Equivocation can look like such things as espousing "multiculturalism" and thereby collapsing all types of oppressions as one, similarly experienced oppression, as well as "tacking on" a gesture towards the inclusion of Indigenous peoples but deliberately overlooking the role of settler colonialism in shaping their lived experiences (Tuck & Yang, 2012). To help illustrate what equivocation can look like within the legal realm, it is useful to turn to Sherene Razack's (2015) well-known work on Indigenous deaths in custody.

Razack's (2015) work on inquests into Indigenous deaths in custody offers an example of the "tacking on" of a gesture towards the inclusion of Indigenous peoples that Tuck and Yang (2012) describe and offers one way to explore how colonial equivocation is expressed. Razack (2015) argues that the governing apparatus of the inquiry functions to disappear Indigenous peoples. This process is achieved primarily (and paradoxically) through a gesture of inclusion.[5] Razack (2015) explains how inquests into Indigenous deaths in custody exhibit a need to "save" Indigenous people while also sidestepping the oppression and settler violence that Indigenous people experience at the hands of police. For example, in the case of Frank Paul,[6] the issue of alcoholism was discussed during the inquiry, but only within the confines of an individualized, harm-reduction framework (Razack, 2015). Razack (2015) comments on the final report of the inquiry and notes the following:

> In his report *Alone and Cold*, William Davies, commissioner of the inquiry, explores the conduct of the two officers and found that one of them exhibited a callous indifference towards Frank Paul. The question of Frank Paul's Aboriginal status surfaces only insofar

[5] Sherene Razack (2015) cites Audra Simpson's (2011) use of this phrase in the article, *Settlement's Secret*.
[6] Sherene Razack (2015) explores the inquest into Frank Paul's death on December 5, 1998 in Vancouver. Frank Paul was an Indigenous man who was taken into police custody for public intoxication on the day of his death. Initially released a few hours later, Frank Paul was apprehended again by Constable Instant who was advised by Sergeant Russel Sanderson to release Frank Paul in an alleyway close to a detox centre. Frank Paul later died and the cause of death was pronounced as hypothermia and acute alcohol intoxication. Razack (2015) argues that Frank Paul's intoxicated state rendered him as "less than" and thus justified a failure to care for him.

> as the commissioner identifies a need for culturally sensitive services for homeless chronic alcoholics on Vancouver's Downtown East Side, many of whom are Aboriginal…Race and colonialism can only enter the conversation as complications of the main condition under investigation: alcoholism (Razack, 2015, p. 58).

Razack (2015) explains how a gesture of inclusion marks "the moment when the settler state announces that it has not forgotten its Indians and means to assist them into modernity" (p. 62). This work is achieved within inquiries into Indigenous deaths in custody by operating through a medicalizing framework, one that produces a discourse of addiction rather than one of collective dehumanization and ongoing dispossession (Razack, 2015). According to Razack (2015), "[t]he inquiry legitimizes settler colonialism and produces settlers as caring, civilized, and modern, persons with the moral authority and knowledge to save Indigenous peoples from themselves" (p. 59). Razack (2015) goes on to explain a very crucial point: talking about addiction, such as alcoholism, without attentiveness to colonialism is merely a redemptive strategy aimed at "improving" a population that bears "cultural difference" from the mainstream. This obfuscation of Canada's history of initial settlement and the violence that has continued to the present day renders Indigenous peoples as defective and in need of improvement (Razack, 2015). Razack's interrogation of the inquests and inquiries aptly illustrates the eliminatory logic that Wolfe (2006) underlines. Here, it becomes possible to understand how an actuarial rationality facilitates the ontological erasure of Indigeneity because it is a rationality that does not view individuals as distinct subjects but rather as a "profile'" (Castel, 1991), comprised of calculable factors (such as alcohol use), to be compared against a *population*. Razack's work offers an avenue through which we can identify how elimination can take shape in legal procedures, such as within the initial risk classification process.

Tuck and Yang (2012) also describe a settler move to innocence in which Indigenous peoples are represented as "a(s)t(e)risk peoples", which "is concerned with the ways in which

Indigenous peoples are counted, codified, represented, and included/disincluded by educational researchers and other social science researchers" (p. 22). This type of settler move to innocence represents how Indigenous peoples are erased by mainstream society through strategies that push them into the periphery, such as being framed as "at risk" of negative behavioural outcomes, "on the verge of extinction", or when represented as an asterisk in data sets (Tuck & Yang, 2012, p. 22). Collectively, this settler move to innocence represents diverse ways in which Indigenous diversity is discounted, such as in the public education realm in which Indigenous children are taught primarily in English, when identified in data sets as an asterisk when the sample size of Indigenous groups is too small, or in which information about the groups are unavailable (Tuck & Yang, 2012). Crucially, Tuck and Yang (2012) argue that representing the heterogeneity of Indigenous groups as a single asterisk is a "token gesture"; subsuming all Indigenous peoples into one category simultaneously includes and encloses the Indigenous identity (p. 23).

In the proceeding section, I will bring into productive tension the logic of elimination and an actuarial rationality, as they are understood within colonial studies and the concept of governmentality. In doing so, I will demonstrate how this logic of elimination, through the various practices of assimilation described above, complements an analytics of government in the theorization of actuarial tools, specifically during the initial penitentiary classification process.

2.5 Bringing intelligibility to the use of actuarial risk assessment tools within Canadian prisons by deploying a governmentality and eliminatory lens

This research pays attention to the risk/actuarial governing rationality that gives actuarial tools—the *techne* component of government—its purpose and goals, and the ways in which this governing rationality constitutes a settler colonial logic of elimination via assimilation. Situating risk within a framework that engages settler colonialism and governmentality has recently been explored by Anna Stanley's (2021) work on Canada's mining sector and its impact on the visceral geographies of Indigenous peoples. Stanley (2021) effectively *denaturalizes* the government's enactment of colonial violence by bringing risk management techniques and the logic of elimination into the same conversation, revealing how risk management renders social relations mutable, divisible, and comparable on the basis of mathematical continuities. This, Stanley (2021) argues is a form of an "ontological slide".[7] For Stanley (2021), this concept is particularly useful in describing what happens when risk management techniques move from the individual case to a population to determine regularities of incidences and to predict the risk each individual within a population bears for experiencing said incidence (in this case, cancer rates in Fort Chipewyan, which is a community is Alberta wherein the residents are Dene, Cree, and Métis). The effect, according to Stanely (2021), is the following, for example:

> …extant social relations are occluded by mathematical ones, and knowledge objects (Cree cancer occurrence) purged of socio-political qualities. The qualities of referent objects (racialized exposure histories say) are thus brought into knowledge as objective quantities, and social relations jettisoned by mathematical continuities…Indigenous cancers are homogenized: made continuous with, and comparable to, non-cancers, non-Indigenous cancers, rates of cancer expressed mathematically in other populations and so forth…a bowel cancer occurrence in a 65 year old trapper who spends significant amounts of time on the land and regularly prepares and consumes wild game species becomes indistinguishable from and in fact equivalent to (in both evidentiary *and* predictive terms) a bowel cancer occurrence in a man of similar age who was a school teacher and rarely consumed wild game" (p. 62, emphasis in original).

Within the context of penal classification practices, validity studies of the CRS entail carrying out statistical analyses to determine whether the tool performs similarly for Indigenous and non-Indigenous sample groups, a process that involves assessing the statistical significance of individual items on the scale. In turn, mathematical comparisons are made between imprisoned

[7] Stanley (2021) borrows the term 'ontological slide' from Marie Ann Mader's (2007) article *Foucault and Social Measure* in which Mader explains that "[t]he move from individual to rate, by way of the group, amounts to a radical shift of ontological register" (p. 16).

Indigenous and non-Indigenous sample groups along the same dimension (for example, alcohol and drug use or street stability), thereby occluding *individual* sociohistorical differences and stripping the Indigenous sample group of any contextualization that speaks to colonial oppression. Thus, I follow in Stanley's (2021) endeavour to denaturalize risk management practices, specifically CSC's normative engagement with actuarial tools by similarly marrying governmentality and the logic of elimination.

As the actuarial tools fall within CSC's correctional *risk* management mandate, theorizing actuarial tools as underpinned by an actuarial rationality will be fruitful in guiding the analysis for this study. It will be particularly useful by allowing attention to be drawn to specific attributes that characterize an actuarial rationality of governance, such as that of efficiency, standardization, and prediction (Castel, 1991; Dean, 1998; 2010; Garland, 1997). Garland (1997) contends that the CJS is a governable site where a neoliberal rationality of crime control flourishes. It is a site where the use of actuarial tools has gained prominence, and where a responsibilization of the "criminal actor" through the deployment of technologies of the self takes centre stage (Garland, 1997). These characteristics that Garland (1997) assigns to mark the CJS are precisely the changes outlined by Feeley and Simon (1992) in their discussion on the shift from the "old" penology to the "new" penology. The prominent difference between these two ways of imagining the changing penal landscape is that, whereas the former invoked an individual-based ethos of punishment and retributive justice, the latter promoted a systematized, managerialism approach that focused on the categorization of prisoners into groups (Feeley & Simon, 1992). Moreover, Garland (1997) explains how the formation of the field of criminal justice, comprised of various processual stages, into a conglomerated whole—a *system*—altered the roles of expert personnel in that their discretionary capacities were reduced and overseen by bureaucratic management. In a similar vein, the introduction of actuarial risk assessments into the Canadian correctional system was intended to assist correctional personnel in reaching various, standardized decisions about prisoners (Bourgon et al., 2018). In Foucauldian terms, this represents an example of the "governmentalization of government" whereby the government of conduct was to be achieved through securitization mechanisms. Within this framework, actuarial tools are operationalized as one way in which CSC could standardize its classification process, to ensure that discrepancies between individual cases are mitigated, and that future engagement in criminality can be managed. This understanding of risk assessment tools, as taking on a similar capacity to auditing techniques, is important for further understanding how this function facilitates the erasure of Indigeneity.

The ushering in of actuarial tools into Canadian prisons during the "what works" movement of the 1990s signaled an adoption of a so-called evidence-based approach to correctional management (Cullen & Gendreau, 2001). During this time, the federal government was criticized for the overrepresentation of Indigenous peoples in prison, which lead to a series of penal reforms that would see the adoption of Indigenous values into its framework, otherwise known as the "Aboriginalization" of the prison (Martel et al., 2011). For example, Healing Lodges were to be a site in which Indigenous peoples could carry out their carceral sentence in a space that "incorporates Indigenous values, traditions and beliefs" (CSC, *Indigenous healing lodges*, n.d.). The Aboriginalization of Canadian prisons is reminiscent of the 'politics of recognition' that characterized Canada's changing relationship with Indigenous communities during the 1950s: "…colonialism in Canada shifted from overt domination to a cultural model of acknowledgment with apologies, occasional land titles, and financial restitutions, while the same colonizing relationship that subordinates Indigenous interests to the state was retained"

(Chartrand, 2019, p. 76). This, Chartrand (2019) contends, shifted the penal system from one that excluded Indigenous peoples to one that included their participation, transforming the prison into a site where "[c]ivilizing Indigenous difference" underpinned the rationale for the introduction of penal programming targeting the Indigenous prison population specifically (Chartrand, 2019).

Martel et al. (2011) argued that risk assessment policies have not followed in the same Aboriginalization process that other areas of the system have and, indeed, the CRS remains in use today despite the highly inconclusive results with respect to validity on Indigenous people in prison (see Chapter One). The initial security risk classification process has seen an adoption of measures that specifically 'incorporates' a 'consideration' of Aboriginal Social History (ASH) factors (see also CSC's *Strategic Plan for Aboriginal Offenders 2006-07, 2010-11*). For example, when applying the Custody Rating Scale, the parole officer is required to conduct a separate analysis that takes into consideration ASH factors, and to subsequently provide a risk level recommendation that takes ASH into consideration, but *only if* doing so would not result in a higher score (CCRA, 1992). The resultant classification score, however, is nonetheless based on a measurement of *risk*-- that is, an aggregate of factors. By keeping the actuarial component of the initial classification procedure relatively unchanged, CSC will continue to carry out its operations in accordance with an actuarial rationality that reproduces a logic of elimination when applied to Indigenous people in prison.

As discussed in Chapter One (see section 1.1.1), these tools, such as the CRS, are grounded within a PCC theoretical framework, and operate within the RNR model, both of which draw upon expert knowledge in the fields of psychology and sociology (Andrews et al., 1990; 2006). These tools have become instrumental in the assessment of whether a prisoner poses a low, medium, or high likelihood of reoffending, the determination of which is based on the extent to which the individual displays or has displayed characteristics deemed criminogenic. These individuals are subsequently grouped with individuals who share a similar "profile" (Castel, 1991). This expert risk knowledge legitimizes the mechanisms deployed for correctional risk management. Insofar as the main goal for CSC is to protect the security of the public, the limitation and/or eradication of one's level of criminogenic needs becomes the justification for subjecting individuals in prison to a course of correctional "treatment". The expert knowledge of government also serves to render the governable object knowable—that is, it makes possible the identification of the object's limits, and capacity for change. This in turn becomes the target of intervention for institutional programming, the decisions of which are made based on the results arising from the risk assessment process.

Recall that risk within governmentality studies, and within the field of assessment practices, refers not to inherent dangerousness, but rather to the probability that some event will happen in the future. An individual in prison who displays those factors that are criminogenic are what constitute the justification for the eventual classification level they receive. In this way, an actuarial rationality within a governmentality lens allows for an interrogation into how CSC *reasons* the management of criminogenic needs. The logic of elimination, on the other hand, allows for an interrogation into the specificity surrounding the regulation of Indigeneity, especially because the CRS is not applied similarly across the board, but rather shifts in application in the case of an Indigenous person. The eliminatory aspect of settler colonial practices is evidenced through strategies that aim for the erasure of Indigeneity via assimilation practices. Therefore, this theoretical framework will prove useful in engendering clarity between risk and Indigeneity in two ways: (1) actuarial tools can be theorized as a risk management technique that gestures at the inclusion of Indigenous peoples, and (2) the resultant risk classification, understood as the result of embodying an aggregate of criminogenic needs, occludes settler colonial relations by transforming sociohistorical nuances into divisible *quantities*. Actuarial tools transform Indigeneity into an aggregate of factors—into criminogenic needs that require special attention. Indigenous people are not those who are subject to colonialism, but are those who "suffer" from alcoholism, family disruption, low education, and the like. In other words, this framework will work to shed light on how the initial risk classification process governs Indigenous peoples in ways to achieve the specific ends of CSC. Whereas governmentality provides a lens for interrogating how actuarial tools operate as a technological component of government, the logic of elimination allows the tools to be analyzed in a way that specifically attends to the Canadian settler colonial context, in turn illuminating how such technologies work to achieve specific, normative ends.

CHAPTER THREE: METHODOLOGY

In this chapter, I introduce my project's methodological approach, outlining the paradigmatic considerations and assumptions underpinning critical theory, the research design, data selection and collection methods, and the analysis strategy. Importantly, I will demonstrate how the use of institutional documents, specifically CSC research reports, as the empirical basis of this study is justified in adequately answering my research questions. Having outlined my theoretical framework in the previous chapter, I will operationalize its use, specifically as it relates to carrying out a qualitative content analysis. I will conclude the chapter by speaking to the rigour of the research, as well as the limitations posed.

3.1 Paradigmatic considerations: Critical theory

This qualitative project operates within the critical theory paradigm; a worldview that takes as its primary object of interrogation the presence and effects of unequal power relations (Guba & Lincoln, 1998; Kincheloe & McLaren, 1998; Leavy, 2017). According to Guba and Lincoln (2004), the goal for research operating within the critical paradigm "is the critique and transformation of the social, political, cultural, economic, ethnic, and gender structures that constrain and exploit humankind…" (p. 30). This paradigm emphasizes the transformative potential of research, assigning it with social and political change-making capacities:

> Research thus becomes a transformative endeavour unembarrassed by the label 'political' and unafraid to consummate a relationship with an emancipatory consciousness. Whereas traditional researchers cling to the guard rail of neutrality, critical researchers frequently announce their partisanship in the struggle for a better world (Kincheloe & McLaren, 1998, p. 264).

This framing of critical research, however, positions the researcher as the superior "knower" of what constitutes a "better world" and how to go about achieving such ends. As Cannella and Lincoln (2004) have cautioned, qualitative research must strive to distance itself from imperialist understandings of the researcher as the “knower” of truth, which has dangerously legitimated problematic tropes of marginalized groups. In this vein, my project does not actively endeavour to “solve” the issue of the use of actuarial tools on the Indigenous prison population[8] nor does it take as its primary object of inquiry the Indigenous prison population, but rather aims to contribute to an understanding of the issue through the application of a governmentality and logic of elimination framework to the risk classification procedure *itself* (the object of inquiry).

To carry out the critiques discussed above, critical researchers assume that the nature of reality (the ontological dimension) is that of a “historical realism” whereby reality is an external, apprehendable reality that has been shaped over time by a wide host of social and political influences (Guba & Lincoln, 1998). These structures are, in turn, perceived as “real” to the extent that they appear as naturally occurring and unalterable (Guba & Lincoln, 2004). Evidently, this paradigm is critical, as the name suggests, in a very particular way.

It is necessary to establish at the outset that, although the critical paradigm aims to critique the social order by unveiling unequal positions of power, my project does not proceed exactly along these lines, nor does it adopt the traditional notion that research conducted within this paradigm has an emancipatory agenda (Leavy, 2017; Willis, 2007). Influenced by the theoretical lens of governmentality and the logic of elimination, my project strives for a critical analysis that borrows from Foucault’s contribution to a reconceptualized postmodern critical paradigm that denies the existence of a utopia void of power relations (Kincheloe and McLaren, 1998). In this way, I have undertaken a project that critiques the social order by rendering intelligible the practices that create and uphold the social order. The critical analysis that I am

[8] Lincoln (1993, as cited in Guba and Lincoln (1998)) put forth the argument that “…the more radical stances in the criticalist camp hold that judgment about needed transformations should be reserved to those whose lives are most affected by transformations: the inquiry participants themselves” (p. 211). I have aimed to undertake my project with the spirit of this postulation in mind.

striving for is one that effectively underscores how the 'legitimacy' of this order, within the realm of correctional risk management, proceeds unchallenged. In other words, the goal for my project is not to 'unveil' hidden power relations that produce unequal outcomes that marginalize groups nor to suggest a normative account of how society ought to operate, but to bring visibility to the conditions that normalize the current state of relations. To do so, critical research approaches its data as value-laden, mediated by the researcher's values and beliefs, i.e. the epistemological dimension (see Willis, 2007).

Conducting research within this paradigm is therefore dialectical in nature because it necessitates interrogating empirical material in a way that rejects "…the traditional empiricist contention that theory is basically a matter of classifying objective data" (Kincheloe & McLaren, 1998, p. 274). Insofar as critical research aims to render visible taken-for-granted practices and relationships, the process of inquiry will be bound to theory and values. As Guba and Lincoln (2004) aptly put it:

> The transactional nature of inquiry requires a dialogue between the investigator and the subjects of the inquiry…to transform ignorance and misapprehensions (accepting historically mediated structures as immutable) into more informed consciousness (seeing how the structures might be changed and comprehending the actions required to effect change)… (p. 26).

Accordingly, by approaching my research within the critical theory paradigm, I am necessarily approaching the empirical material with presuppositions about the nature of risk classification as constituted by the context in which they are situated. Hence, my findings are not "objective" but are rather mediated by the theoretical framework that informs the lens through which I come to understand the empirical material under investigation (Guba & Lincoln, 1998; 2004).

Overall, I have aligned myself with the critical paradigm because a fundamental assumption of my project is that the risk classification process within corrections, specifically as it pertains to Indigenous people, is a process that has been shaped over time by ideological shifts in punishment, as discussed in both Chapters One and Two. My goal for this research, then, is to interrogate CSC's presentation of its use of actuarial tools as necessary, natural, and normative and, in so carrying out this particular type of critique, disrupt the status quo (Kincheloe & McLaren, 1998). I utilize the theoretical framework of governmentality and the logic of elimination to inform my data collection and data organization methods, as well as to inform my subsequent analysis of findings.

3.2 Research Design

The motivation for conducting this research is driven primarily in response to the SCC decision arising out of the *Ewert v. Canada* (2018) case. Following the SCC decision, as outlined in Chapter One, CSC had determined that the impugned actuarial tools were valid for use on Indigenous peoples in prison (CSC, 2019). Although my project does not analyze the tools under litigation in the *Ewert* (2018) case, my project nonetheless endeavoured to explain *how* CSC has legitimated the use of actuarial tools in general, and, further, how the tools sustain settler colonial logics. More precisely, I was interested in how CSC *spoke of* actuarial tools, such as how the tools are framed and how they are legitimated for use on the Indigenous prison population. To this end, I sampled documents that pertained to the validity of the CRS and which ranged from 1989 to 2014 (see section 3.3 for a fuller discussion on data selection decisions). This type of pursuit of knowledge—one that would engender a Foucauldian understanding on the classification process—is what Norman Blaikie (2000a) would characterize as "basic" research. According to Blaikie (2000a), basic research refers to those types that are "concerned with advancing fundamental knowledge about the social world, in particular, with development and testing of theories" (p. 49). This is in contrast to "applied" research, which is more practical in nature in that the focus is on solving problems for change-making purposes (Blaikie, 2000a).[10] As discussed in the previous section, although my research operates under the epistemological assumptions of the critical paradigm, which views knowledge as something that is produced for social change, my primary goal here is not to "solve" or propose a policy change for CSC's classification process but rather to produce "knowledge for understanding" (Blaikie, 2000a, p. 49) of the phenomenon differently and thus opening space for other avenues and alternatives moving forward. This is not to say that my *only* objective is the production of knowledge for knowledge's sake, but that the practical suggestions for moving forward, based on the findings produced herein, is secondary to that of contributing to a theoretical understanding of my research topic. The research questions I posed thus sought to achieve this objective of basic research.

3.2.1 Research questions

In light of the above, originally, my primary research question was the following: *How has Correctional Service Canada (CSC) responded to the Ewert v. Canada (2018) decision with respect to how it assesses the Indigenous prison population?* In preparation for data gathering, I undertook a cursory review of the content available online that would allow me to adequately answer this research question. Unfortunately, the results were far too limited. According to my search, CSC had publicly responded to the decision in their *Response to the 46th Annual Report of the Correctional Investigation 2018-2019*, of which only five short paragraphs were written about *Ewert* (CSC, 2019). In their response, CSC advised that they collaborated with a third-party organization, the Canada Agency for Drugs and Technologies in Health (CADTH), to

[10] An example of applied research would be evaluative research, such as evaluating a prison program for its effectiveness and proposing new ways of improving the program.

assess the validity of the impugned tools, which were subsequently deemed valid for use (CSC, 2019). I endeavoured to obtain a copy of the report by placing an Access to Information and Privacy (ATIP) request and did not receive a response. Thirty days after my placing my request, I followed up with CSC and was advised that my request was received but a timeframe could not be provided as to when the document can be expected (at the time of writing, the report had not been received, despite the document having already been released in the past). This, in combination with CSC's short response to the *Ewert* (2018) case, signalled that the absence of publicly available information may speak to how the institution represents the use of actuarial tools.

Thus, I revised my research question into two parts: (1) *How does Correctional Service Canada (CSC) legitimate the use of actuarial risk assessment tools, despite how they disproportionately classify Indigenous people at higher risk?* (2) *Furthermore, how has CSC responded to criticisms with respect to how it assesses the Indigenous prison population?*

The removal of the *Ewert v. Canada* (2018) decision from my original research question broadened the scope of what could be included in my data sample. This was an important decision to make because a general principle for sampling in qualitative research is the ability to provide thick descriptions for analysis (Curtis et al., 2000). Without a substantial amount of information on CSC's response to the *Ewert v. Canada* (2018) decision, I was unable to meet this fundamental criterion, and the rigour of the research would have been weakened as a result. Having revised my research questions to allow for a more robust collection of empirical material, and in light of the objectives of my research questions, I next considered the approach that would guide my data collection procedure and allow me to adequately answer the research questions.

3.2.2 Research objectives

Blaikie (2000b) suggests that research objectives differ depending on whether it is basic or applied. Having established that I undertook a basic research project with an already defined phenomenon, namely that of disproportionate high risk security classifications for the Indigenous prison population, my ultimate objective was to *explain*—that is, "to establish the elements, factors or mechanisms that are responsible for producing the state of or regularities in a social phenomenon" (Blaikie, 2000b, p. 72). More precisely, the objectives for this research project were the following: (1) to explain how CSC has positioned itself on the issue of utilizing actuarial risk assessment tools on its Indigenous prison population, specifically the CRS and (2) to identify the presence of settler colonial logics within the classification procedure. Considering these research objectives, it was necessary to pick a methodological approach that would allow the findings to emerge from the data, as opposed to searching the data for information that would confirm/disconfirm a pre-existing theory. Therefore, this project was influenced by the "spirit" of grounded theory (Gaudet & Robert, 2018). However, rather than taking formation of a new theory as the main objective, I sought to apply a theory to a new area of study, namely risk scholarship and the study of risk assessment tools on Indigenous people. As suggested by Gaudet and Robert (2018), it is possible for research to adopt the tools of grounded theory, such as coding and categorization, but to bear closer resemblance to that of content analysis, using predetermined or theoretical coding, in addition to open or grounded coding. This methodological approach to documentary research was a fitting selection, aligning with my research objectives as it establishes insight into CSC's reasoning for the use of actuarial tools.

3.3 Data selection and data gathering methods

According to CSC's website, the research they conduct "helps make direct links between research findings and implications for our institutions, community sites and the public. CSC research helps offenders work towards successful reintegration and assists staff in identifying effective strategies to work safely and efficiently" (CSC, *Research at CSC*, n.d.). This research is published online in the form of written reports and is made publicly available directly on their website. The claim that the research, and the findings contained therein, have direct implications for how CSC carries out its operations offered a suitable avenue through which to answer my research questions. In the interest of maintaining the assumption that research published by CSC on their website informs their operations, I did not retrieve documents from other governmental organizations, such as Public Safety Canada. According to Coffey (2014), documents, such as official institutional documents, can serve as a representation of the setting in which they were produced: "[t]hey [documents] are versions of reality, scripted according to various kinds of convention, with a particular purpose in mind" (p. 369). Coffey (2014) contends that it is this role played by documents that renders them worthy of analysis. Therefore, in carrying out this research, I operated under the assumption that documents tell a particular "story" about the subject/object that is being written about and, further, produce a representation of reality.

The utilization of CSC research reports as my empirical basis is referred to as "unobtrusive" because the reports exist independently of my research project—that is, the empirical material was not produced *because of* my research (Gaudet & Robert, 2018). Gaudet and Robert (2018) outline two broad approaches to documentary research, one of which is the factist approach and the other being the specimen approach. For my purposes, I have adopted the factist approach, which views "the document as a receptacle for content to be extracted" (Gaudet & Robert, 2018, p. 109). Moreover, within the factist approach, the document is viewed as providing information on the reality in which it speaks about (Gaudet & Robert, 2018). The specimen approach, on the other hand, examines the document itself, and looks at such things as who constructed the document, how it circulates, and what its properties are (Gaudet & Robert, 2018). This latter approach—document as specimen—is discussed at length in the works of Lindsay Prior (2008; 2011), who re-conceptualizes documents as *actors* that *do* things, and "…how they can influence episodes of social interaction, and schemes of social organization, and how they might enter into the analysis of such interactions and organization" (Prior, 2008, p. 822). Although an interesting point of entry, this conceptualization of documents as specimen is beyond the scope of this project. Gaudet and Robert (2018) contend that the decision for the researcher to orient their documents as source (factist) or as active agent (specimen) is dependent upon the type of research being conducted and the theoretical approach taken. Accordingly, since my project is not interested in the research reports themselves as the object of inquiry, I chose to approach my data as a source for information on actuarial tools.

Furthermore, "[a] document is conceived of as a reservoir of indicators or testimonies about a reality that interests the researchers" (Gaudet & Robert, 2018, p. 209). Echoing Coffey's (2014) contention above regarding the role of documents in producing representations, my project viewed documents as serving as a conduit for CSC's position, orientation, and/or conceptualization of actuarial tools, and the management of the prison population more broadly and the Indigenous prison population specifically. Consequently, I focused my data gathering efforts on published research reports regarding the CRS given that the CRS is the only actuarial risk assessment tool that is used on *all* individuals in prison during the initial intake assessment process (see Appendix "C" for a copy of the Custody Rating Scale provided by CSC on their website, for ease of reference). Moreover, given the time and financial constraints, information that was easily accessible was the most reasonable avenue to pursue. As noted in the previous section regarding my attempt to retrieve a single report via ATIP, CSC was unable to provide a timeframe as to when the document would be sent. The unpredictability of when documents would be received was not conducive to carrying out this research in s systematic manner. This time delay was compounded by the global COVID-19 pandemic, which ATIP made their users aware of on its website. Moreover, for documents that had not been previously released, a fee was required, to be sent via snail mail. Due to financial constraints, this was not an option and thus would have both limited my document corpus significantly and would have threatened the rigour (specifically the credibility criterion) of this research.

Beyond just the consideration of time and finances, the documents found on CSC's website would sufficiently generate insights into (1) how CSC chooses to communicate its policies and practices to the public, and (2) the implications of CSC's research for the initial security classification process. Additionally, the documents sufficiently and adequately answered my research questions, which will be discussed in the proceeding sub-section. To generate these insights, I engaged in a sampling technique that would allow me to select material that directly spoke to my research area.

3.3.1 Sampling

For data collection, I engaged in purposive sampling, specifically criterion sampling, of documentary material. Purposive sampling is defined by its intention to select material "that are information rich with a view to answering the research question" (Schreier, 2018, p. 88). Additionally, purposive sampling is "…informed *a priori* by an existing body of social theory on which research questions may be based…" (Curtis et al., 2000, p. 1002, emphasis in original). As Schreier (2018) contends, purposive sampling is ideal for providing "information rich" descriptions, but the extent of how rich these descriptions are is dependent on the specific strategy the researcher chooses. With a specific focus, that of security classifications as it pertains to CSC's continued use of actuarial risk assessment tools on Indigenous people in prison, I required a sampling approach that would yield a corpus of documents specifically related to this focus. By engaging in criterion sampling, I was afforded the flexibility in choosing the parameters of my data sample that are directly related to my research focus and, in turn, would produce thick descriptions and allow for an in-depth analysis of the issues.

Purposive, criterion sampling is an approach that is guided by, as the name suggests, a set of criteria that is made in advance of the sampling process (Schreier, 2018). As the selection process relies upon a pre-determined set of characteristics, the resultant data sample is homogeneous in nature (Schreier, 2018). My criteria for document selection were informed by the two intended objectives of my research questions (see Section 3.2.1 and 3.2.2). The object of analysis is CSC's initial risk classification procedures, specifically the actuarial tools used, and so necessitates a process of document selection that would yield insight into how CSC legitimates its use of the tools. To maintain a level of manageability and feasibility within the time constraints of my thesis, I selected one aspect of the eight-part *Intake Assessment Process and Correctional Plan Framework*, namely the *Security Classification and Penitentiary Placement* procedure (CSC, *Commissioner's Directive 705*, 2014). This part of the intake assessment process includes a mandatory CRS assessment. As noted earlier, CSC conducts research that informs its policies and procedures and subsequently publishes its reports online, hence the decision to utilize CSC's website as the "population" where the empirical material was to be sampled.

Since my research questions do not specify a time period, I did not have one in mind prior to selecting documents for my sample and instead opted to sample all documents available online that were directly related to the CRS. The general criteria for the sampling of documents were as follows:

1. Documents must be published under the authority of CSC; and,
2. Documents must directly relate, in its entirety, to the assessment of validity/reliability and/or the reweighting of the Custody Rating Scale (CRS) as it concerns the initial security classification process.

With respect to the second criteria, "Research at a glance" reports were excluded because of redundancy since these documents are merely summaries of the full research report. I proceeded to collect all documents that fit the above criteria on CSC's website. There was one area on the website that constituted the site in which the material was to be drawn: Research Topics → https://www.csc-scc.gc.ca/research/005008-2000-eng.shtml. First, I reviewed the list of documents, examining the titles for relevant key words pertaining to my document sampling criteria (using similar language to that of CSC—that is, 'un-critical' language), such as "Indigenous offenders", "risk assessment", "Custody Rating Scale", "security classification", and "penitentiary placement". Publications with relevant titles were subsequently reviewed to ensure the content met the document sampling criteria. In the event a full report was available but not published online, I emailed the Research Branch at CSC for a PDF copy and was provided with the same one. The resultant document sample consisted of seven documents. For a list of the final documentary sample, please refer to Appendix "A".

3.4 Organization of data and analysis

I employed a qualitative content analysis, guided by the procedural steps outlined by Bengtsson (2016) and Kleinheksel et al. (2020), to organize and make sense of the data. Whereas authorities on content analysis, such as Berg (2004) and Schreier (2014), suggest a blend of both quantitative and qualitative content analysis, Bengtsson (2016) and Kleinheksel (2020) offer step-by-step instruction for pursuing a solely qualitative content analysis, and these authors outline how to specifically conduct a *manifest* content analysis. Berg's (2004) instructional chapter on content analysis includes the "counting" of meaning units, which provides insight into the "magnitude" or strength of an identified pattern. For my purposes, the main importance was the identification of thematic patterns across meaning units, rather than the magnitude in which they appeared This was the deciding factor in pursuing a solely qualitative approach to content analysis.

Content analysis was first developed as a quantitative method for carrying out research in the field of communications (Leavy, 2017; Mayring, 2000; Neundorf, 2017). Despite its narrow origins, content analysis has been developed to extend beyond a solely quantitative method, to one that can also be utilized as a qualitative method (Mayring, 2000). This has allowed for its application and adoption in a broad range of disciplines, from the life sciences to the social sciences (Mayring, 2000). Irrespective of the field in which one chooses to apply a content analysis, an important criterion for a researcher when choosing a method is that the method is appropriate for adequately answering the research question(s) (Maxwell, 1996). This decision, in turn, speaks to the validity of the research (Gaudet & Robert, 2018; Maxwell, 1996).

At its core, content analysis examines text for meaning (Leavy, 2017). The meaning that arises from the analysis is generally said to proceed through two different avenues: manifest content analysis and latent content analysis (Berg, 2004). Although they are the same in terms of the coding and categorization stages (Bengtsson, 2016), qualitative manifest and latent content analyses differ with respect to the level of depth and abstraction the researcher decides to pursue (Granheim & Lundman, 2004). Within a manifest content analysis, the researcher stays close to the text by examining the immediate, visible, and readily available text (Bengtsson, 2016; Berg, 2004; Granheim & Lundman, 2004; Kleinheksel et al., 2020). During the final stage of data organization, the researcher utilizes the language of the text to create categories, whereas in a latent content analysis, the researcher strives for an *interpretation* of the underlying text in order to organize the data into themes (Bengtsson, 2016). Kleinheksel et al. (2020) define "category" as "[a]n organization of several codes that are related in either content or context. In the case of a large number of codes, sub-categories may serve as a useful intermediate grouping" (p. 128). "Theme", on the other hand, is defined as the following: [a]n organization of two or more categories that represent an underlying meaning. Themes describe behaviours, experiences, or emotions that occur throughout several categories" (Kleinheksel et al., 2020, p. 128). Evidently, category and theme differ with respect to how they organize the data. Whereas categories stay close to the text, grouping the data in terms of content similarities, themes develop from regularities/a common thread contained within the categories (Granheim & Lundman, 2016; Kleinheksel et al., 2020). It must be noted, however, that there need not be a strict adherence to one approach or the other, and it is possible for a manifest content analysis to borrow from the latent approach with respect to the development of themes (Kleinheksel et al., 2020).

I pursued a manifest content analysis primarily because it aligns with the critical paradigm that I am operating within. The goal of my research is not to *interpret* what the researchers for CSC mean when they talk about actuarial tools in their reports, but to identify what they are saying about the tools and how the tools are being reasoned, which would allow me to denaturalize their use as a taken-for-granted practice. In other words, I was not interested in the CSC researchers' intent when writing the research reports, but simply if what they are saying, how they are saying and framing it, contribute to the sustainment of settler colonial logics. According to Kleinheksel et al. (2020), "[i]f meaning is located in the discrete elements of the content that are easily identified on the surface of the text, then manifest content analysis is appropriate" (p. 133). Recall that one of the purposes of research within the critical paradigm is to render visible those conditions that give rise to the current state of relations that disenfranchise some groups over others. A manifest content analysis would sufficiently answer my research question by allowing me to organize the data in terms of *both* categories and themes that are informed by my theoretical framework.

3.4.1 Data coding and analysis

Since the use of actuarial risk assessment tools in corrections has been previously theorized in the literature, I created a priori codes that were informed by my theoretical framework (Kleinheksel et al., 2020). As noted by Kleinheksel et al. (2020), however, researchers who are carrying out a qualitative content analysis may remain open to emergent codes that can be included as an addendum to the a priori codes (see Appendix "B" for the Codebook).

The entire sample was merged into one PDF document. This constituted a unit of analysis. It is suggested by researchers that, when starting a content analysis, you must first immerse yourself in the material so as to gain a sense of the "whole picture" (Berg, 2004; Leavy, 2017). This entails reading through empirical material (without coding) to achieve a level of understanding. After having read through the material once over, I followed in the procedural steps outlined by Bengtsson (2016), which breaks down the data organization process into three stages prior to proceeding to the final, fourth stage of analysis. The four stages are as follows: (1) decontextualization, (2) recontextualization, (3) categorization, and (4) compilation.

The first stage, decontextualization, involved identifying “meaning units” related to the research focus and then assigning the meaning units with an a priori code from the Codebook (Bengtsson, 2016). A meaning unit is defined as “the smallest unit that contains some of the insights the researcher needs, and it is the constellation of sentences or paragraphs containing aspects related to each other, answering the question set out in the aim” (Bengtsson, 2016, p. 11). For my purposes, I separated meaning units into a single sentence or a constellation of sentences where appropriate, a decision that was made following immersion into the data as I noticed that the research reports were structured in such a way that many paragraphs contained more than one meaning.

Following the assignment of codes to relevant meaning units, I proceeded to the second stage of data organization. The “recontextualization” stage involved simply checking whether any content that was not assigned as a meaning unit with a code should be included (Bengtsson, 2016). The third stage outlined by Bengtsson (2016) is the categorization of the meaning units. Prior to this, however, Bengtsson (2016) suggests that meaning units should be condensed. “Condensation” is defined as “[t]he process of shortening a meaning while retaining the original meaning” (Kleinheksel et al., 2020, p. 128). This can be achieved by simply removing unnecessary words in the meaning unit (Bengtsson, 2016). Once meaning units were condensed, categories and themes were created that capture the shared meaning across similarly coded text. Bengtsson (2016) contends that the themes and categories should be mutually exclusive in that no data should be placed in more than one theme or category. Additionally, the themes and categories must be grounded in the data (Bengtsson, 2016). I then moved to the fourth stage, “compilation”, once I was satisfied that the identified themes and categories provided sufficient insight for my research questions (Bengtsson, 2016). I proceeded to analyze the findings by making sense of the patterns within and across categories through my theoretical framework of governmentality and the logic of elimination. This final stage involves the write-up of the analysis, which also includes the presentation of findings (the categories and themes) in a table for the reader.

3.4.3 Operationalization of main concepts

My theoretical framework brings into productive tension two main conceptual contributions to governmentality and settler colonial studies, namely that of risk rationality and the logic of elimination. I have made clear that my intention is to situate risk, as it is understood in the Foucauldian sense, in direct conversation with the logic of elimination to help explain how risk/actuarial rationalities simultaneously arrange relations in a particular way and attempt the erasure of Indigeneity.

(i) Actuarial rationality

First, it is necessary to reiterate that my project adopts a Foucauldian understanding of “risk”, one that views risk as a category mobilized and *not* as a dangerous entity “out there” in reality (Dean, 1998). An actuarial rationality evinces characteristics of efficiency, accountability, transparency, and democratization (Dean, 2010, p. 223). There is an emphasis on futurity—that is, on the predictability of events occurring (Castel, 1991; Dean, 1998; Garland, 1997). In particular, the probabilistic calculations are determined on the basis of aggregates (Garland, 1997). With these characteristics in mind, I informed categorical development and analysis by asking such questions as; How does CSC talk about risk? What are the descriptors CSC uses to support its need for risk management practices? What information does CSC use when discussing actuarial tools? These questions attended to a theorization of actuarial tools as a technology of government.

(ii) Logic of elimination

As discussed in the previous chapter, I draw upon Wolfe's (1994; 2006) conceptualization of the logic of elimination, as well as the works of those who have built upon and contributed to the field of settler colonial studies (for example, Stanley, 2021; Tuck & Yang, 2012; Veracini, 2011). Broadly, the logic of elimination is an organizational logic that persists in settler colonial structures and attempts the erasure of Indigeneity, perceived by settlers as threats to territorial acquisition (Wolfe, 1994; 2006). For the purposes of my project, I am looking specifically for instances of attempts to assimilate or erase Indigenous peoples/Indigeneity, which operate in accordance with a logic of elimination (Klein, 2020). In this way, I am looking to the data for instances of cultivating subjectivities or homogenizing Indigeneity. In the former, a "rhetoric of improvement" would feature prominently, such as language that signals defectiveness, a need to improve, and behaviours that CSC idealizes for its prison population. In the latter, I explored the data for instances where CSC displayed a "settler move to innocence" (Tuck & Yang, 2012) in the form of equivocation. Some examples of this included reference to a "multicultural" approach, the subsuming of all oppressions into one category, acknowledging harms specific to Indigenous communities, but not expressly naming settler colonialism (Tuck & Yang, 2012), and so forth.

3.5 Research method limitations

As with any approach to research, there are limitations that need to be addressed. Having chosen to use documents as the sole empirical basis for this project, it is important to note that institutional documents alone are unable to capture the whole breadth of a social issue under investigation (Gaudet & Robert, 2018). Indeed, as Gaudet and Robert (2018) contend, documents may present with bias selectivity—that is, "…when either only certain documents in a series are made available (often reflecting the organization's policy or 'best behaviour'); or only certain types of organizational or institutional documents are available, emphasizing one 'point of view' to the exclusion of others" (p. 112). I mitigated for this limitation by making explicit that the research reports CSC makes available online and to the public is reasonable for inquiry to the extent that I have investigated how CSC itself legitimates the use of the tools, rather than how the tools are perceived by other parties. In a similar vein, another limitation that must be addressed is that my project only sampled documents made available online. If time had allowed for the longer than usual Access to Information and Privacy (ATIP) turnaround time due to the global pandemic, documents containing information that the public is not readily privy to would have been worth exploring. My sample size was also relatively small, but this limitation was mitigated by ensuring that *all* relevant and available documents on CSC's websites were included in the final sample, subject to the restrictions of my sampling criteria listed in section 3.3.1.

Finally, there is a loss of contextualization that stems from extracting meaning units from a data sample. It was sometimes the case that meaning units were not coded for, but nonetheless may have provided context for the meaning unit extracted. For example, the statistical analyses that were coded as "Group comparisons" were isolated from the tables and charts that were associated with them and used by CSC to interpret the outcomes, which may have been helpful in visualizing the way in which data is presented (for example, as percentages, frequencies, and statistical significance values). Although outside the scope of this research, the visual component of the text may be an area worth exploring in future research.

3.6 Rigour of the research

In this section, I will address standards of “trustworthiness” that are the hallmark of qualitative research, which comprises the concepts of credibility, dependability, and transferability (Granheim & Lundman, 2016; Guba & Lincoln, 1982; Kleinheksel et al., 2020).

(i) Credibility

Credibility refers to internal validity, which addresses how well the research inquiry sheds light on the phenomenon under study (Granheim & Lundman, 2016; Guba & Lincoln, 1982). First, it is necessary to establish if the data selection and gathering methods were appropriate for answering the research questions (Granheim & Lundman, 2016). In my case, internal validity is established because, as previously discussed (see section 3.3), the research reports, written under the authority of CSC, are assumed to be a conduit for CSC’s position on the use of actuarial tools and are thus appropriate for investigating how the tools have been legitimated. Another consideration for establishing credibility, particularly with respect to content analyses, is through ensuring that appropriate meaning units were selected (Granheim & Lundman, 2016). Granheim and Lundman (2016) emphasize issues that may result when a meaning unit is too broad or too narrow, such as management difficulties and fragmentation. As discussed in section 3.4.1, I chose to divide my meaning units by sentence or sentences. The reason for this is simple: after an initial immersion into the documents, it became clear that the structure of the documents was fairly fragmented—that is, each paragraph varied in how many sentences and meanings/topics it contained. By choosing to divide meaning units by sentence or multiple sentences, I was afforded the confidence that each extrapolated meaning unit captured one main idea. The issue of credibility also entails ensuring that the categories and themes sufficiently encompass *all* relevant data (Granheim & Lundman, 2016). To ensure that I did not inadvertently exclude relevant data, I re-read all unmarked data (this is the “recontextualization” stage, as explained in section 3.4.1) and determined whether the unmarked data was relevant or irrelevant before proceeding to the categorization stage. Finally, Granheim and Lundman (2016) explain that credibility also deals with a judgment of "…similarities within and differences between categories" (p. 110). The authors suggest that this component of credibility can be established by presenting examples of representative meaning units in the presentation of findings (Granheim & Lundman, 2016), which I have done, in turn allowing for transparency for my readers.

(ii) Dependability

According to Guba and Lincoln (1982), dependability is defined as "…*stability* after discounting such conscious and unpredictable (but rational and logical) changes" (p. 247, emphasis in original). The changes to which Guba and Lincoln (1982) refer are those iterative aspects of qualitative research that often result in the research changing in shape as it is being carried out. For this reason, qualitative research does not require a standard of replicability to be met, but rather deals with dependability (Guba & Lincoln, 1982). The authors suggest that a 'dependability audit'[11] is one method to meet the dependability criterion, which involves making readily available the methodological decision-making process (Guba & Lincoln, 1982). I have ensured the dependability of my project by outlining any methodological changes I made during the course of the project (for example, changes to my research questions as outlined in section 3.2.1), as well as providing my Codebook as Appendix "B".

(iii) Transferability

[11] Guba and Lincoln (1982) liken the dependability audit to that of a fiscal audit in which "…the auditor must of course be supplied with an "audit trail" which delineates all methodological steps and decision points and which provides access to all data in their several raw and process stages" (p. 248).

Trustworthiness also requires that the findings produced are transferable to similar contexts (Granheim & Lundman, 2016; Schreier, 2018). As Schreier (2018) contends:

> With transferability, the core concern is not to generalize to an abstract and decontextualized population, but to determine whether the findings obtained for one instance or set of instances in one specific context also apply to other instances in a different context. The extent to which the findings can be transferred from one case to another depends on the similarity between the respective contexts (p. 86).

To facilitate transferability, it was necessary to ensure that the data collection process was robust enough so that thick descriptions related to the phenomenon under study could be produced (Schreier, 2018). As Hammersley (2015) contends, "…it is not so much the frequency with which data relevant to a theme occurs that is important but rather whether particular data segments *allow a fruitful analytic argument to be developed and tested*" (p. 688, emphasis in original). Through analytic memo writing, I was able to discern the point at which enough data was collected to fruitfully answer my research questions and, in turn, provide "…enough information about a context, first, to impart a vicarious experience of it, and, second, to facilitate judgments about the extent to which working hypotheses from that context might be transferable to a second and similar context" (Guba & Lincoln, 1982, p. 248). Judgments regarding fittingness of contexts is ultimately up to the reader (Schreier, 2018). To help facilitate whether the findings contained in this project's context could be transferred across contexts, I ensured that as much details as possible were provided for the reader, such as details about the sampling criteria, where the data was sampled, and how the data were coded and analyzed.

Kleinheksel et al. (2020) contend that one of the threats to trustworthiness that is common for researchers conducting manifest content analyses (especially if carrying out the research alone), is the issue of 'coder fatigue' because of the repetitive nature of the coding process: "[o]ver time, the cases may start to look the same, making it difficult to refocus and look at each case with fresh eyes" (p. 136). With this issue in mind, I ensured strict adherence to frequent breaks during the coding of each document, as well as writing analytic memos before each break so ensure that any thoughts I had during the coding process were written down on paper.

3.7 Conclusion

This chapter sought to outline my decision-making process for the methodological approach I adopted for this project. This chapter included a discussion on the paradigmatic considerations that influenced the epistemological assumptions underpinning the nature of the inquiry, as well as the research design, data collection and organizational approach, and the analysis strategy employed. Through this, I demonstrated the merits of conducting a qualitative manifest content analysis and its usefulness and appropriateness for achieving my research objectives and, importantly, for answering my research questions.

CHAPTER FOUR: FINDINGS AND ANALYSIS

The documents under analysis were CSC research publications pertaining to the use of the CRS for initial security classification and penitentiary placement purposes (refer to Appendix "A" for a detailed list of the documents). Specifically, the use of the CRS was assessed by CSC in relation to its validity and reliability, with particular attention paid to the CRS's performance for Indigenous and non-Indigenous sample groups in prison. In recognizing that the prison population changes over time due to prisoner turnover, and in response to criticisms that the CRS had garnered over time (see for example Webster & Doob, 2004), CSC researchers (hereinafter "CSC") pursued revalidation studies of the CRS to determine whether the tool remains appropriate for use. In turn, the purpose of carrying out a qualitative content analysis on these specific documents, which ranged in publication date from 1989 to 2014, was to adequately answer the following research questions I have posed: (1) How does CSC legitimate the use of actuarial risk assessment tools, despite how they disproportionately classify Indigenous people at higher security classification levels? and (2) Furthermore, how has CSC responded to criticisms with respect to how it assesses the Indigenous prison population? Accordingly, the research objectives outlined in Chapter Three (section 3.2.2) serve as a guide for this content analysis: (1) To explain how CSC has positioned itself on the issue of utilizing actuarial risk assessment tools on its Indigenous prison population; and (2) To identify and explain the presence of settler colonial logics within the classification procedure. To achieve these research objectives, three themes were identified in this content analysis, which I outline below.

The first theme, "Espousing evidence-based practices as best practices", reflects CSC's alignment with the literature that promotes the RNR model for effective correctional management (Andrews et al., 1990; Andrews, 2000). Within this theme, advantages of the actuarial method were supported by correctional management through a security classification system that was deemed integral. In doing so, CSC presents the use of actuarial tools as "matter of fact". The second theme identified was "Rendering the individual as a composite of criminogenic risk and needs factors". This theme specifically demonstrates how an actuarial rationality is operationalized through an actuarial instrument. It addresses how Indigenous prisoners' security classification was assessed or discussed in terms of measurable factors and demonstrates CSC's position that the CRS does not over-classify Indigenous people in prison. Overall, the second theme explains how CSC promotes the continued use of the CRS by demonstrating that the tool operates as expected of actuarial instruments. The third theme was "Interpreting data outcomes through justifications". CSC tended to interpret negative statistical data outcomes, in which the veracity of the CRS's predictive ability was tested, through justifications. This occurred primarily through the identification of the CRS's performance limitations, staff perceptions based on override decisions, and by highlighting statistically insignificant or unclear data trends. During these instances, CSC exhibited a tendency to defer to small sample sizes to explain unexpected outcomes and interpreted "objective" data outcomes as reflecting subjective staff perceptions, despite the incommensurability between the two. Given all of this, the common thread within and between each theme was the use of justifications. Overall, the types of justifications were positive framing, allowing room for performance shortfalls, and rejecting built-in biases. This type of reasoning was invoked to both legitimate the use of the CRS (and actuarial instruments in general) and to address criticisms against the CRS that have been put forth by third-party organizations (for example, the OCI, 2007) and academics in the field.

The appeal to actuarial-based reasoning afforded the justifications logical coherence, thus presenting the inclusion of actuarial risk assessment tools in the security classification process as legitimate and necessary. By drawing upon my theoretical framework of governmentality and the logic of elimination, as well as the literature review for contextual support, I put forth the following argument: in the process of legitimating the continued use of actuarial instruments through justification reasoning, underpinned by an actuarial rationality of risk governance, CSC facilitates the attempted ontological erasure of its Indigenous population in prison; by operating within actuarial-based discourse that prioritizes prediction via statistical calculations, it is assumed that an individual is *reducible* to pre-determined, quantifiable factors. In this vein, what can be observed throughout this analysis is what Anna Stanley (2021) has referred to as an "ontological slide", in which actuarial-based reasoning transforms the individual case into data about the *population*. I further argue that this ontological erasure of Indigenous people in prison conceals the reproduction of a settler colonial logic of elimination (Wolfe, 2006), which is mobilized through the text during instances of gestures of inclusion in which CSC exhibits settler moves to innocence, specifically that of "colonial equivocation" and by representing Indigenous peoples as "a(s)t(e)risk peoples" (Tuck & Yang, 2012).

In what follows, I will present the findings of the content analysis with respect to the three themes identified and discuss the respective categories and meaning units that constituted each. Meaning units (that is, singular or multiple sentences located within the paragraphs of each document) were highlighted to draw attention to the specific parts of the text that were particularly significant to the content analysis. To make sense of the findings, the theoretical framework and literature review will be integrated throughout each subsection.

4.1 Theme One: Espousing evidence-based practices as best practices

Given the literature on promoting the use of actuarial tools within corrections to achieve low rates of recidivism (see for example Andrews, 2000), there was a recurring tendency within the corpus to discuss security classification within a risk management capacity and to affirm the use of the tools (see Table 1). This was illustrative of CSC positively framing—justifying—the tools as part of the security classification procedure. As suggested by Andrews et al. (1990) and Andrews (2000), effective correctional management is that which operates within a framework that recognizes individual differences in criminal offending, the identification of which is achieved through conducting meta-analyses of offender groups to determine commonalities in offending (factors which are referred to in the literature as the "central eight factors"). Andrews (2000) contends that operating from a framework other than one that is focused on reducing an individual's propensity for recidivism would fail in achieving correctional objectives (for example, a framework that attributes criminality to social structures). In this way, evidence-based practices—that is, targeted intervention that specifically addresses empirically tested covariates of criminality to effectively reduce risk for recidivism—is championed for the management and rehabilitation efforts of imprisoned persons.

The two categories to be addressed within this subsection are the following: (1) Correctional management through security classification, and (2) Advantages of the actuarial method. As noted in Table One, the meaning units within the first category were coded simply as "risk management" and exemplified CSC's tendency to directly state the importance of security classification for effective correctional management. In the second category, the meaning units, coded as "affirming use of actuarial risk assessment", demonstrated instances in which CSC spoke of the advantageous attributes of the CRS. Together, the data from the two categories espouse evidence-based practices as best practices. They serve to underscore how, when evaluating the CRS, CSC "takes up" the line of reasoning that characterizes the RNR model (Andrews et al., 1990; Andrews et al., 2006; Bourgon et al., 2018), which is underlined by an actuarial rationality that designates scientific evidence as the gold standard. Moreover, it is a line of reasoning that is characteristic of the dominant discourse that flourishes in the CJS—what Feeley and Simon (1992) have described as the "new" penology that introduced discourses where "the language of probability and risk increasingly replaces earlier discourses of clinical diagnoses and retributive judgment" (p. 450). Beyond operating within the line of reasoning that marks the RNR model, CSC frames the continued use of actuarial tools positively; furthermore, they are viewed as inevitable and necessary and thus confer legitimacy onto the continued use of actuarial instruments. The presentation of this theme at the beginning of the analysis is specifically intended to demonstrate how actuarial tools are normalized as an integral component of the initial security classification process and how the tools offer one avenue in which the dominant discourse of risk management is operationalized. The findings from each category will now be discussed in turn.

Theme	**ESPOUSING EVIDENCE-BASED PRACTICES AS BEST PRACTICES**	
Category	CORRECTIONAL MANAGEMENT THROUGH SECURITY CLASSIFICATION	ADVANTAGES OF THE ACTUARIAL METHOD
Code(s)	Risk management	Affirming use of actuarial risk assessment

Table 1: Theme One

4.1.1 Correctional management through security classification

Security classification was spoken of as not only being one way in which effective correctional management is achieved, but as being a critical and important mechanism; a tactic that requires assessments of risk and needs for appropriate classification levels to be assigned. This positive framing of security classification, overall, lends itself well to the inclusion of actuarial instruments as natural. It was a common occurrence for the documents contained within the corpus to outline what the objectives are for security classification, how security classifications help to fulfill CSC's legislative and policy mandates, and the importance of its role in doing so. For example, security classification was thought of as "bringing order to complexity" (Doc #2, 1996, p. 4) and as providing a way for results to be measured:

> **Classification is indispensable to bringing order to complexity**, communicating with others, **measuring results of decisions** and providing an understanding of the basic task at hand (Jesness, 1988) (Doc #2, 1996, p. 4 , emphasis added).
>
> Classification of offenders for security purposes is **one of the most important decisions correctional organizations undertake** (e.g., McConville, Morris, & Rothman, 1995) (Doc #6. 2012, p. 1, emphasis added).

There was also a persistent trend to appeal to *The Corrections and Conditional Release Act* (1992), the legislation that governs the CSC (CSC, 2017), which substantiates the use of security classifications. This can be observed within the following meaning units:

> **The Corrections and Conditional Release Act (1992) recognized the importance of security classification** and mandated the Correctional Service of Canada to "assign a security classification of maximum, medium or minimum to each inmate in accordance with the Regulations of the Act (Sec. 30). Corrections and Conditional Release Act (CCRA), legislated guidelines for offender security classification and ensures that the **privileges associated with security level are based on an assessment of individual risk and needs.** As a result of the CCRA, **a system was implemented to assign a security level to all offenders as required by the law** (Doc #3, 1998, p. 3, emphasis added).
>
> When examining a security classification **system** it is important to consider its purpose. For the Correctional Service of Canada, the legislated **objective of security classification is "protection of the public, staff members and offenders"** (Corrections and Conditional Release Act, 4.d). The **Service must apply the least restrictive measures that are compatible with these objectives. To accomplish this goal, it is first necessary to assess an individual's propensity to cause harm, so that appropriate levels of custody and security can be applied. Predictive validity is fundamental to security classification** (Doc #4, 2002, p. 4, emphasis added).
>
> The **security level assigned to an offender is a critical element of effective correctional management**. Security classification levels **influence inmates' living conditions (e.g., type of accommodation and freedom of movement within the institution), access to the community and programming options** (Blanchette & Motiuk, 2004; Bonta & Motiuk, 1992; Hannah-Moffat & Shaw, 2001). **Under- or over-**

> **classification of an offender could pose undue risks to the public, staff members and offenders or be inappropriately restrictive for offenders. Therefore, the placement of offenders at appropriate security levels is one of the most important decisions** made after a person is admitted to prison (Doc #7, 2014, p. 1, emphasis added).

CSC makes it clear that security classification is one of the most important and critical components of effective correctional management; its importance is given weight through the stated legislated objectives (that is, by appealing to the law) and the influence security classification has on the trajectory of a prisoner's custodial experience. In addition to the clearly stated importance assigned to security classifications and the necessity of the classifications as per legislation, another notable feature of the above meaning units is that they are preoccupied with futurity—that is, there is an emphasis on predicting future outcomes. This is evident when making statements such as, "privileges associated with security level are based on an assessment of individual risk and needs" (Doc #3, 1998, p. 3); "necessary to assess an individual's propensity to cause harm" (Doc #4. 2002, p. 4); "[p]redictive validity is fundamental to security classification" (Doc #4. 2002, p. 4), "[u]nder- or over-classification of an offender could pose undue risks to the public, staff members and offenders or be inappropriately restrictive for offenders" (Doc #7, 2014, p. 1). These sentiments align with the current discourse of risk management that dominates the CJS, which authors (see for example Feeley & Simon, 1992; Garland, 1990; Lewis, 2014) have extensively delineated. The tools, as a "techne" component of government (Dean, 2010), are instrumental in facilitating the "securitization of the state" (Foucault, 1991), the goal being to effectively manage the population so that individuals will come to act upon themselves in the self-direction of their behaviors as the ideal subject. Security classifications allow prisoners to be knowable in a particular form: as a prisoner who is classified as low-, medium- or high-risk, which subsequently informs how they are to be managed within the institution (Bröckling et al., 2011; Garland, 1997). Thus, the importance CSC assigns to security classifications throughout these documents, particularly in the name of "security", is indicative of its goal to effectively manage the population in a particular way—that is, based on an individualizing conception of risk for the total management of the population.

As discussed in Chapter One, the risk management discourse supplanted a discourse of individualized clinical appraisals, which coincided with the introduction of actuarial tools to facilitate the categorization and, in turn, the management of prisoners based on future "risky" behaviour. Given the clearly stated importance CSC assigns to security classifications, necessitating that they be assigned based on an evaluation of *future* outcomes, it is unsurprising that instruments that would aid in fulfilling the objective of "appropriate" security classification would be implemented and advocated for.

Beyond merely being required by law, CSC gives further weight to the stated importance of security classifications by contending that security classifications benefit prisoners, institutional staff, and the public. For example, the following was stated within the corpus:

> **Increases of any magnitude in appropriate classification benefit** offenders in that their access to interventions and services is the least restrictive possible**; benefit institutional staff and the public** in that they contribute to fewer incidents and escapes; and are **cost-effective**, in that the increased costs associated with accommodating offenders at unnecessarily high levels of security are avoided (Doc #5. 2011. p. 39, emphasis added).

These benefits are derived from appropriate classification levels that ensure the least restrictive access to interventions and programs and that undue risks are not posed to the public or individuals within the institution. Moreover, security classifications have benefits for staff and the public because, according to CSC, when a prisoner is classified "appropriately"—that is, when their risk level has been assessed based on a calculation of factors—fewer incidents and escapes occur. Finally, security classifications benefit the institution because an unnecessarily highly rated prisoner would result in increased accommodation costs. Recall that CSC states that “appropriate” security classification is achieved through “an assessment of individual risk and needs” (Doc #3. 1998, p. 3) and, again, when stating that “it is first necessary to assess an individual's propensity to cause harm, so that appropriate levels of custody and security can be applied. Predictive validity is fundamental to security classification” (Doc #4, 2002, P. 4). Evidently, an appropriate security classification level is that which is proportional to the results obtained from the assessments undertaken by the caseworker. An actuarial rationality is located within these meaning units whereby the reasoning for security classification, its goals and purpose (Dean, 2010), is grounded in an appeal to measurability, predictive ability, and assessment of factors. When considered in totality, these factors bring forth a prediction of one’s risk for maladjustment or involvement in institutional misconduct, and subsequently informs a prisoner’s correctional planning.

The use of actuarial instruments as part of the security classification process would appear as natural and inevitable when operating within an actuarial rationality that espouses a calculative assessment of covariates related to criminality. Risk is mobilized as a category for intervention through an assessment of factors that would *predict* future behaviour. Risk is not a singular entity located within the individual, but rather is actualized through a calculation of factors “to assess an individual’s propensity to cause harm” (Doc #3, 1998, p. 3). In other words, risk does not exist *a priori* of the identified factors that have been deemed criminogenic but is *made into* a category through the assessments of pre-determined factors. Importantly, these factors do not shift from one person to the next but are established prior to the individual’s assessment—much in the same way that Ewald (1991; see section 2.3.1) discusses how insurance companies operate to calculate the risk that each individual bears, but to varying degrees. Identifying an actuarial rationality within the justification reasoning CSC invokes is imperative in understanding how risk is mobilized as a category. The prisoner is not s/he who enters the initial security classification as irreducible to any one factor, but rather is known by the ability to be reduced; to be rendered knowable based on pre-determined factors and the frequency of those factors. As stated within the document corpus,

> The intent of the security classification provisions of the CCRA is to ensure that a **security classification assessment is prepared for all inmates based on objective criteria and standardized decision rules and to limit the potential inconsistencies** related to the application of the security classification principles… (Doc #3, 1998, p. 3, emphasis added).

The emphasis placed on the importance of appropriate initial security classification levels, particularly through the suggestion that it is required by law and is achieved through standard and objective protocols that limit potential inconsistencies, would appear to render actuarial assessments that help to achieve these goals as inevitable. The purported importance of security classification is further compounded by the stated benefits it provides to prisoners, the institution, and the public. Although the meaning units described above do not explicitly state the use of actuarial risk assessments as part of the security classification procedure, they nonetheless highlight the weight assigned to conducting assessments that are consistent with an actuarial rationality. By doing this, CSC is effectively garnering legitimacy for the inevitable utilization of actuarial risk assessment tools precisely because the tools' method of application is consistent with the objectives CSC outlines for security classification, further compounded by the importance and benefits assigned to an objective and standardized process.

However, the purported objectivity and standardization that CSC espouses, in line with the RNR model, is brought into question by the ability of a caseworker to override CRS recommendations. Within this category, there also existed instances in which the reader was reminded that the CRS recommendation is just that—a *recommendation*. A prisoner's final security classification level is assigned based on the CRS recommendation, the caseworker's professional judgment, and psychological assessments (if applicable). Emphasis was placed on the discretion afforded to the case worker in overriding CRS recommendations in the event that they did not agree with the rating, such as in the following instances:

> However, **classification decisions are also influenced by professional discretion: with clear documentation of their reasoning, caseworkers have discretion to override CRS** designations (Doc #3. 1998, p. 5, emphasis added).
>
> A caseworker will base a **final classification recommendation on his or her clinical appraisal**, available psychological assessments and the CRS result. Therefore, the **security level that is designated by the CRS can either be approved or overridden by the case worker** (Doc #7, 2014, p. 1, emphasis added).

In this case, clear documentation must be provided by the caseworker to support their decision to override the CRS recommendation. It would appear that caseworkers exercise a managerial capacity through the discretion they are afforded in designating a security classification level to a prisoner. Moreover, the possibility to override the CRS recommendation is presented as if it were an avenue of recourse, in the event that a CRS recommendation was not "appropriate" for the prisoner based on the caseworker's own professional *judgment*. Several reasons for overrides were indicated within the corpus, such as a prisoner's "…need for protection, programs, medical treatment, etc." (Doc #3, 1998, p. 8) and when "…in the judgment of the case management officer the offender's current behaviour, motivation, etc. should be given more weight in the placement decision than they are given in the CRS" (Doc #3, 1998, p. 8). These meaning units demonstrate how the management of prisoners is achieved through security classification by means of professional discretion in override decisions. In addition to the aforementioned stated benefits of security classifications, the inclusion of the CRS in this process appears to be legitimated for use because "safety nets" are in place to account for discrepancies between the recommendation and the professional judgment. The inclusion of overrides in the classification system further garners legitimacy for the continued use of actuarial tools because, in the event that a CRS recommendation differs from a caseworker's clinical appraisal, this discrepancy is allowed. In other words, CSC *accepts* inconsistencies because avenues are in place as a sort of "checks and balances" mechanism. In this way, CSC is still supportive of an evidence-based RNR model despite its inclusion of a caseworker's professional judgment.

In addition to the assignment of security classifications, effective correctional management within the framework of the RNR model also includes the principle of matching needs to programming, which is based on the security classification one receives (Andrews, 2000). Interestingly, meaning units that were also coded as "risk management" within this category spoke to CSC's position on providing intervention to its Indigenous population in prison. Notably, Indigenous prisoners were deemed as being appropriately classified through the various statistical analyses conducted of the CRS's predictive ability. It was suggested that the correctional gap (with respect to differential security classification levels) between imprisoned Indigenous and non-Indigenous individuals would perhaps be better addressed through "intervention", although what exactly "intervention" entails is not provided within this document corpus. This was observed in the following:

> CSC has identified a **greater capacity to provide interventions to Aboriginal offenders as one of its strategic goals** for several consecutive years (CSC, 2009), and is **working to close the correctional gap between Aboriginal and non-Aboriginal offenders** (Doc #5, 2011, p. 5, emphasis added).
>
> **Given their appropriate classification, efforts to address Aboriginal offenders' representation at higher levels of security would perhaps best be focused on interventions relating to risk and institutional adjustment** (Doc #5, 2011, p. 41, emphasis added)

As stated previously, evidence-based practices as best practices assume that the identification of covariates related to criminality is what allows for an appropriate classification level to be assigned. Appropriate classification then leads—theoretically—to the individual's reduction in risk of reoffending due to the principle of matching needs to interventions (see Andrews, 2000). In keeping close to the text, there are two notable features of the above two meaning units: (1) Indigenous prisoners are appropriately classified, and (2) since they are appropriately classified, the disparity between the higher security classification levels they are given compared to their non-Indigenous counterparts would perhaps be better addressed through intervention. What can be assumed, based on previous meaning units regarding the objectives of security classification and that intervention is "relating to risk and institutional adjustment" (Doc #5, 2011, p. 41), is that "interventions" are programs or institutional practices aimed at reducing one's level of risk for recidivism.

Governmental power, according to Foucault (1991), shapes an individual's field of possibilities. Institutions, such as the prison, deploy tactics to manage the population; tactics that are given a purpose through the rationality that buttresses it (Garland, 1997; Bröckling et al., 2011). In this case, interventions to address risk can be thought of as a tactic deployed by CSC to "close the correctional gap". The details of such interventions were not provided in the corpus, but to the extent that (if) they entail targeting the individual to "improve" their risk score, the cultivation of one's agency is activated (Dean, 1998). As noted by Dean (1998; see section 2.3), technologies of agency aim for an individual's engagement in self-management, which entails being an active citizen and able to manage and self-regulate risks, in turn facilitating both the neutralization of Indigeneity (that is, expressions of such things as language and culture) and the impacts of colonialism.

As discussed in Chapter Two, Klein (2020) describes how the contemporary Australian settler state, one that operates in accordance with neoliberalism, attempts Indigenous assimilation through welfare policies that endeavour "…First Nations people to take on settler norms and subjectivities" (p. 267), the purpose of which is to uphold the ascendency of the settler colonial state. These settler norms and subjectivities coincide with a neoliberal logic of the responsibilized, economically contributing actor of society (Klein, 2020). The instillment of neoliberal values attempts the erasure of Indigeneity through a process of subjectification—that is, molding behaviours to align with the ideal neoliberal actor thereby cultivating an individual into a specific form. Although Klein (2020) analyzes the Cashless Debit Card (CDC) welfare program as an example, which is interested in changing the economic (spending) behaviours of individuals, there nonetheless remain similarities with respect to correctional programming that aim to reduce a prisoner's level of risk. Indeed, the CRS includes items on its subscales, such as employment/education and alcohol/drug use, that are given a score and are factored into the recommended security level rating. The correctional plan, including the programmes the prisoner must complete, is based on the security rating they receive. CSC thus renders the prisoner knowable within a risk context through the security classification assessment process, which in turn allows their capacity for change—intervention—to be identified. The Indigenous person is decontextualized from the settler colonial state that has given rise to an elevated security risk rating, which is a rating based on risk factors that the broader prison population is collectively assessed against. Remember that risk factors encompass a dynamic dimension (can be altered as opposed to static; Andrews et al., 2006) and this is the target of intervention—the intervention that is determined based on the risk score. By the very notion of subjecting an Indigenous person to a correctional plan that intends to "close the correctional gap" (Doc #5, 2011, p. 5) between them and their lower security, non-Indigenous counterparts, an attempt to assimilate the Indigenous person can be located; what can be observed is an intention to cultivate behaviours that would bring Indigenous people in prison more "in line" with their lower security (and therefore less "risky"), non-Indigenous counterparts.

Taken together, the meaning units within this category were demonstrative of the importance assigned to security classification, and the benefits derived therein, for correctional management purposes. The importance of security classification was supported through explicit mention of its integral and critical role to achieving legislative objectives. Additionally, security classification was said to benefit prisoners, institutional staff, and the public. Importantly, it is *appropriate* security classification that CSC advocates for; classification that is achieved through assessments of risk and needs and which views predictive validity as fundamental to reaching proper classification levels. As such, an actuarial rationality underpins CSC's reasoning for the use of security classifications, rendering the use of actuarial instruments as an inevitable and natural component of the security classification process. Along the same lines of appropriate security classification for the matching of prisoners to interventions, it was found that CSC supported the subjection of Indigenous people in prison to intervention. The meaning units in which this was identified was able to shed some light on how an actuarial rationality coincides with the logic of elimination to highlight how an attempted erasure of Indigeneity, through the cultivation of subjectivities, can take form.

4.1.2 Advantages of the actuarial method

The meaning units within this category were instances in which the attributes of the CRS were praised, such as increasing decision-making accuracy, as well as instances in which statistical outcomes were expected and favourable, such as "appropriate" classifications assigned for Indigenous and non-Indigenous sample groups. In these ways, CSC justified the continued use of the CRS by "affirming" its performance and framing the characteristics of the tool positively, aligning with risk management discourse that espouses evidence-based practices as best practices. By giving primacy to actuarial-based reasoning in the management of prisoners, which mobilizes a singular, scientific-based conception of reducing recidivism, CSC thwarts an interrogation into the sociohistorical settler colonial context that shapes the lived experiences of Indigenous peoples.

It was a common occurrence for CSC to give weight to the use of the CRS and other actuarial tools by speaking to an increase in the accuracy of decision-making that is gained with the use of the tools. Actuarial instruments are compared to unstructured professional judgment and deemed superior, more consistent across observers, and to result in lower classification levels. Examples of CSC speaking of these outcomes are presented below:

> By using an instrument which has been **empirically tested** and considers both institutional adjustment and security risk, we **could achieve greater confidence in our decisions** to place offenders in institutions that represent the least restrictive alternative (Doc #1, 1989, p. 8, emphasis added).
>
> In keeping with the **extensive body of empirical literature that demonstrates that the accuracy of decision-making is increased when actuarial instruments are used** (see Ægisdóttir, 2006), **CSC uses actuarial instruments as a principal component** in the classification process (Doc #5, 2011, p. 2, emphasis added).
>
> In an operational context, and especially when considering human behaviour, **prediction can never be perfect.** Even **relatively modest gains in predictive accuracy – as represented by the use of the CRS over professional judgment alone, given findings that unstructured professional judgment predicts at rates little better than chance (Grove et al., 2000) – can translate into significant operational gains** (Doc #5. 2011, p. 39, emphasis added).
>
> In security classification research, **structured measures have been found to be highly consistent across observers and to result in lower classifications than those suggested by clinical procedures** (Austin & Hardyman, 2004; Brennan, 1987; Buchanan, Whitlow, & Austin, 1986) (Doc #6. 2012, p. 2, emphasis added).

CSC appeals to the "extensive body of empirical literature" (Doc #5, 2011, p. 2) to demonstrate that its research findings are in line with what authors are saying in the field—that is, the prediction accuracy that actuarial tools offer are superior to professional judgment on its own. By appealing to the literature, CSC is garnering legitimacy for the CRS's continued use. Indeed, the CRS is an actuarial, empirically tested risk assessment tool, a type of tool that the "extensive" body of literature has found to be preferable to human judgment alone. Although it is acknowledged that a level of 100% accuracy in measuring level of risk is not possible with actuarial tools, the "modest gains in predictive accuracy…can translate into significant operational gains" (Doc #5. 2011, p. 39). The "gains" that are spoken of throughout the corpus include such things as standardization, efficiency, (cost-)effectiveness, and accurate matching of needs to interventions. For example:

> Despite some criticisms of their predictive abilities (Gottfredson, 1986; Veneziano, and Veneziano, 1986; Carey, Garske & Ginsberg, 1986), **objective classification models have demonstrated many benefits -- particularly in their assessment of institutional security, custody and program potential; as well as in resource targeting and matching offender needs with available resources.** These procedures are **credited with increasing the proportion of offenders in lower security levels without adversely affecting prison misconduct, escape or fatality rates** (Buchanan, Whitlow & Austin, 1986; Bonta & Motiuk, 1992; Van Voorhis, 1988) (Doc #2, 1996, p. 5, emphasis added).
>
> The Custody Rating Scale provides an **objective standardized criterion against which to judge the efficacy of penitentiary placement decisions.** (Doc #2, 1996, p. 17, emphasis added).
>
> Overall, the Custody Rating Scale proved to be an **effective and valid classification tool** when measured against a variety of psychometric and operational criteria, in meeting the demands of the Auditor General and in providing the Service with a **system-wide method of objective classification** (Doc #2, 1996, p. 22, emphasis added)
>
> The CRS provides an **objective and valid method** of assessing the security classification needs of federal offenders. The available evidence indicates a strong relationship between CRS ratings and a number of indices of adjustment and risk and that it can play a **useful role in the management of offenders and in meeting the objectives set out in the CCRA** (Doc #3, 1998, p. 10, emphasis added).

Undoubtedly, there exists commonality between the meaning units within this category; research-based, scientific standards are championed when discussing the integration and continued use of actuarial risk assessments in the penitentiary classification system. Characteristics of the CRS are highlighted and words such as “many benefits”, “valid”, “effective”, “useful role”, and “objective” frame the CRS in a positive light. Additionally, CSC attributes the classification of prisoners to lower security levels to “objective classification models” (Doc #2, 1996, p. 5) and frames this in a positive way by stating that the classification of prisoners to lower levels is both beneficial to the prisoner as it results in the least restrictive and measure and is beneficial to those within the institution as it does not have an adverse effect on the prison environment. By espousing those characteristics that mark actuarial methods, CSC is promoting evidence-based practices as best practices.

It is again interesting to note that CSC promotes the utilization of objective measures to reach security classification decisions and yet also allows subjectivity to enter the decision-making process, such as providing caseworkers discretionary powers to override the CRS recommendation. It appears this contradiction is resolved through CSC’s contention that the CRS “provides an objective standardized criterion against which to judge the efficacy of penitentiary placement decisions” (Doc #2, 1996, p. 17). Here we see CSC justifying the utilization of actuarial science because it provides “objective” information against which the caseworker’s final security placement decision can be validated. However, as we saw in the previous subsection, the caseworker still has the discretion to override the recommendation, subject to providing clear documentation and reasoning for the override. Irrespective of the seemingly contradictory objective/subjective divide, the important point is that the inclusion of the CRS (and actuarial risk assessment tools generally) into a *system-wide*, initial security classification process is normalized—a “given”—because of the actuarial rationality that is located within the discourse.

Another advantage that CSC identified with the use of the CRS was the tools' ability to accurately classify imprisoned women groups, Indigenous groups, and their non-Indigenous counterparts. However, recall from Chapter One that the CRS was initially developed in 1987 and was validated on a sample of white, male prisoners (Webster & Doob, 2004). This formed the basis of criticisms against the tool by both organizations outside of the CSC and by academics in the field of criminology who contend that using a tool that was initially created and validated on a white, male sample is problematic for women and Indigenous groups (see for example Webster & Doob, 2004) and has been recommended that it not be used for Indigenous groups because of poor reliability and validity (see for example Rugge, 2006). By conducting research and in turn concluding that the CRS is nevertheless producing statistically accurate outputs, CSC is asserting the position that the CRS is valid for use on *any* prisoner, irrespective of the criticisms from that have emerged from outside the CSC. This was primarily assessed through several avenues, such as through concordance rates—that is, the degree to which the actual, final placement decisions reflected the CRS recommendation—as well as through predictive validity assessments that measured prisoner outcomes on institutional adjustment measures (for example, institutional charges and misconduct). Below are examples of CSC affirming the use of the CRS by demonstrating that the CRS recommendation is consistent with the caseworker's eventual placement of prisoners, as well as instances in which the CRS demonstrated predictive ability with these groups:

> In terms of the distribution of offenders within the various security levels, it is interesting to note that the **actual placement of Aboriginal offenders matches the percentage of Aboriginal offenders in each risk category of the CRS.** From the results in Table 5, it may be concluded that the distribution of offenders across CRS risk category is very similar to the actual initial placement distribution (Doc #3, 1998, p. 8, emphasis added).
>
> However, research in Canada has indicated that rates **of inconsistency between CRS recommendations and actual classification for women offenders are within the**

> **appropriate range (19% for Aboriginal offenders and 14% for non-Aboriginal offenders; Blanchette et al., 2002) and similar to those for Aboriginal (22%) and non-Aboriginal (26%) male offenders** (Grant & Luciani, 1998) (Doc #6, 2012, p. 3, emphasis added).
>
> That said, CRS revalidations focused on **Aboriginal and non-Aboriginal women** (Blanchette et al., 2002; Luciani et al., 1996) conducted to date have shown that the **CRS is predictive of involvement in institutional misconducts for these groups**. Involvement in both violent and non-violent incidents was shown to increase linearly with CRS classification, **suggesting that the women are appropriately classified** (Doc #6. 2012, p. 4, emphasis added).
>
> **As expected, the percentage of Aboriginal and non-Aboriginal offenders involved in major institutional incidents increased from minimum to maximum CRS classification. This pattern was similar for final security classifications** (Doc #6, 2012, p. 20, emphasis added).

Notably, these meaning units demonstrate proportionality, predictive ability, and expected linear trends within the data. Interestingly, CSC allows room for discrepancies between the CRS recommendation and final security classification decision, citing the research in Canada to show that inconsistencies between the two are appropriate if they fall within the established ranges (which are noted within the corpus as being no more than 20% of cases requiring adjustment; p. Doc #6, 2012, p. 3). Analyzing the prevalence of ratings that require adjustment by the caseworker is another way of measuring the validity of an actuarial tool (Barnum & Gobeil, 2012). By allowing a specific cut-off percentage, the excess of which would render the tool invalid for use, the tool is justified for continued use; issues for continuing the use of the tool only arise insofar as the tool begins to predict security classification levels that exceed what is considered acceptable. This meaning unit is intended to highlight an example of how CSC justifies the continued use of actuarial risk assessment tools within a very specific, scientific-based framework. In other words, the use of actuarial instruments is only called into question when they *statistically* begin to perform outside of what is expected—that is, outside of what has been standardized. Insofar as CSC continues to undertake revalidation studies of the CRS (or any other actuarial instrument) that assesses the performance of a tool against quantitative statistical standards, the tool will always be framed within that framework.

Taken together, the use of the CRS is affirmed because its performance aligns with what is to be expected of an actuarial tool, even when taking into consideration rates of inconsistency. It is clear the CRS is presented within the corpus as meeting the necessary standards of scientific performance *irrespective* of the gender or ethnic category, and the accompanying sociohistorical considerations that accompany such groups. CSC affirms that, "there was no evidence that Aboriginal women offenders are over-classified relative to non-Aboriginal women offenders" (p. Doc #6, 2012, p. 40). By demonstrating proportionality and positive concordance rates, undertaking statistical analyses to reach their conclusions, CSC justifies the use of the CRS by appealing to an actuarial rationality and framing the assessment results positively. In the following subsection, the implications of this process for Indigenous groups specifically will be made more visible.

4.2 Theme Two: Rendering the individual as a composite of criminogenic risk and needs factors

This present theme, "Rendering the individual as a composite of criminogenic risk and needs factors", serves to more explicitly highlight the factors that constitute the security classification rating and how these factors are discussed to serve CSC's ability to justify the CRS, thereby legitimating the use of actuarial risk assessment tools. Informed by the theoretical framework, this theme exemplifies how a prisoner is transformed from a "distinct, unique person, to be studied in depth and known by his or her peculiarities" to "a point plotted on an actuarial table" (Garland, 1997, p. 182). In this vein, the CRS is legitimated for continued use because it operates within a framework that analyzes each prisoner *in relation to* the broader prison population; comparing the "profile" of a prisoner to the behavioural and institutional outcome regularities that have been identified for prisoner groups classified as low-, medium- or high-risk (Garland, 1997).

As shown in Table Two, there were two categories within this theme: (1) Disaggregates of the security classification rating, and (2) Over-representation and over-classification. The first category was further broken down into two sub-categories, which were (i) Consideration of unique factors, and (ii) Measurable factors. The first category will highlight the operationalization of an actuarial rationality, such as stating that there are "unique factors" relevant to Indigenous peoples and comparing Indigenous and non-Indigenous groups along the same dimension. This category will highlight how CSC both attempts to include Indigenous peoples as ontologically distinct subjects and at the same time encloses their category through statistical group comparisons, thus demonstrating an instance of a "settler move to innocence" through a process of "colonial equivocation" (Tuck & Yang, 2012). The second category, "over-representation and over-classification", comprise meaning units in which CSC addressed concerns regarding the higher security classification levels given to Indigenous people in prison. CSC concluded that Indigenous people in prison are not in fact over-classified but are over-represented. This justification legitimates the CRS because of the actuarial rationality that necessitates individuals be collectively assessed against a pre-determined number of factors. In other words, insofar as the pre-determined factors that comprise the sub-scales of the CRS are shown to statistically predict outcomes similarly for both Indigenous and non-Indigenous groups, the tool is legitimated for continued use regardless of whether Indigenous people in prison present with a higher frequency of those factors and, moreover, *why* this is the case.

Theme	**RENDERING THE INDIVIDUAL AS A COMPOSITE OF CRIMINOGENIC RISK AND NEEDS FACTORS**		
Category	DISAGGREGATES OF THE SECURITY CLASSIFICATION RATING		OVER-REPRESENTATION AND OVER-CLASSIFICATION
Sub-category	Consideration of unique factors	Measurable factors	
Code(s)	Acknowledgment of harms *Acknowledging colonialism	Risk/Need factors Group comparisons *Response to criticism of tools	*Reasons for Aboriginal higher classification

Table 2: Theme Two
**Denotes emergent code*

4.2.1 Disaggregates of the security classification rating

This category encompasses two sub-categories: (i) Consideration of unique factors, and (ii) Measurable factors. In the former, meaning units were coded as “Acknowledgment of harms” or “Acknowledging colonialism”. In the latter sub-category, meaning units were coded as “Risk/need factors”, “Group comparisons”, or “Response to criticism of tools”. Together, these meaning units were categorized as “Disaggregates of the security classification rating” because they spoke of the individual factors that influence a prisoner’s security classification designation, such as street stability and alcohol and drug use. Overall, this category demonstrates how an actuarial rationality underpinning correctional risk management implicates the logic of elimination (Wolfe, 2006), specifically through a process of colonial equivocation (Tuck & Yang, 2012) when conducting statistical comparisons between Indigenous and non-Indigenous sample groups.

(i) Consideration of unique factors

The sub-category, “consideration of unique factors” is informed by the literature on the “gesture of inclusion” (Razack, 2015; Tuck & Yang, 2012; see section 2.4.3) and exemplifies another way in which actuarial instruments are justified for security classification purposes. According to authors Tuck and Yang (2012), gesturing towards the inclusion of Indigenous peoples yet remaining ambivalent towards colonialism is a settler move to innocence, specifically that of "colonial equivocation". Colonial equivocation is described broadly as a "…vague equating of colonialisms that erases the sweeping scope of land as the basis of wealth, power, law in settler nation-states" (Tuck & Yang, 2012, p. 19). Tuck and Yang (2012) identified the various ways in which colonial equivocation can take shape (see section 2.4.3), one of which is through "…tacking on a gesture towards Indigenous people without addressing Indigenous sovereignty or rights…" (p. 19). Through the text, CSC exemplifies instances in which they acknowledge the unique circumstances of Indigenous peoples (without identifying settler colonialism as the system of oppression) and contend that, in keeping with *R. v. Gladue* (1999), a separate analysis is undertaken by the caseworker for Indigenous people in prison, *in addition to* the completion of the CRS. In this way, CSC is justifying the use of the CRS by portraying the security classification process as a holistic, un-biased approach.

Accordingly, I coded for instances in which CSC conceded to the existence of Indigenous peoples' experience of oppression, which is unique to the settler colonial structure in which Canada is embedded, but in which they did so ambivalently—that is, without expressly naming colonialism. The meaning units that were coded as "consideration of unique factors" were the following:

> **In keeping with R. v. Gladue (1999),** CSC's policy documents also require that **unique systemic or background factors that may have influenced Aboriginal offenders' lives be considered in determining security classifications for offenders of Aboriginal ethnicity** (CSC, 2010a; 2010b) (Doc #5, 2011, p. 1, emphasis added).
>
> In addition, the overall classification approach for Aboriginal women of which the CRS is a part, is reflective of their unique social history. In keeping with the Gladue decision (R. v. Gladue, 1999), when caseworkers are completing an Aboriginal women offenders security classification, policy requires that they must consider **unique background and systemic factors that affect Aboriginal offenders** as part of their professional judgment (CSC, 2010). For example the **caseworker must consider history of dislocation, unemployment due to lack of opportunities, lack or irrelevance of education, and history of substance abuse** (Doc #6, 2012, p. 5, emphasis added).

When completing the CRS, caseworkers are required to complete a separate analysis for Indigenous people in prison as part of the initial security classification process and in keeping with *R. v. Gladue* (1999). Indeed, as discussed in Chapter One, part of the overall assessment includes a requirement for caseworkers to consider "Aboriginal Social History" (CSC, *Commissioner's Directive* 705-7. 2018). Specifically, caseworkers are required to do the following:

> Analyze the circumstances of the communities (such as residential school systems, child welfare, dislocation, community fragmentation, marginalization, etc.) and the extent of their impact on the Aboriginal offender at the individual level (i.e. gang affiliation, substance abuse, history of suicide, family or community history of substance abuse, family or community history of victimization, poverty, lack or low level of formal education, etc.). It should ideally answer the following question: How has their history impacted their current behaviour? (CSC, *Commissioner's Directive 705-7*, 2018).

Within the corpus under analysis, CSC exemplifies its approval or "nod" towards Indigenous peoples as having a "unique" experience. Indeed, CSC states that the caseworker must "consider history of dislocation, unemployment due to lack of opportunities, lack or irrelevance of education, and history of substance abuse" (Doc #6, 2012, p. 5). Although examples of factors that must be considered by the caseworker are provided, these factors are merely listed, absent from a settler colonial contextualization that undeniably gives rise to those circumstances (Martel et al., 2011).

In Chapter Two, Tuck and Yang's (2012) definition of a settler move to innocence was provided. It is defined as strategies or practices that the settler employs to relieve themself of guilt or responsibility for benefiting from a structure that actively seeks to erase or assimilate Indigenous people, without the surrendering of land back to Indigenous peoples (Tuck & Yang, 2012). Strategies of colonial equivocation aid the settler towards relief as they are able to acknowledge Indigenous peoples to the extent that this acknowledgment precludes an assertion of blame on the part of the settler. Without expressly naming colonialism, CSC effectively bypasses any opportunity for taking responsibility for their complicity in the settler colonial project that actively seeks the assimilation of Indigenous peoples. As discussed by Chartrand (2019), the prison is a modern form of colonial expressions of control, becoming a site in which "civilizing Indigenous difference" is the rationale underpinning correctional programming specifically created for Indigenous peoples (for example, the Healing Lodges). As we saw in the first theme, CSC explicitly acknowledges that Indigenous people in prison are appropriately classified and that their higher classification levels may be better addressed through intervention.

Within this sub-category, we observe CSC's move towards innocence through their side-stepping of the system of oppression that intervenes in the lives of Indigenous peoples to condition their experience of violence. CSC also bypasses any opportunity for a contextualization of the Indigenous person's lived experience. Although not part of the actuarial instrument, CSC legitimates the use of the tool by demonstrating that factors relating to an Indigenous person's experience are still able to be captured by the initial security classification and included in the decision-making process. Paradoxically, this inclusion, which allows CSC to present themselves as having "not forgotten" about their Indigenous population in prison, serves to conceal the attempted erasure of Indigeneity. Regardless of whether an analysis is undertaken into the factors that have affected Indigenous peoples, the outcome remains the same: a security classification level that was reached through a process that operates within an actuarial rationality.

Within the corpus, there was *one* instance in which colonialism was expressly named. It is included within this sub-category of "consideration of unique factors" because it demonstrates an instance in which CSC takes a moment to consider literature (specifically Monture-Angus,

1999) in which Indigeneity is discussed as distinct and potentially incompatible with actuarial-based notions of risk. However, this is quickly glossed over. As such, I coded for this emergent finding as "Acknowledging colonialism". This meaning unit was located within the document, *An Examination of a Reweighted Custody Rating Scale for Women* (2014), which assessed whether a reweighted CRS would produce stronger validity outcomes for women, particularly Indigenous women. One of the conclusions was that a reweighted CRS is not recommended but that future research should consider a gender-informed instrument. One of the reasons for a gender-informed instrument was the following:

> **Future research on the feasibility of a gender-informed instrument could explore which items and outcomes would best predict incarceration behaviours for women.** For example, Farr (2000) suggests that because women pose little institutional risk, other outcomes (e.g., treatment needs) would be more suitable for classification than those that are based on risk. **Monture-Angus (2000) argues that the notion of "risk" is not compatible with Aboriginal culture, law and traditions. Further, she suggests that measures designed to assess risk are problematic for Aboriginal offenders who, as a result of negative impacts from colonialism, may be rated more negatively on certain portions of the assessment. Hence, the CRS may include elements that demonstrate differential item functioning (Zumbo, 1999) that would automatically create scoring biases (**Doc #7, 2014, p. 56, emphasis added).

It is interesting to note that CSC suggests the potential creation of a gender-informed instrument, supporting this contention by proceeding to cite literature in which the notion of risk is problematic for women generally and Indigenous peoples specifically. Despite citing literature that brings forth the problem of utilizing risk-based instruments on Indigenous people in prison, this is glossed over through CSC's conclusion that a gender-based instrument may prove to be more valuable than the CRS as it stands today. In other words, the problems associated with risk as they pertain to the Indigenous person are rendered equivalent to the problems associated with risk as they pertain to women in general. This illustrates an attempt to homogenize the specific issues associated with assessing risk for Indigenous peoples with that of women generally, irrespective of ethnicity. In turn, what can be observed is similar to Tuck and Yang's (2012) assertion that colonial equivocation can take form when all oppressions are lumped together as similarly experienced oppression. In this particular case, the implications of assessing risk within an Indigenous prisoner population is made comparable to the implications of assessing risk within a female prisoner population, thus conflating gender and "Aboriginal culture" as if the identities are fixed and do not intersect to condition *differential* lived experiences. In turn, a proposal to explore a gender-informed actuarial instrument, at the same time acknowledging the problematic assessment of risk for Indigenous inmates, is a move towards concealing the particularities surrounding the Indigenous person's experience as it takes place within a settler colonial structure. It is important to note that this is another way that actuarial instruments continue to be legitimated for CSC; if a reweighted CRS is not recommended, the conclusion is not to get rid of the CRS but to perhaps explore the creation of a gender-informed instrument. Today, the CRS is still in use for all prisoners upon entering the penitentiary system. The following sub-category, "measurable factors", will further explore and substantiate this process of homogenization.

(ii) Measurable factors

This sub-category comprises meaning units that were coded as one of three codes: (1) Risk/need factors, (2) Group comparisons, and (3) Response to criticism of tools. These were meaning units in which the notion of measurability, which characterizes an actuarial rationality, featured prominently. This sub-category serves to underscore how an actuarial rationality is operationalized and mobilized to justify the use of actuarial tools. Additionally, this sub-category will shed light on how the operationalization of actuarial-based reasoning coincides with a logic of elimination in a specific way: CRS assessments for Indigenous people in prison are determined by conducting statistical analyses that compares Indigenous sample groups to non-Indigenous sample groups, thus rendering Indigenous peoples as reducible and comparable on the basis of mathematical continuities.

Factors that comprise the assessment process are pre-determined, such as institutional misconduct and charges and return to custody rates, and are mandated to be considered for evaluation in accordance with the CCRR (1992):

> The Corrections and Conditional Release Regulations (CCRR; 1992) sets out a number of specific factors that must be considered in evaluating the three broad areas outlined in the CCRA, such as severity of current offence, sentence length, age at the time of sentencing, street stability, and alcohol and drug use (Doc #5, 2011, p. 1).

As previously discussed, these are factors that have been correlated with poor institutional adjustment and likelihood of recidivism. Factors that comprise the assessment process were statistically tested to determine how relevant and accurate they were in predicting several outcomes, such as institutional misconduct and charges, and return to custody rates. These factors were assessed for both Indigenous and non-Indigenous groups. Hence, the code "Group comparisons" captured instances in which Indigenous and non-Indigenous sample groups were compared along the same dimension, such as in the following:

> The composite subscales of the CRS were examined **to identify the factors that differentiated between Aboriginal and Non-Aboriginal women offenders**. Aboriginal women had higher mean scores on both of the CRS subscales; the IA and the SR, relative to Non- Aboriginal women. More specifically, **relative to Non-Aboriginal women offenders, Aboriginal women offenders scored significantly higher on three of the five IA subscale items: history of institutional misconduct, street (in)stability, and alcohol and drug use. Three of the SR subscale items also significantly differentiated Aboriginal women offenders from their Non- Aboriginal counterparts: number of prior convictions, severity of current offence, and street (in)stability. Again, in each case the Aboriginal women scored higher than their Non- Aboriginal counterparts** (Doc #4, 2002, p. 2, emphasis added).

Here, CSC endeavoured to identify the factors that differentiated Indigenous women from their non-Indigenous counterparts. However, note that the two sample groups were analyzed in comparison to pre-established factors (for example, number of prior convictions, severity of current offence) contained with the CRS subscales. In other words, the two sample groups were compared against the same factors irrespective of how they might culturally diverge from each other. In doing so, CSC renders Indigenous peoples comparable to non-Indigenous peoples and speaks of differences in terms of mathematical differences. Examples of this observation are below:

> For only one item (sentence length) was there a greater proportion of Aboriginal than of non-Aboriginal offenders in the low score group, and in this case, the difference was only three percentage points. For the remaining items, greater proportions of Aboriginal than of non-Aboriginal offenders had high scores on each item. The difference was greatest (25 percentage points) for the alcohol / drug use item included within the Institutional Adjustment subscale (Doc #5, 2011, p. 13)

> *The associations of each of the CRS component items with involvement in institutional incidents was also examined (see Appendix A). For Aboriginal men, higher scores on street stability, age at first federal admission, age at time of sentencing, history of institutional incidents, and history of escapes were all positively associated with involvement in institutional incidents. For Non-Aboriginal men, higher scores on each of these items as well as on number of prior convictions, seriousness of outstanding charge, alcohol / drug use, and prior parole / statutory release (minor incidents only) were also positively associated with incident involvement* (Doc #5, 2011, p. 20)

These meaning units demonstrate how the CRS renders social relations divisible (for example, street stability, alcohol/drug use, involvement in institutional incidents). For example, in the first, descriptive information is being provided on the distribution of inmates with "low" and "high" scores on the items that comprise the CRS subscales (Gobeil, 2011). This was achieved by first obtaining the median score of each item (Gobeil, 2011). If a prisoner received a score on an item that fell below the median, it would be recorded as a low score (Gobeil, 2011). The results were then presented in percentages in a chart that reflected the proportion of Aboriginal and non-Aboriginal inmates as having scored low or high on subscale items (Gobeil, 2011). For example, the alcohol/drug use item on the Institutional Adjustment subscale shows that 71% of Aboriginal cases had high scores whereas 46% of non-Aboriginal cases had high scores on this item (Gobeil, 2011). This is an example of how an actuarial rationality is operationalized; CSC moves from an individual case to a sample population that data can be extracted from and analyzed in order to draw conclusions about the CRS. Effectively, social factors become divisible (Stanley, 2021), able to be split and rendered into percentages for the purposes of obtaining distribution information and conducting group comparisons. Here, an actuarial rationality coincides with the logic of elimination in a very specific way. By conducting group comparisons along the same dimensions that comprise the constitutive parts of the CRS, CSC is neutralizing—indeed, erasing—sociohistorical differences and nuances that distinguish Indigenous peoples from their non-Indigenous counterparts. This gives way for CSC to justify the continued use of actuarial risk assessment tools because it is only within a framework of actuarial-based reasoning that statistical analyses of this nature can take place—that an argument that the CRS performs *statistically* well can be accepted.

In response to criticisms of the tools, such as those from the Canadian Human Rights Commission (CHRC; 2003), that have raised concerns regarding the applicability of the CRS for incarcerated women and the disproportionate maximum-security ratings given to Indigenous women, CSC sought to reweight and revalidate the CRS. Reweighting a tool is achieved by "…providing a new weight to individual response options based on the extent to which they are more or less associated with an outcome of which the scale is intended to be predictive" (Rubenfeld, 2014, p. 11). An example is below:

> The results, outlined above, demonstrate that the CRS offers variable validity in the prediction of relevant outcomes for women offenders and inequivalence in the CRS between Aboriginal and non-Aboriginal women offenders. **Concerns associated with this pattern of results, along with the continued use of the CRS in a form initially designed for men has prompted the Canadian Human Rights Commission (2003) to recommend the development of a security classification tool explicitly created for**

> **federally-sentenced women as well as actions that would address the disproportionate number of federally sentenced Aboriginal women classified as maximum security.** To respond to these concerns, the goal of the current report is to **reweight the CRS to improve its validity** for Aboriginal and non-Aboriginal women (Doc #7, 2014, p. 4, emphasis added).

The response to reweight the CRS to assess if a reweighted tool would produce better outcomes of predictive ability does not address *why* the factors that the CRS assess are more prevalent for the Indigenous population compared to the non-Indigenous population. Insofar as CSC continues to administer actuarial risk assessment tools, which is necessarily grounded within an actuarial rationality, the reweighting and/or revalidating of the tool will nonetheless result in a loss of sociohistorical nuances because the individual becomes reducible to only those factors that are relevant in the assessment of risk. For example, as part of the Institutional Adjustment rating, a subscale of the CRS, "Street Stability" is evaluated along four dimensions: (1) employment/education, (2) marital/family adjustment, (3) interpersonal relationships, and (4) living arrangements. Each item is given a score of "above average", "average", or "below average". When looking at marital/family adjustment, for example, an above average rating would require the following: "[a] stable marriage (including common-law) exists. The inmate is presently supported by an intact nuclear family (includes parents, siblings, spouse and children" (CSC, *Commissioner's Directive 705-7*, 2018). Such a measure is highly problematic for Indigenous people in prison who have been removed and dispossessed from families and communities. Monture-Angus (1999) emphasizes that "Aboriginal people do not belong to communities that are functional and healthy (and colonialism is significantly responsible for this fact)" (p. 5). Monture-Angus (1999) puts forth the argument that assessing factors that are symptoms of colonialism does not measure risk, but rather "…merely affirms that Aboriginal persons have been negatively impacted by colonialism" (p. 5), In this way, actuarial instruments that “break down” social location and experience into measurable factors, applying them similarly across diverse groups, conceals and erases the impact of settler colonialism.

Together, the meaning units within the sub-categories of “Consideration of unique factors” and “Measurable factors”, highlight the problematic process of utilizing actuarial instruments on an Indigenous inmate population. However, it is because of this problematic process that CSC is able to legitimate the continued use of actuarial instruments as part of the initial security classification process. Moreover, CSC responds to the criticisms of the CRS, such as those from the CHRC (2003) who took issue with the use of the CRS because of issues of Indigenous women’s over-representation in higher security levels, by operating within the same rationality that reduces sociohistorical nuances to measurable, quantifiable factors. The findings from the second category, “Over-representation and over-classification” will provide another example of how CSC legitimates the use of the CRS by justifying the tool through claims of its un-biased structure.

4.2.2 Over-representation and over-classification

A code that emerged from the data was “Reasons for Aboriginal higher classification”. It was a common occurrence within the corpus for the issue of whether Indigenous peoples are over-represented at higher security levels to be addressed. Whereas over-representation refers to a greater proportion of one segment of the population occupying a particular security level over another, over-classification refers to the classification of a prisoner to a higher security level than is warranted by their assessed level of risk. As mentioned in the previous sub-section, CSC responded to criticisms that classification tools over-classify Indigenous people in prison, such as those from the Office of Correctional Investigator (Sapers, 2007), by revalidating the tool. Overall, CSC concluded, based on their statistical analyses, that the greater prevalence of

Indigenous peoples at higher security levels is due to a greater prevalence of risk factors rather than over-classification on the part of the CRS. In this regard, the continued use of the CRS was supported, thus serving as another way in which actuarial instruments are justified for continued use:

> This pattern suggests that the difference in security classification recommendation distributions for Aboriginal and non-Aboriginal offenders **reflect underlying differences in risk rather than over-classification. Results were therefore supportive of the continued use of the CRS with Aboriginal offenders** (Doc #5, 2011, p. iii, emphasis added).
>
> Indeed, a **considerable body of literature demonstrates both that Aboriginal offenders tend to have higher levels of many factors associated with increased risk of recidivism** (e.g., Brzozowksi, Taylor-Butts, & Johnson, 2006; Finn, Trevethan, Carriere, & Kowalski, 1999; Holsinger, Lowenkamp, & Latessa, 2003; Moore, 2003; Moore, Trevethan, & Conley, 2004) **and that these risk factors are similarly relevant for Aboriginal and non-Aboriginal offenders** (e.g., Bonta, LaPrairie, & Wallace-Capretta, 1997; Bonta, Lipinski, & Martin, 1992; Rugge, 2006). **This pattern suggests that a possible alternative explanation for the over-representation of Aboriginal offenders at higher levels of security is that these classifications are reflective of differences in the risk of recidivism of Aboriginal and non-Aboriginal offenders** (see Rugge, 2006, for a more in-depth presentation of this argument) (Doc #5. 2011, p. 5, emphasis added).
>
> Together these results support the interpretation that **Aboriginal offenders are over-represented at higher security levels because they have higher levels of risk rather than because they are over-classified** (Doc #6, 2012, p. 39, emphasis added).

Of course, given the settler colonial structure that has conditioned Indigenous peoples experience as an oppressed group, it is unsurprising that Indigenous people in prison present with a greater number of factors that place them in higher security classification levels than their non-Indigenous counterparts (see Martel et al., 2011 and Monture-Angus, 1999 in Chapter One). As Monture-Angus (1999) contends, it is because of settler colonialism that an Indigenous person's elevated risk score is pre-determined before even carrying out the assessment. The assertion that the CRS is classifying imprisoned Indigenous people appropriately because the classification is reflective of their risk for recidivism is deeply problematic. The notion that differential classification levels reflect "underlying differences in risk" between Indigenous and non-Indigenous peoples individualizes the notion of risk (Dean, 1998; Monture-Angus, 1999). Indeed, drawing on Castel (1991), the target of intervention is not inherent dangerousness but rather the accumulation of factors that render probable the occurrence of an undesirable event. Risk, mobilized as a category for intervention, becomes a site for governance (Dean, 1998).

Similar to the previous sub-section, CSC nonetheless pursues the line of reasoning that whether or not Indigenous peoples present with more risk factors, these risk factors are similarly relevant for both groups and, therefore, the CRS is accurately discriminating between low-, medium-, and high-risk offending prisoners. To substantiate the contention that Indigenous people in prison are not over-classified, meaning units were identified in which CSC highlighted the prevalence and degree to which risk factors are experienced by Indigenous people in prison:

> First, **Aboriginal offenders tend to be younger** (Kong & AuCoin, 2008; Trevethan, Moore, & Rastin, 2002), **have higher recidivism rates** (Bonta, Rugge, & Dauvergne, 2003; Gobeil & Barrett, 2007), **more issues with substance abuse** (Perreault, 2009), and have **more needs concerning their family lives** (Gobeil & Barrett, 2007; Kong & AuCoin, 2008; Perreault, 2009) relative to non-Aboriginal offenders. These issues are further compounded by the fact **that Aboriginal offenders tend to have less education** (Perreault, 2009; Trevethan et al., 2002), **less employment experience** (Perreault, 2009), and **fewer employment skills** (Trevethan et al., 2002) than non-Aboriginal offenders (Doc #6, 2012, p. 6, emphasis added).
>
> Although it is not clear whether Aboriginal offenders are also over-classified, there are several results in the current study which suggest that they are not. First, **a larger percentage of Aboriginal offenders were convicted of violent crimes. This finding indicates that the Aboriginal women were higher risk, which is in keeping with a higher security classification** (Doc #6, 2012, p. 39, emphasis added).

Interestingly, CSC states that a "larger percentage of Aboriginal offenders were convicted of violent crimes", going on to explain that this "indicates that the Aboriginal women were higher risk…" (Doc #6, 2012, p. 39). These meaning units similarly demonstrate one of the ways in which the CRS is legitimated for use, which is through the claim that the tool is properly identifying those who are higher risk—that is, the tool is operating as expected.

The two categories identified within this theme are illustrative of how, when an actuarial rationality is operationalized to discuss the applicability of the CRS for Indigenous peoples, a logic of elimination takes form through practices of assimilation, particularly through colonial equivocation (Tuck & Yang, 2012) wherein the Indigenous person's measured risk is homogenized with a non-Indigenous person's measured risk. The concept of an "ontological slide" (Stanley, 2021; see section 2.5) is particularly germane for understanding how this occurs. Just as Stanley (2021) argued that cancer risk assessments render "…a cancer occurring in FC [Fort Chipewyan] *qualitatively* no different than a cancer occurring in Alberta or fort vermillion or any other comparison communities—except in their collective number. Dene, Cree and Metis cancers are homogenized with settler cancers and non-cancers…" (p. 62). CSC's process of conducting statistical group comparisons similarly eliminates the colonial context that gives rise to the risk factors in which the CRS measures. Stanley (2021) emphasizes that this transforms nuances that "make up" an individual into mutable, divisible, and comparable factors within and between groups. Indeed, within this category, examples were provided that illustrated how disaggregates of security classifications are measurable and used to similarly measure both Indigenous and non-Indigenous prisoners' level of risk. Even in the case of a separate analysis for Indigenous people in prison vis-à-vis ASH factors, a settler colonial contextualization is absent—that is, settler colonialism is never expressly named and only gestured towards in terms of *factors*.

4.3 Theme Three: Interpreting data outcomes through justifications

CSC conducted various types of statistical analyses to determine the applicability of the CRS for a diverse prison population. As such, a broad range of emergent codes that were identified during the coding process fell under the category of "Data trends". This category highlights how interpretations of data trends, produced through statistical analyses, served CSC in its ability to legitimate the use of the CRS. Three sub-categories were identified: (1) Limitations of the CRS, (2) Subjective inferences, and (3) Insignificant or unclear statistical data (see Table 3). A common pattern within and between categories was the act of justification. Whereas justification is the act of presenting something to be reasonable and/or defensible, CSC exhibited a frequent tendency to justify its data findings by making statements that appealed to the overall predictive ability of the security classification process. This was exemplified during instances where the CRS alone fell short in predictive ability, the tendency to defer to small sample sizes of the Indigenous group to make sense of data outcomes that were deemed difficult to interpret, and finally, supporting the use of the CRS by suggesting alignment with security classification objectives. Through all of this, CSC demonstrates prioritization of even distributions and statistical generalizability, in turn collapsing the Indigenous category to achieve optimal statistical outcomes.

Theme	**INTERPRETING DATA OUTCOMES THROUGH JUSTIFICATIONS**		
Category	DATA TRENDS		
Sub-category	Limitations of the CRS	Subjective Inferences	Insignificant or Unclear Statistical Data
Code(s)	*Acceptance of limited predictive ability *Room for Improvement *Acceptance of undesirable data outcomes *Collapsing categories	*Interpreting staff overrides as staff perceptions	*Highlighting nonsignificant or unclear trends in Aboriginal group

Table 3: Theme Three
**Denotes emergent code*

4.3.1 Limitations

The sub-category, "Limitations of the CRS", within the broader category of "Data trends", encompassed meaning units that were coded as the following: Acceptance of limited predictive ability, Room for Improvement, Acceptance of undesirable data outcomes, and Collapsing categories. The conglomeration of these meaning units demonstrated how CSC researchers would often justify the outcomes of their analyses, especially when the outcomes were not in the ideal, expected direction. The reports that comprised the corpus were research studies that sampled the prison population at the time to undertake statistical analyses into the validity of the CRS. The sampled populations were divided into Indigenous and non-Indigenous groups. Instances of limited predictive ability were found and discussed:

> **Though slightly higher proportions of Aboriginal offenders than of non-Aboriginal offenders received higher CRS security classification recommendations, the CRS was able to predict** involvement in serious institutional misbehaviours and the granting of discretionary release at comparable rates for offenders of each ethnicity (Doc #5, 2011, p. iii, emphasis added).
>
> However, the CRS did struggle to predict the occurrence of minor institutional incidents and minor institutional charges. Given that the CRS is intended to measure poor institutional adjustment, and that it predicts the more serious indicators thereof, limited predictive ability with respect to minor incidents and charges is of less concern (Doc #6, 2012, p. 26).
>
> **Despite the mixed results for institutional outcomes reported above the most important outcomes of the use of the CRS in the security classification process is the predictive ability of final security placement –** that is, the placement that reflects the CRS results, staff's professional judgment and, if appropriate, psychological assessment. **As the CRS is only a component of the security classification process, results for the final security placement must also be considered. When the predictive ability of final security classification was examined for all institutional outcomes the results were more positive** (Doc #6, 2012, p. 37, emphasis added).
>
> Relative to previous studies of the applicability of the CRS to women offenders (Blanchette et al., 2002; Luciani et al., 1996) the **results of the current study are not as promising. Nonetheless, security classification as a whole is consistently predictive of the most serious indicators of risk and institutional adjustment** (Doc #6, 2012, p.40, emphasis added).

When CSC's analyses demonstrated that the CRS security classification level recommendation had limited predictive ability for institutional adjustment outcomes, CSC reminds the reader that the CRS is but one component of an entire security classification process; one that encompasses staff member's professional judgment and psychological assessments (when applicable) to reach a final security classification determination. For CSC, the priority, as evinced above, is the predictive ability of the *actual* (that is, the final placement of the prisoner) security classification level as opposed to the CRS *recommendation* on its own. Moreover, shortcomings are justified on the basis that what matters is the predictability of the most serious behavioural outcomes; lack of predictive ability for minor outcomes are not grounds to dismiss the use of the CRS. This is demonstrated using language such as, "of less concern", "despite the mixed results", "nonetheless". Although the limited predictive ability of the CRS is acknowledged, its use is nonetheless advocated; its shortcomings are a cost that CSC is willing to take on *because* it forms a larger part of a classification process:

> That said, the **strength of the CRS's predictive ability for most outcomes, though considerably greater than what would be expected without the use of an actuarial measure** (see Ægisdóttir et al., 2006; Grove, Zald, Lebow, Snitz, & Nelson, 2000), **could nonetheless be improved** (Doc #5, 2011, p. 38, emphasis added).
>
> In summary, **though there is certainly room for improvement** with respect to the CRS's predictive ability, **the present findings are positive and demonstrate that the scale can appropriately continue to be used in determining offenders' initial security classification** (Doc #5, 2011, p. 38, emphasis added).
>
> Though**, as is the case with all actuarial measures, there continues to be room for improvement** in the CRS, the results of the **current study support the continued use of the CRS as a component of the initial security classification process for Aboriginal and non-Aboriginal women offenders** (Doc #6, 2012, p. iii, emphasis added)
>
> In an ideal situation, the reweighted measure would have the capacity to correctly identify offenders that will have institutional adjustment issues 100% of the time (i.e., true positives) and will never incorrectly label an offender as being likely to have institutional adjustment issues (i.e., false positives). **In reality, actuarial measures are not 100%**

> **accurate in their ability to predict outcomes and, therefore, cost-benefit considerations must be taken into account** (Doc #7, 2014, p. 20, emphasis added).

Generalizing the CRS's performance to all actuarial tools is one way for CSC to "accept" the limitations of the CRS. Indeed, this exemplifies how CSC presents the tool as producing incremental accuracy of security classification designations, and is thus reasonable for continued use. Although room for improvement exists, overall, the performance of the tool is up to the standards of an actuarial instrument and the continued use of the CRS as part of the classification process is therefore supported, demonstrating that CSC does not consider the improvement of the tool's performance as an immediate concern. This exemplifies that a type of cost-benefit analysis is undertaken when considering the continued use of actuarial tools in security classification. By pointing to predictive accuracy limitations and then promptly pointing to the overall performance of the CRS, CSC is invoking justification reasoning for the continued use of the tool.

Another type of statistical limitation identified within the document corpus was repeated reference to the small sample size of the Indigenous group within each document. Interestingly, findings would be reported and, to justify the anomalous outcomes, CSC would defer to the small sample size of the Indigenous group:

> The results concerning actual security classification decisions were not as clear. Specifically, the percentage of Aboriginal offenders convicted of minor institutional charges classified to maximum and medium security did not differ. This may be due to the small number of Aboriginal offenders (n = 5) classified to maximum security; such a small number can lead to misleading percentages. All other results for final security classifications were as *expected* (Doc #6, 2012, p. 21).

In this meaning unit, CSC is reporting that Indigenous people in prison who occupy medium- and maximum-security classification levels do not differ with respect to being convicted of minor institutional charges. What would have been expected is that institutional charges increase as classification level increases from minimum- to maximum-security classification level. This was not the case and, to make sense of this finding, CSC deferred to the small frequency of Indigenous peoples classified to maximum security. This represents a justification for the tool because rather than an issue residing with the tool itself, the issue is method related (i.e. population sample sizes). Notably, to compensate for small sample sizes, CSC demonstrated an instance in which group categories were collapsed to accommodate anomalous results:

> With the exception of Aboriginal offenders, the institutional incident rate decreases and discretionary release increases as Custody Rating Scale designations move from maximum- to minimum-security. The **low release frequency of maximum-security rated Aboriginal (n=3) may explain this anomaly. In fact as a result of the low frequency of release of maximum-rated aboriginal (3) female (1) and sex (5) offenders we combined maximum and medium-rated offenders and replicated the contingency table analyses for both the discretionary and post release success.** Once again the relationship between the distribution of incidents, discretionary release, post release success by security rating, is maintained ($p<.05$) in all situations with the exception of aboriginal discretionary releases (Doc #2, 1996, p. 17, emphasis added).

There is evidently a pattern occurring between the meaning units: statistical differences (or rather, lack thereof) with respect to certain institutional outcomes are justified on the basis of statistical *frequencies*. In an examination of a reweighted CRS scale for women that CSC undertook (Rubenfeld, 2014) and, although consideration was given to the creation of a scale specifically for Indigenous women, CSC followed in a similar justification pattern of deferring to the small sample size of Indigenous peoples and subsuming their Indigenous category under a broader, gender-specific category:

> One way of dealing with the low influence of Aboriginal women on the reweighting of the CRS would be to produce separately weighted scales, by ethnicity. This option was not pursued here for two reasons. First, **a decision was made at the onset of the project to produce one reweighted scale to simplify the implementation of a reweighted scale into daily operations. Second, the small sample size of Aboriginal women could produce highly variable weightings that are not generalizable to the population** (Doc #7, 2014, p. 55, emphasis added).
>
> An alternative to separate reweightings would be to **produce a gender-informed scale specifically designed for women** (Doc #7, 2014, p. 55, emphasis added).

> Research has also demonstrated unique factors that lead toward recidivism for women, which are not typically observed with men. A **gender-informed instrument could explore how factors such as unhealthy relationships, trauma, mental illness, substance abuse** (Hardyman & Van Coorhis, 2004; Salisbury & Van Voorhis, 2009) **and family contact** (Blanchette, 2005 as cited in Blanchette & Brown, 2006**) affect institutional adjustment**. Further, this type of re-imagining of an initial custody classification instrument for women **could allow for greater sensitivity to ethnic differences that are important to institutional adjustment for both Aboriginal and non-Aboriginal women** (Doc #7, 2014, p. 57, emphasis added).

Even in the case of reweighting the CRS, acknowledging that differences do indeed exist for men and women and the development of new instruments should be considered, CSC still prioritizes statistical generalizability over and above individual differences. It is because of the small sample sizes of the Indigenous group that renders them *incomparable* to the prison *population*. Moreover, producing separate reweighted scales for Indigenous women was not pursued because of the intention to "simplify" daily operations, thus demonstrating another instance in which institutional managerialism is prioritized. Rather than exploring—contextualizing—the circumstances that give rise to an Indigenous person's experiences that differentiates them from the broader population, CSC subsumes the Indigenous category under a broader category of gender, thereby bypassing individual nuances, such as how a settler colonial structure intersects with being a racialized woman and how this may condition one's experience, differentiating them from the broader prison population. Throughout the corpus, CSC made it clear that the CRS needs to be revalidated to ensure its continued applicability on the Indigenous prison population, but the question of *why* was absent. In other words, statistical analyses were generated without providing sociohistorical context to explain why an actuarial measure has been critiqued as problematic for use on Indigenous peoples. Indeed, Tuck and Yang (2012) have identified this as a type of settler move to innocence via assimilative practices, specifically when it pertains to rendering Indigenous peoples as "a(s)t(e)risk peoples" (p. 22). Although in this document corpus, Indigenous peoples were not merely represented as an asterisk in statistical analyses, the process of collapsing categories, in the name of statistical generalizability, achieves the same erasure and concealment that Tuck and Yang (2012) describe. The conclusion advanced by CSC nonetheless remains the same: considering the objectives of security classification, which was outlined in Theme One, the CRS is advanced as the most useful actuarial tool available for initial classification.

The meaning units that comprise this sub-category, "Limitations of the CRS", reveal CSC's flexibility regarding actuarial tools remaining a part of the security classification *system* in light of demonstrated statistical limitations with respect to predictive ability, the existence of room for improvement, the acceptance of undesirable data outcomes, and through the collapsing of categories to accommodate small sample sizes that produce anomalous statistical outcomes. With these limitations directly acknowledged, CSC nonetheless presents them as reasonable and justifiable (that is, as not posing any hindrance to the optimal and overall performance of the tool), even generalizing the CRS to *all* actuarial tools to demonstrate that limitations are to be expected. Here, CSC exhibits its prioritization of institutional systematization and management. Herein an actuarial rationality can be located, advanced through the utilization of the CRS when understood as a *techne* component of government (Dean, 2010). Even in the case of considering a reweighted tool for Indigenous women specifically, this prospect is rejected in favour of *one* reweighted tool that could be implemented for the sake of operational simplicity. In these moments, where an actuarial rationality is advanced, there is a simultaneous enclosure of the Indigenous group. Just as Tuck and Yang (2012) describe the process of rendering Indigenous peoples as a(s)t(e)risk peoples, denoting an entire, heterogeneous group as an asterisk in statistical data sets, CSC similarly mirrors this settler move to innocence through its statistical collapsing of the Indigenous category in data sets and through a discounting of a reweighted scale for Indigenous women in the name of simplification.

4.3.2 Subjective inferences

Interestingly, an emergent code within the data was "Interpreting staff overrides as staff perceptions". Meaning units were identified in which CSC justified data outcomes pertaining to staff override decisions as revealing staff members' *subjective perceptions* of how well the CRS performs for Indigenous and non-Indigenous groups. In other words, to substantiate the claim that over-classification is not occurring, CSC interpreted the lack of variability in override decisions as insight into the staff's perceptions of systemic bias:

> First, the lower concordance rates could indicate that staff members perceive that the CRS may not capture all the factors relevant to making a security classification. Second, there was little difference between Aboriginal and non- Aboriginal offenders in terms of staff members increasing or decreasing the CRS security classification. **If staff felt that the CRS was over- or under-classifying either group we would expect to see a difference in the percentage of offenders being placed at higher or lower security levels than the CRS recommendation. As such, these results lead to the inference that while staff may perceive that certain factors are not captured in the CRS, they do not perceive a systematic bias in CRS results** (Doc #6, 2012, p. 36, emphasis added).
>
> Second, the percentage of Aboriginal and non-Aboriginal offenders placed at a lower security level than the CRS recommended did not substantially differ. This result indicates that staff members do not perceive the CRS as over-classifying Aboriginal offenders (Doc #6, 2012, p. 39).

What can be observed within these meaning units are attempts to present the CRS as performing similarly for Indigenous and non-Indigenous groups. This is achieved by CSC's claim that, "…while staff may perceive that certain factors are not captured in the CRS, they do not perceive a systemic bias in CRS results" (Doc #6, 2012, p. 36). In keeping as close to the text as possible, this implies that although an actuarial tool cannot capture every single factor that may influence an individual's risk, the CRS is nonetheless producing recommendations that are consistent with final penitentiary placement decisions. By interpreting concordance rates as providing insight into how staff *feel* about the CRS (concluding that the CRS is not inherently bias), CSC gives further weight—indeed, further legitimates—the continued use of the tool as part of the initial classification process. Moreover, by using staff perceptions as a means to validate the denial of inherent bias and the contention that Indigenous people in prison are over-classified, CSC is conferring legitimacy onto staff members as accurate evaluators of the tool.

4.3.3 Insignificant or unclear data outcomes

Recall that CSC has stated that one of the purposes of the CRS is to predict *poor* institutional adjustment. During instances in which analyses of the Indigenous group revealed statistically insignificant or unclear findings, there was a tendency to nonetheless bring attention to "slight" trends:

> Compared to Non-Aboriginal women, relatively fewer Aboriginal women were involved in a non-violent incident, c2 (1, N = 291) = 4.89, p < .05. **Although no other statistically significant differences were found between groups, there was a trend suggesting that Aboriginal women were more prone to violent incident involvement** than their Non-Aboriginal counterparts (Doc #4, 2002, p. 9, emphasis added).
>
> **In fact, there was a (non-significant) trend for staff to place Aboriginal women in security levels lower than those recommended by the CRS.** Accordingly, the positive relation between CRS security classifications and Aboriginal identity was stronger in the CRS designations than in the final placement distribution. **This indicates that decisions to override the CRS did not initiate, or aggravate, the more frequent placement of Aboriginal women at higher levels of security** (Doc #4, 2002, p. 11, emphasis added).
>
> Second, **no clear pattern emerged that indicated that the CRS was systematically more or less predictive of outcomes of interest for Aboriginal offenders**. In summary, there is no clear evidence **to indicate that the CRS is systematically over-classifying Aboriginal offenders** (Doc #6, 2012, p. 39, emphasis added)

The reporting of insignificant or slight trends suggests that the CRS operates as it should—that is, it is able to discern involvement in more serious institutional incidents, places Indigenous women in security levels lower than recommended by the CRS (thereby adhering to policy requirements of applying the least restrictive measures) and, finally, supports the contention that the CRS does not over-classify its prisoners. Recall from Theme Two the discussion pertaining to the debate between over-classification versus over-representation. Insofar as it remains the case that it is not the tool *itself* but rather the prisoners who present with more risk factors, the use of the CRS is legitimated. This is further substantiated by the notion that caseworkers are also placing Indigenous people in security levels *lower* than the CRS recommendation. Again, CSC reminds the reader that the CRS is merely one component of a greater security classification process and, as a result, "safety nets" (such as the ability for a caseworker to override a CRS recommendation) ensure that prisoners do not get over-classified. Overall, these meaning units capture CSC's appeal to security classification objectives, suggesting that how the CRS operates is in line with what is expected for the classification of prisoners.

Conclusion

This chapter presented the findings of a qualitative content analysis involving seven CSC documents in which three major themes were identified, namely the following: (1) Espousing evidence-based practices as best practices, (2) Rendering the individual as a composite of criminogenic risk and needs factors, and (3) Interpreting data outcomes through justifications. Each theme was informed by the literature review and theoretical framework outlined in Chapters One and Two and each theme presented with its own unique (sub-)categories. Guided by the research questions and objectives of this project, this content analysis was able to adequately identify and explain how CSC legitimates the use of actuarial tools as part of its initial security classification process, as well as how they have responded to criticisms that have been put forth against the use of the tools, specifically as they pertain to the Indigenous population in prison. Through a detailed examination of each theme and the categories that they constituted, it is clear CSC pursues justification reasoning to legitimate the use of actuarial instruments. Broadly, the types of justifications identified were positive language that framed the tools in a favourable light, allowing room for the tools' performance shortfalls, and rejecting the existence of built-in biases. Moreover, it is through this process of legitimating actuarial instruments by invoking justification reasoning that a logic of elimination (Wolfe, 2006) can be located. This primarily occurs in the text during instances in which CSC gestures at the inclusion of Indigenous peoples, exhibiting what Tuck and Yang (2012) have referred to as "settler moves to innocence". In particular, I draw upon two types of settler moves to innocence: colonial equivocation and the presentation of Indigenous peoples as a(s)t(e)risk peoples (Tuck & Yang, 2012) to make sense of how an actuarial rationality (Dean, 1998; Ewald, 1991; Garland, 1997) coincides with the logic of elimination (Stanley, 2021; Wolfe, 2006).

Through an exploration of how CSC espouses evidence-based practices as best practices, we saw how CSC presents security classifications as an important and critical component of effective correctional management, which gave way to the inclusion of actuarial tools as inevitable; as a mechanism for the "securitization of the state" that allows prisoners to be rendered knowable in a particular form so as to facilitate their management within the prison (Foucault, 1991), including their "intervention". Indeed, instances were identified in which CSC supported "closing the correctional gap" between Indigenous and non-Indigenous people in prison through "intervention", highlighting one way in which cultivating the subjectivities of Indigenous peoples (Klein, 2020) is enacted.

In conducting their statistical analyses to examine the predictive ability and reliability of the CRS, prisoners are collectively rendered as a composite of criminogenic risk and needs factors. Here, an actuarial rationality coincides with the logic of elimination as CSC moves toward innocence, gesturing towards their Indigenous population as having a "unique" background, without expressly naming settler colonialism (Tuck & Yang, 2012) or providing contextual support for the circumstances that have given rise to a greater prevalence of risk factors (Monture-Angus, 1999; Martel et al., 2011) that the CRS is designed to assess. Similarly, by operating under the assumption that individuals are reducible to a definite number of pre-determined factors, CSC is able to undertake group comparisons between Indigenous and non-Indigenous sample groups, which in turn leverages support for the continued use of the CRS because these statistical analyses are able to proceed unchallenged.

Finally, through addressing the issue of over-representation and over-classification, CSC denies the existence of built-in biases on the part of the CRS, providing another example for how actuarial tools are justified and legitimated. The use of justifications was especially pronounced during CSC's interpretations of their data outcomes, specifically when the predictive ability of the CRS fell short of what was expected. Another settler move to innocence was located within this theme, namely that of rendering Indigenous peoples as a(s)t(e)risk peoples (Tuck & Yang, 2012) through a process of subsuming their Indigenous category either with other inmate sample groups to produce more evenly distributed data or through conflating Indigeneity with gender to justify the exploration of a gender-based instrument.

By conducting a content analysis on the research documents that CSC produces to inform their correctional operations, it was my intention to disrupt the unquestioning acceptance of practices underpinned by an actuarial rationality, and indeed render visible this rationality that gives force to the purportedly necessary use of actuarial tools. Moreover, by deploying a lens that specifically attends to settler colonial logics, it was possible to bring to the forefront the ways in which a governing actuarial rationality intersects with the logic of elimination to engender the ontological erasure of Indigenous people in prison.

CHAPTER FIVE: DISCUSSION AND CONCLUSION

I began this thesis by introducing the SCC decision in the *Ewert v. Canada* (2018) case, which served as a point of entry for my thesis topic. I would like to bring attention back to this legal decision because, although it was significant in recognizing that CSC must validate the five impugned tools it uses on its Indigenous inmate population, I believe it is nonetheless a decision that operates within the same framework that serves to eliminate Indigeneity. The content analysis that I have undertaken did not examine the impugned tools in *Ewert* (2018), however, I have shown through my analysis of the CRS that it is the actuarial rationality that *underpins* the practice of utilizing actuarial instruments that facilitate the erasure of Indigeneity. That is to say, even if actuarial instruments were validated on an Indigenous prison population—indeed, even if an Indigenous-informed actuarial tool were created—the result is the same: the assignment of a security classification *rating* based on an assessment of aggregates that have been empirically tested to predict certain outcomes. In other words, an Indigenous person will only ever be "knowable" in relation to those items that comprise the scales of an actuarial instrument. Insofar as a risk assessment remains actuarial, Indigenous people in prison will only ever be reducible to what is measurable, quantifiable, and divisible. The rationality upon which actuarial tools operate serves to achieve specific ends that, as I demonstrated in my analysis, align with CSC's objectives for security classification.

The introduction of actuarial tools in the CJS did not occur within a vacuum. Influenced by the "what works" movement that spanned the 1980s through to the 1990s (Cullen & Gendreau, 2001), actuarial tools represent an adherence to the flourishing evidence-based approach to corrections that, at its core, advocates for the implementation of prison programming and intervention that draw upon empirically tested covariates of crime and meta-analyses of evaluative studies (referred to as "scientific criminology"; Andrews et al., 1990; Cullen & Gendreau, 2001). Broadly, "[t]he key theme is that science is a way of knowing the world and changing it for the better" (Cullen & Gendreu, 2001, p. 331). Indeed, as observed in the previous chapter, CSC "takes up" this prevailing model within the context of assigning prisoners, particularly Indigenous people in prison, an initial security classification, of which the utilization of actuarial tools are a part. What is largely absent from this dominant discourse that pervades the CJS, and specifically that pervades the classification and penitentiary placement procedure with respect to Indigenous peoples, is a genuine, meaningful attentiveness to the settler colonial context in which the CJS is embedded (Chartrand, 2019).

My intention for this study was not to engage in a critique of the "effectiveness" of prison programming that stem from the "what works" movement, but rather to interrogate the rationality that gives force to one aspect of CSC's practices, namely the use of actuarial tools as a taken-for-granted standard of practice in assigning initial security classifications and allowing for the prison population to be rendered governable. It is this unquestioning acceptance of actuarial tools, driven by the prevailing dominant discourse, that forms the object of study. Importantly, I sought to demonstrate how this normalized practice problematically reproduces a logic of elimination (Wolfe, 2006) that serves to assimilate and erase Indigenous peoples as ontologically distinct subjects for the sustainment of an ongoing settler colonial project.

Drawing upon the works of those who followed in the steps of Michel Foucault to apply the concept of governmentality to understanding the prison as an arena for groups to be surveilled and managed (for example, Dean, 1998; 2010; Garland, 1997) and those who extended Foucault's work into the field of settler colonial studies (for example, Klein, 2020; Scott, 1995), I theorize the initial security classification procedure as a "regime of practice". Moreover, it is a regime that is imbued with a sense of logical coherence, one that operates in accordance with an actuarial logic (Dean, 1998) that is informed by expert knowledge (Dean, 2010; Miller & Rose, 1990) and that simultaneously engenders the logic of elimination (Stanley, 2021; Wolfe, 1994; 2006). The contributions of Canadian psychologists D. A. Andrews and James Bonta were instrumental in the development of the RNR model—the framework upon which actuarial tools have been developed (Andrews et al., 1990; Andrews, et al., 2006; Bourgon et al., 2018). Actuarial tools, as a "techne" component of government (Dean, 2010), offers one avenue through which CSC may operationalize an actuarial rationality to achieve its objective of assigning prisoners with an "appropriate" security classification level that is proportional to the assessed risk posed. Integrating the concept of the logic of elimination into the theoretical framework addresses governmentality's lack of explanatory power as it pertains to race and colonialism. In this vein, my project has also been informed by works on settler colonialism, specifically the myriad of practices settlers engage and deploy that erase Indigeneity/Indigenous peoples, such as settler moves to innocence (Tuck & Yang, 2012), gestures of inclusion (Razack, 2015; Tuck & Yang, 2012), and cultivating subjectivities (Klein, 2020).

The logic of elimination, first conceptualized by Wolfe (2006), is a logic inherent in settler societies and helps to explain, and provide coherence to, the varied practices that settlers deploy to maintain dominion. These practices, which range from genocide to assimilative techniques, are eliminatory in that they actively pursue Indigeneity erasure (Wolfe, 2006). I have drawn upon works that shed light on assimilative techniques specifically because my research study is within the context of risk management. The use of actuarial tools is what allows for the identification of criminogenic needs, which subsequently informs the programming a prisoner is subject to—the intention being to manage and lower the risk individuals in prison pose to the institution and the public. The two broad types of assimilation strategies that informed my theoretical framework were the following: (1) practices aimed at cultivating subjectivities in accordance with white settler, neoliberal attitudes (Klein, 2020), and (2) the collapsing or homogenization of Indigeneity for the creation of an "ever-dwindling category" (Razack, 2015; Tuck & Yang, 2012; Wolfe, 1994, p. 107). Within these practices, a rhetoric of improvement (Razack, 2015) and gestures of inclusion (Tuck & Yang, 2012; Razack, 2015) featured prominently, instances of which were identified throughout my document corpus and discussed in my findings and analysis.

In Chapter Four, the qualitative content analysis, informed by a critical paradigmatic methodology, sought to locate instances of assimilation and erasure that would assist in answering the research questions I have posed and the objectives I intended to achieve. Informed by the literature review and theoretical framework, I identified three themes that captured CSC's invocation of justification reasoning to legitimate its use of the CRS and actuarial tools in general, as well as how CSC responded to criticisms that have been put forth against the use of the tools on Indigenous people in prison. The types of justifications that I identified took on varying forms, such as positively framing the CRS and actuarial instruments in general, allowing room for statistical limitations of the tool, and rejecting the possibility that the CRS itself has built-in biases that over-classify Indigenous inmates. Overall, the three themes were the following: (1) Espousing evidence-based practices as best practices, (2) Rendering the individual as a composite of criminogenic risk and needs factors, and (3) Interpreting data outcomes through justifications.

Within and between themes, an actuarial rationality was located. Indeed, by the very notion of carrying out a research report to assess the validity and reliability of an actuarial tool, which necessitates carrying out statistical procedures, the tool is automatically positioned within a scientific-based (positivist) epistemology—that is, what can be known about the tool is through the testing of variables. Beyond this, however, the documents under analysis assumed an individual's reducibility to quantifiable factors that can be divided, compared, manipulated, and extracted from data sets to determine distributions and regularities. CSC's operations, underpinned by an actuarial rationality, simultaneously facilitated the ontological erasure of its Indigenous prison population, specifically through supporting the cultivation of subjectivities, and through settler moves to innocence, particularly that of colonial equivocation and the rendering of Indigenous peoples as a(s)t(e)risk peoples (Tuck & Yang, 2012). First, molding subjectivities was apparent through CSC's conclusion that the CRS accurately classifies Indigenous people in prison and that the disproportionate number of Indigenous people at higher security levels may be better addressed through "intervention". Second, colonial equivocation and the rendering of Indigenous peoples as a(s)t(e)risk peoples (Tuck & Yang, 2012) was demonstrated during instances in which CSC was largely ambivalent towards colonialism, having only expressly named it *once*. Even during this instance, considerations for Indigeneity was subsumed within a broader consideration for incarcerated women *generally*. Additional examples of homogenizing Indigeneity included CSC's process of collapsing the Indigenous category to create a distribution of data viable for statistical analyses, as well as conducting group comparisons along the same dimension and thereby performing an "ontological slide" (Stanley, 2021). This concept proved useful in understanding how a slippage from an individual case to a population disappears the nuances of an individual's social positioning (Stanley, 2021). Extending the work of Stanley (2021) into the realm of correctional risk management, what can be observed is the following: comparing an Indigenous group's measured risk against that of a non-Indigenous group's measured risk transforms these two groups as ontologically similar and thereby comparable on the basis of mathematical continuities. This, in turn, has the effect of ontologically erasing Indigenous people as distinct subjects. These instances were each justified by appealing to an actuarial rationality that necessitates viewing the subject as a "profile" (Castel, 1991)—as part of a group—and decontextualized from any social positioning (Hannah-Moffat, 2015b). Furthermore, the justifications invoked by CSC were framed positively, and the CRS deemed critical, seamlessly accepted as "matter of course" for CSC's initial security classification procedure.

Bringing governmentality and the logic of elimination into conversation opens lines of visibility of how, through an actuarial rationality that assumes individuals are reducible to quantifiable factors, CSC supports the cultivation of Indigenous subjectivities into specific forms (Klein, 2020) and exhibits settler moves to innocence (Tuck & Yang, 2012), which, taken together, operate in accordance with Wolfe's (2006) conceptualization of a logic of elimination. These practices of assimilation engender erasure, able to proceed unfettered because of its concealment under an actuarial discourse that dominates the CJS; a scientific discourse that has become widely accepted as the gold standard for achieving effective correctional management of those in prison.

As with any theoretical framework, however, there is not one that is totalizing in its ability to serve as an explanatory framework for every structure and relationship in society. In this way, my theoretical framework was limited in that it did not necessarily attend to gender. Although analyzing how the use of actuarial instruments implicates gender in specific ways was not the focus of my project, it nevertheless would be an interesting point of entry to pursue given that four out of the seven documents assessed the validity and reliability of the CRS on women inmate sample groups. Moreover, it would be a worthwhile avenue for future research in this area to attend to how being a woman *and* Indigenous conditions the outcome one receives on an actuarial instrument.

Given the time constraints and scope of this Master's thesis, I focused solely on the documents CSC makes available on their website (specifically within their "Research Topics") and as they directly related to the assessment of the CRS's validity and reliability. To gather more information regarding the types of intervention that inmates are subject to once receiving their security classification designation, as well as gathering more information on how Aboriginal Social History (ASH) factors are considered during the initial security classification procedure, sampling from a wider document "population" should be given consideration in future research. CSC has a specific mandate for how their Indigenous prison population is to be "managed", which is outlined in documents such as the *Strategic Plan for Aboriginal Corrections* (2006-07 to 2010-11). These CSC authority documents may provide further insight into how the logic of elimination takes form within the prison, particular within the context of programming developed specifically for Indigenous peoples. As I intend to build upon the findings from this Master's thesis in my PhD studies, examining a wider net of documents would prove to be fruitful in furthering an understanding of the potentially other ways in which an actuarial rationality coincides with a logic of elimination in the penal context.

REFERENCES

Altman. (2018). Raphael Lemkin in remote Australia: The logic of cultural genocide and homelands. *Oceania*, *88*(3), 336–359. https://doi.org/10.1002/ocea.5204

Andrews, D.A. (2000). Principles of effective correctional programs. In L. L. Motiuk & R. C. Serin (Eds.), *2000 Compendium on Effective Correctional Programming*. Ottawa, ON: Correctional Services Canada.

Andrews, D. A., Bonta, J., & Hoge, R. D. (1990). Classification for effective rehabilitation: Rediscovering psychology. *Criminal Justice and Behaviour, 17*(1), 19-52. https://doi.org/10.1177/0093854890017001004

Andrews, D. A., Bonta, J., & Womith, J. S. (2006). The recent past and near future of risk and/or need assessment. *Crime & Delinquency, 52*(1). 7-27. https://doi.org/10.1177/0011128705281756

Anthony, T. (2013a). Introduction to Indigenous representations in criminal sentencing. In T. Anthony (Ed.), *Indigenous People, Crime and Punishment* (1st ed., pp. 1-29). Routledge. https://doi.org/10.4324/9780203640296

Anthony, T. (2013b). Historicizing colonial and postcolonial Indigenous crime and punishment. In T. Anthony (Ed.), *Indigenous People, Crime and Punishment* (1st ed., pp. 30-54). Routledge. https://doi.org/10.4324/9780203640296

Armitage. (1995). Comparing the policy of aboriginal assimilation Australia, Canada, and New Zealand. UBC Press.

Barnum, G. & Gobeil, R. (2012). *Revalidation of the Custody Rating Scale for Aboriginal and non-Aboriginal women offenders*. Correctional Service Canada. https://www.csc-scc.gc.ca/research/005008-0273-eng.shtml

Bengtsson, M. (2016). How to plan and perform a qualitative study using content analysis. NursingPlus Open, 2, 8–14. https://doi.org/10.1016/j.npls.2016.01.001

Berg, B. L. (2004). Qualitative research methods for the social sciences (5th ed.). Pearson.

Blaikie, N. W. H. (2000a). Designing social research. In N. W. H. Blaikie (Ed.), *Designing social research: The logic of anticipation* (1st ed., pp. 35-57). Polity Press.

Blaikie, N. W. H. (2000b). Research questions and objectives. In N. W. H. Blaikie (Ed.), *Designing social research: The logic of anticipation* (1st ed., pp. 58-84). Polity Press.

Blanchette, K., Verbugge, P. & Wichmann, C. (2002). *The Custody Rating Scale, initial security level placement, and women offenders*. Correctional service Canada. https://www.csc-scc.gc.ca/research/r127-eng.shtml

Bonta, J., LaPrairie, C., & Wallace-Capretta, S. (1997). Risk prediction and re-offending: Aboriginal and non-Aboriginal offenders. *Canadian Journal of Criminology*, *39*(2), 127–144.

Bonta, J., Law, M. & Hanson, K. (1998). The prediction of criminal and violent recidivism among mentally disordered offenders: A meta-analysis. *Psychological Bulletin, 123*(2), 123-142. https://doi.org/10.1037/0033-2909.123.2.123

Bourgon, G., Mugford, R., Hanson, K. R., & Coligado, M. (2018). Offender risk assessment practices vary across Canada. *Canadian Journal of Criminology and Criminal Justice, 60*(2), 167-205. https://doi.org/10.3138/cjccj.2016-0024

Bröckling. U., S. Krasmann & T. Lemke (2011). From Foucault's lectures at the Collège de France to studies of governmentality. In U. Bröckling, S. Krasmann and T.Lemke (Eds.), *Governmentality. Current issues and future challenges* (pp. 1-33). New York: Routledge.

Burchell, G. et al. (1991). *The Foucault Effect. Studies in Governmentality*. University of Chicago Press.

Campbell, M. A., French, S., & Gendreau, P. (2009). The prediction of violence in adult offenders: A meta-analytic comparison of instruments and methods of assessment. *Criminal Justice and Behavior*, *36*(6), 567–590. https://doi.org/10.1177/0093854809333610

Canadian Human Rights Commission [CHRC]. (2003). *Protecting their rights: A systemic review of human rights in correctional services for federally sentenced women*. Canadian Human Rights Commission https://www.chrc-ccdp.gc.ca/sites/default/files/fswen.pdf

Cannella, G. S., & Lincoln, Y. S. (2004). Epilogue: Claiming a critical public social Science—Reconceptualizing and redeploying research. *Qualitative Inquiry*, *10*(2), 298–309. https://doi.org/10.1177/1077800404263418

Cardinal, C. (2018). *Ohpikiihaakan-Ohpihmeh: Raised Somewhere Else*. Winnipeg: Fernwood.

Castel, R. (1991). From dangerousness to risk. In G. Burchell, C. Gordon, & P. Miller (Eds.), *The Foucault effect: Studies in governmentality* (pp. 281-298). University of Chicago Press.

Chartrand, V. (2019). Unsettled times: Indigenous incarceration and the links between colonialism and the penitentiary in Canada. *Canadian Journal of Criminology and Criminal Justice, 61*(3), 67-89. https://doi.org/10.3138/cjccj.2018-0029

Coffey, A. (2014). Analysing documents. In U. Flick *The SAGE handbook of qualitative data analysis* (pp. 367-379). SAGE Publications, Inc., https://www-doi-org.proxy.bib.uottawa.ca/10.4135/9781446282243.n25

Correctional Service Canada. (2006-07 to 2007-11). *Strategic plan for Aboriginal corrections: Innovation, learning & adjustment*. https://www.csc-scc.gc.ca/aboriginal/092/002003-1000-eng.pdf

Correctional Service Canada. (2014). *Commissioner's Directive 705: Intake Assessment Process and Correctional Plan Framework*. Retrieved from Correctional Service Canada https://www.csc-scc.gc.ca/acts-and-regulations/705-cd-eng.shtml#s2

Correctional Service Canada. (2018). *Commissioner's Directive 705-7: Security Classification and Penitentiary Placement*. Retrieved from Correctional Service Canada https://www.csc-scc.gc.ca/acts-and-regulations/705-7-cd-eng.shtml

Correctional Service Canada (2017, March 17). *Legislation*. Government of Canada. https://www.csc-scc.gc.ca/victims/003006-3000-eng.shtml

Correctional Service Canada. (2017). *Commissioner's Directive* 700. Retrieved from Correctional Service Canada https://www.csc-scc.gc.ca/acts-and-regulations/700-cd-eng.shtml

Correctional Service Canada. (2019, August 26). *Response to the 46th annual report of the Correctional Investigator 2018-2018*. Canada.ca. https://www.csc-scc.gc.ca/005/007/005007-2810-en.shtml

Correctional Service Canada (n.d.). *Indigenous healing lodges*. Government of Canada. https://www.csc-scc.gc.ca/aboriginal/002003-2000-en.shtml

Correctional Service Canada (n.d.). *Research at CSC*. Government of Canada https://www.csc-scc.gc.ca/research/index-en.shtml

Cormier, R. B. (1997, January). *Yes, SIR! A stable risk prediction tool*. Correctional Service Canada. https://www.csc-scc.gc.ca/research/forum/e091/e091a-eng.shtml

Crosby, A., & Monaghan, J. (2012). Settler governmentality in Canada and the Algonquins of Barriere Lake. *Security Dialogue*, *43*(5), 421–438. https://doi.org/10.1177/0967010612457972

Cullen, F. T., & Gendreau, P. (2001). From nothing works to what works: Changing professional ideology in the 21st century. *The Prison Journal*, *81*(3), 313–338. http://dx.doi.org.proxy.bib.uottawa.ca/10.1177/0032885501081003002

Cunneen, C. (2017). Police violence: The case of Indigenous Australians. In *The Wiley Handbook of Violence and Aggression* (pp. 1–12). American Cancer Society. https://doi.org/10.1002/9781119057574.whbva119

Curtis, S., Gesler, W., Smith, G., & Washburn, S. (2000). Approaches to sampling and case selection in qualitative research: Examples in the geography of health. *Social Science & Medicine (1982)*, *50*(7-8), 1001–1014. https://doi.org/10.1016/S0277-9536(99)00350-0

Dean. M. (1998). Risk, calculable and incalculable. *Soziale Welt, 49*(1), 25-42.

Dean, M. (2010). *Govermentality. Power and rule in modern Society*. Thousand Oaks (CA): Sage.

de Leeuw, S. (2016). Tender grounds: Intimate visceral violence and British Columbia's colonial geographies. *Political Geography*, 52, 14-23.

Ewald, F. (1991). Insurance and risk. In G. Burchell, C. Gordon, P. Miller (Eds.), *The Foucault effect: Studies in governmentality* (pp. 197-210). University of Chicago Press.

Feeley, M. & Simon, J. (1992). The new penology: Notes on the emerging strategy of corrections and its implications. *Criminology, 30*(4), 449-474. https://doi.org/10.1111/j.1745-9125.1992.tb01112.x

Foucault, M. (1979). Discipline and punish: The birth of the prison. Vintage Books.

Foucault, M. (1982). The subject and power. *Critical Inquiry*. *8*(4). 777-795. https://doi.org/10.1086/448181

Foucault, M. (1991). Governmentality. In G. Burchell, C. Gordon, P. Miller (Eds.), *The Foucault effect: Studies in governmentality* (pp. 87-104). University of Chicago Press.

Garland, D. (1990). *Punishment and modern society: a study in social theory*. University of Chicago Press.

Garland D. (1997). 'Governmentality' and the problem of crime: Foucault, criminology, sociology, *Theoretical Criminology*, *1*(2). 173-214. https://doi.org/10.1177/1362480697001002002

Gaudet, S., & Robert, D. (2018). *Journey Through Qualitative Research: From Design to Reporting*. Sage Publications.

Gobeil, R. (2011). *The Custody Rating Scale as applied to male offenders*. Correctional Service Canada https://www.csc-scc.gc.ca/research/005008-0257-eng.shtml

Goddard, T. & Myers, R. R. (2017). Against evidence-based oppression: Marginalized youth and the politics of risk-based assessment and intervention. *Theoretical Criminology, 21*(2), 151-167. https://doi.org/10.1177/1362480616645172

Gottfredson, S. D., & Moriarty, L. J. (2006). Clinical versus actuarial judgments in criminal justice decisions: Should one replace the other? *Federal Probation*, *70*(2), 15–18.

Government of Canada (2002, September 1). *Creating choices: The report of the Task Force on federally sentenced women*. Correctional Service of Canada. Retrieved September 22, 2019, from https://www.csc-scc.gc.ca/women/toce-eng.shtml

Graneheim, U. H., & Lundman, B. (2004). Qualitative content analysis in nursing research: Concepts, procedures and measures to achieve trustworthiness. *Nurse Education Today*, *24*(2), 105–112. https://doi.org/10.1016/j.nedt.2003.10.001

Grant, B. A. & Luciani, F. (1998). *Security classification using the Custody Rating Scale*. Correctional Service Canada https://www.csc-scc.gc.ca/research/r67e-eng.shtml

Greiner, L. E., Law, M. A., & Brown, S. L. (2015). Using dynamic risk factors to predict recidivism among women: A four-wave prospective study. *Criminal Justice and Behaviour, 42*(5), 457-480. https://doi.org/10.1177/0093854814553222

Guba, E. G., & Lincoln, Y. S. (1982). Epistemological and methodological bases of naturalistic inquiry. *Educational Communication and Technology, 30*(4), 233–252.

Guba, E. G. and Lincoln, Y. S. (1998). Competing paradigms in qualitative research. In N. K. Denzin & Y. S. Lincoln (Eds.), *The landscape of qualitative research: theories and issues* (pp. 195-220). Sage Publications.

Guba, E. G. and Lincoln, Y. S. (2004). Competing paradigms in qualitative research: Theories and issues. In S. Hesse-Biber & P. Leary (Eds.), *Approaches to qualitative research: A reader on theory and practice* (pp. 17-38) Oxford University Press.

Gutierrez, L., Wilson, H. A., Rugge, T. & Bonta, J. (2013). The prediction of recidivism with Aboriginal offenders: A theoretically informed meta-analysis. *Canadian Journal of Criminology and Criminal Justice, 55*(1), 55-99. https://doi.org/10.3138/cjccj.2011.E.51

Gutierrez, L., Helmus, L. M., & Hanson, R. K. (2016). What we know and don't know about risk assessment with offenders of indigenous heritage. *Journal of Threat Assessment and Management*, *3*(2), 97–106. http://dx.doi.org.proxy.bib.uottawa.ca/10.1037/tam0000064

Hannah-Moffat, K. (1999). Moral agent or actuarial subject: Risk and Canadian women's imprisonment. *Theoretical Criminology, 3*(1), 71-94. https://doi.org/10.1177/1362480699003001004

Hannah-Moffat, K. (2000). Prisons that empower. *British Journal of Criminology*, *40*(3), 510–531, https://doi.org/10.1093/bjc/40.3.510

Hannah-Moffat, K. (2004). V. Gendering risk at what cost: Negotiations of gender and risk in Canadian women's prisons. *Feminism & Psychology*, *14*(2), 243–249. https://doi.org/10.1177/0959-353504042178

Hannah-Moffat. (2005). Criminogenic needs and the transformative risk subject: Hybridizations of risk/need in penality. Punishment & Society, 7(1), 29–51. https://doi.org/10.1177/1462474505048132

Hannah-Moffat, K. (2015a). The uncertainties of risk assessment: Partiality, transparency, and just decisions. *Federal Sentencing Reporter, 27*(4), 244-247.

Hannah-Moffat, K. (2015b). Needle in a haystack: Logical parameters of treatment based on actuarial risk-needs assessments. *Criminology & Public Policy, 14*(1), 113-120. https://doi.org/10.1111/1745-9133.12121

Hannah-Moffat, K. (2019). Algorithmic risk governance: Big data analytics, race and information activism in criminal justice debates. *Theoretical Criminology*, *23*(4), 453–470. https://doi.org/10.1177/1362480618763582

Hart, S. D. (2016). Culture and violence risk assessment: The case of *Ewert v. Canada*. *Journal of Threat Assessment and Management*, *3*(2), 76-96. https://doi.org/10.1037/tam0000068

Hollin, C. R. (2002). Risk-needs assessment and allocation to offender programmes. In J. McGuire (Ed.), *Offender rehabilitation and treatment: Effective programmes and policies to reduce re-offending* (pp. 307-332). John Wiley & Sons Ltd.

Hsu, C.-I., Caputi, P., & Byrne, M. K. (2010). Level of Service Inventory–Revised: Assessing the risk and need characteristics of Australian Indigenous offenders. *Psychiatry, Psychology and Law*, *17*(3), 355–367. https://doi.org/10.1080/13218710903089261

Kilty, J. M. (2006). Under the barred umbrella: Is there room for a women-centered self-injury policy in Canadian corrections? *Criminology & Public Policy*, *5*(1), 161–182. https://doi.org/10.1111/j.1745-9133.2006.00107.x

Kincheloe, J. L. & McLaren, P. (1998). Rethinking critical theory and qualitative research. In N. K. Denzin & Y. S. Lincoln (Eds), *The landscape of qualitative research: theories and issues* (pp. 260-299). Sage Publications.

Klein, E. (2020). Settler colonialism in Australia and the cashless debit card. *Social Policy & Administration*, *54*(2), 265–277. https://doi.org/10.1111/spol.12576

Kleinheksel, A. J., Rockich-Winston, N., Tawfik, H., & Wyatt, T. R. (2020). Demystifying content analysis. *American Journal of Pharmaceutical Education, 84*(1), 7113–7137. https://doi.org/10.5688/ajpe7113

Leitch, D. (2018). The constitutionality of classification: Indigenous overrepresentation and security policy in Canadian federal penitentiaries. *Dalhousie Law Journal*, *41*(2), 411–442.

Leavy, P. (2017). *Research Design: Quantitative, Qualitative, Mixed Methods, Arts-Based, and Community-Based Participatory Research Approaches*. Guilford Publications. http://ebookcentral.proquest.com/lib/ottawa/detail.action?docID=4832778

Lewis, D.-M. (2014). The risk factor - (Re-)visiting adult offender risk assessments within criminal justice practice. *Risk Management (Leicestershire, England), 16*(2), 121–136. https://doi.org/10.1057/rm.2014.6

Lloyd, D., & Wolfe, P. (2016). Settler colonial logics and the neoliberal regime. *Settler Colonial Studies*, *6*(2), 109–118. https://doi.org/10.1080/2201473X.2015.1035361

Luciani, F. P., Motiuk, L. L. & Nafekh, M. (1996). An operational overview of the Custody Rating Scale: Reliability, validity and practical utility. Correctional Service Canada https://www.csc-scc.gc.ca/research/r47e-eng.shtml

Mader, M. B. (2007). Foucault and social measure. *Journal of French and Francophone Philosophy*, *17*(1), 1–25. https://doi.org/10.5195/JFFP.2007.203

Martel, J., Brassard, R. & Jaccoud, M. (2011). When two worlds collide: Aboriginal risk management in Canadian Corrections. *The British Journal of Criminology, 51*(2), 235-255. https://doi.org/10.1093/bjc/azr003

Martinson, R. (1974, Spring). What Works? - Questions and Answers About Prison Reform. *The Public Interest*, *35*, 22–54.

Maxwell, J. A. (1996). A model for qualitative research. In J. A. Maxwell (Ed.), *Qualitative research design: an interactive approach* (pp. 1-13). Sage Publications.

Mayring, P. (2000). Qualitative content analysis. *Forum, qualitative social research*, 1(2).

Miller, P. & Rose, N. (1990). Governing economic life. *Economy and Society*, *19*(1), 1-31. https://doi.org/10.1080/03085149000000001

Monaghan, J. (2013). Settler governmentality and racializing surveillance in Canada's North-West. *Canadian Journal of Sociology*, *38*(4), 487–508. https://doi.org/10.29173/cjs21195

Monture-Angus, P. (1999). Women and risk: Aboriginal women, colonialism, and correctional practice. *Canadian Woman Studies, 19*(1), 24-29.

Monture-Angus, P. (2006). Confronting power: Aboriginal women and justice reform. *Canadian Woman Studies; Downsview*, *25*(3/4), 25–33.

Morash, M. (2009). A great debate over using the Level of Service Inventory-Revised (LSI-R) with women offenders. *Criminology & Public Policy*, *8*(1), 173–181. https://doi.org/10.1111/j.1745-9133.2009.00552.x

Napoleon, V. & Friedland, H. (2014). Indigenous legal traditions: Roots to Renaissance. In M. D. Dubber & T. Homle (Eds.), *The Oxford Handbook of Criminal Law* (pp. 226-247). Oxford University Press.

National Inquiry into Missing and Murdered Indigenous Women and Girls [MMIWG]. (2019). *Reclaiming power and place: The final report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*. National Inquiry into Missing and Murdered Indigenous Women and Girls https://www.mmiwg-ffada.ca/final-report/

Neuendorf, K. (2017). *The content analysis guidebook* (Second ed.). SAGE Publications, Inc https://www-doi-org.proxy.bib.uottawa.ca/10.4135/9781071802878

Office of Correctional Investigator [OCI]. (2020). *Annual Report 2019-2020: Office of the Correctional Investigator*. The Correctional Investigator Canada https://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20192020-eng.pdf

Office of Correctional Investigator [OCI]. (2012). *Spirit matters: Aboriginal people and the Corrections and Conditional Release Act, Final Report*. The Correctional Investigator Canada https://www.oci-bec.gc.ca/cnt/rpt/oth-aut/oth-aut20121022-eng.aspx

Olver, M. E. (2016). Some considerations on the use of actuarial and related forensic measures with diverse correctional populations. *Journal of Threat Assessment and Management*, *3*(2), 107–121. http://dx.doi.org.proxy.bib.uottawa.ca/10.1037/tam0000065

Porporino, F., Luciani, F., Motiuk, L., Johnston, M. & Mainwaring, B. (1989). *Pilot implementation of a Custody Rating Scale: Interim report*. Correctional Service Canada https://www.csc-scc.gc.ca/research/r02e-eng.shtml

Prior, L. (2008). Repositioning Documents in Social Research. *Sociology (Oxford)*, *42*(5), 821–836. https://doi.org/10.1177/0038038508094564

Prior, L. (2011). Documents. In C. Seal, G. Gobo, J. F. Gubrium & D. Silverman (Eds.), *Qualitative Research Practice* (pp. 345-360). SAGE Publications Ltd.

Quijano, A. (2007). Coloniality and modernity/rationality. *Cultural Studies*, *21*(2–3), 168–178. https://doi.org/10.1080/09502380601164353

Razack, S. (2015). Dying from improvement: Inquests and inquiries into Indigenous deaths in custody. Toronto: University of Toronto Press.

Rigakos, G. (1999). Risk society and actuarial criminology: Prospects for a critical discourse. *Canadian Journal of Criminology and Criminal Justice*, *41*(2), 137-150. https://doi.org/10.3138/cjcrim.41.2.137

Rose, N., O'Malley, P., & Valverde, M. (2006). Governmentality. *Annual Review of Law and Social Science*, *2*(1), 83–104. https://doi.org/10.1146/annurev.lawsocsci.2.081805.105900

Rubenfeld, S. (2014). *An examination of a reweighted Custody Rating Scale for women*. Correctional Service Canada. https://www.csc-scc.gc.ca/research/005008-0289-eng.shtml

Rugge, T. (2006). Risk assessment of male aboriginal offenders: A 2006 perspective. *Public Safety and Emergency Preparedness Canada*.

Sapers, H. (2007, June 29). Annual report of the Office of Correctional Investigator 2006-2007. Office of Correctional Investigator https://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20062007-eng.aspx#IIE

Schreier, M. (2014). Ways of doing qualitative content analysis: Disentangling terms and terminologies. *Forum Qualitative Social Research*, *15*(1), 146–155.

Schreier, M. (2018). Sampling and generalization. In U. Flick (Ed.), *The sage handbook of qualitative data collection* (pp. 84-97). SAGE Publications Ltd. https://www-doi-org.proxy.bib.uottawa.ca/10.4135/9781526416070.n6

Scott, D. (1995). Colonial Governmentality. *Social Text*, *43*(43), 191–220. https://doi.org/10.2307/466631

Schwalbe, C. S. (2009). Risk assessment stability: A revalidation study of the Arizona Risk/Needs Assessment instrument. *Research on Social Work Practice*, *19*(2), 205–213. https://doi.org/10.1177/1049731508317297

Shepherd, S. M., McEntyre, E., Adams, Y. & Walker, R. (2014). Violence risk assessment in Australian Aboriginal offender populations: A review of the literature. *Psychology, Public Policy, and Law, 20*(3), 281-293.

Silver, E. & Miller, L. L. (2002). A cautionary note on the use of actuarial risk assessment tools for social control. *Crime & Delinquency, 48*(1), 138-161. https://doi.org/10.1177/0011128702048001006

Stanley, A. (2021). Risk management and the logic of elimination. *Journal of Cultural Economy*, *14*(1), 54-69. https://doi.org/10.1080/17530350.2020.1763425

Su Rasmussen, K. (2011). Foucault’s genealogy of racism. *Theory, Culture & Society*, *28*(5), 34–51. https://doi.org/10.1177/0263276411410448

Taylor, K. N., & Blanchette, K. (2009). The women are not wrong: It is the approach that is debatable*. *Criminology & Public Policy*, *8*(1), 221–229. https://doi.org/10.1111/j.1745-9133.2009.00548.x

Truth and Reconciliation Commission of Canada [TRCC]. (2015). *Canada's Residential Schools: The History, Part 1, Origins to 1939: The Final Report of the Truth and Reconciliation Commission of Canada, Volume I*. McGill-Queen's University Press. https://doi.org/10.2307/j.ctt19rm9v4

Tuck, E. & Yang, K. W. (2012). Decolonization is not a metaphor. *Decolonization: Indigeneity, Education & Society, 1*(1), 1-40.

Tynan, D. (2016, October 3). Online behind bars: If internet access is a human right, should prisoners have it? *The Guardian*. https://www-theguardian-com.proxy.bib.uottawa.ca/us-news/2016/oct/03/prison-internet-access-tablets-edovo-jpay

Venn, C. (2009). Neoliberal political economy, biopolitics and colonialism: A transcolonial genealogy of inequality. *Theory, Culture & Society*, *26*(6), 206–233. https://doi.org/10.1177/0263276409352194

Veracini, L. (2011). Introducing: Settler colonial studies. *Settler Colonial Studies*, *1*(1), 1–12. https://doi.org/10.1080/2201473X.2011.10648799

Webster, C. M., & Doob, A. N. (2004). Classification without validity or equity: An empirical examination of the Custody Rating Scale for federally sentenced women offenders in Canada. *Canadian Journal of Criminology & Criminal Justice*, *46*(4), 395–421. https://doi.org/10.3138/cjccj.46.4.395

Wilson, H., & Gutierrez, L. (2014). Does one size fit all?: A meta-analysis examining the predictive ability of the Level of Service Inventory (LSI) with Aboriginal offenders.

Criminal Justice and Behavior, *41*(2), 196–219. https://doi.org/10.1177/0093854813500958

Wolfe, P. (2006). Settler colonialism and the elimination of the native. *Journal of Genocide Research*, *8*(4), 387–409. https://doi.org/10.1080/14623520601056240

Willis, J. (2007). *Foundations of Qualitative Research: Interpretive and Critical Approaches*. SAGE Publications, Inc. https://doi.org/10.4135/9781452230108

Wolfe, P. (1994). Nation and miscegenation: Discursive continuity in the post-Mabo era. *Social Analysis: The International Journal of Anthropology*, 36, 93-152.

Wolfe, P. (2006). Settler colonialism and the elimination of the native. *Journal of Genocide Research*, *8*(4), 387–409. https://doi.org/10.1080/14623520601056240

Zinger, I. (2004). Actuarial risk assessment and human rights: A commentary. *Canadian Journal of Criminology & Criminal Justice*, *46*(5), 607–620. https://doi.org/10.3138/cjccj.46.5.607

Legal cases cited

R. v. Gladue, 1999 CanLII 679 (SCC), [1999] 1 SCR 688

Ewert v. Camada, 2015 FC 1093 (CanLII)

Canada v. Ewert, 2016 FCA 203 (CanLII)

Ewert v. Canada, 2018 SCC 30 (CanLII), [2018] 2 SCR 165

Legislation cited

Corrections and Conditional Release Act, S.C. 1992, c. 20.

Corrections and Conditional Release Regulations, SOR/92-620

APPENDIX “A”

Document name	Type	Year of publication	Number of pages
1. *Pilot implementation of a Custody Rating Scale: Interim Report*	Research report	1989	10
2. *An Operational Review of the Custody Rating Scale: Reliability, Validity and Practical Utility*	Research report	1996	28
3. *Security Classification Using the Custody Rating Scale*	Research report	1998	13
4. *The Custody Rating Scale, Initial Security Placement, and Women Offenders*	Research report	2002	17
5. *Use of the Custody Rating Scale with Male Offenders*	Research report	2011	67
6. *Revalidation of the Custody Rating Scale for Aboriginal and non-Aboriginal Women Offenders*	Research report	2012	66
7. *An Examination of a Reweighted Custody Rating Scale for Women*	Research report	2014	97
Total			**367**

APPENDIX "B"

Codebook

Name of Code	Code Description	Examples of Code	Instructions for code assignment
Affirming use of Actuarial risk assessment tool	Highlighting importance/benefits of tools	On the other hand, due to their objective nature, structured tools are easily replicable, easy to implement, and efficient (for a review see Grove et al., 2000) **(Doc #6, 2012, p. p. 2)**	Any mention of actuarial tool being a critical, necessary, or beneficial component of the classification process. Assign code when discussing actuarial tools**, only**, otherwise if the **classification system** is discussed then code for **risk management**.
Risk/Need factors	Assessment of individual factors to determine risk score or validity of the tool	The Corrections and Conditional Release Regulations (CCRR; 1992) sets out a number of specific factors that must be considered in evaluating the three broad areas outlined in the CCRA, such as severity of current offence, sentence length, age at the time of sentencing, street stability, and alcohol and drug use. **(Doc #5, 2011, p. 1)**	Any mention of factors that determine an inmate's risk score or that assess the validity of the actuarial tool. Only code when the risk factors are **not** mentioned with respect to making group comparisons (in this case, code for group comparisons)
Risk management	Organizing or managing prison population distribution and activities; programming or intervention; system classification	CSC has identified a greater capacity to provide interventions to Aboriginal offenders as one of its strategic goals for several consecutive years (CSC, 2009), and is working to close the correctional gap between Aboriginal and non-Aboriginal offenders **(Doc #5, 2011, p. 5)**	Any mention of attributes that reflect carrying out correctional management mandates
Group comparisons	Comparing Indigenous and non-Indigenous groups based on risk level or along the same dimension (i.e. comparing scores on individual items of the CRS subscales)	Again, the percentages of Aboriginal and non-Aboriginal offenders convicted of an institutional charge during the follow-up period were similar (40% and 39% respectively). For both groups, the rates of conviction for minor and serious institutional charges increased together with security	Any instance in which Indigenous and non-Indigenous inmate sample groups are being compared against each other

		classifications, as measured both by the CRS and by actual classification (see Table 11) **(Doc #5, 2011, p. 22)**	
Acknowledgment of harms	Identifying Indigenous peoples experience of discrimination without naming colonialism	In addition, the overall classification approach for Aboriginal women of which the CRS is a part, is reflective of their unique social history. In keeping with the Gladue decision (R. v. Gladue, 1999), when caseworkers are completing an Aboriginal women offenders' security classification, policy requires that they must consider unique background and systemic factors that affect Aboriginal offenders as part of their professional judgment (CSC, 2010). For example the caseworker must consider history of dislocation, unemployment due to lack of opportunities, lack or irrelevance of education, and history of substance abuse **(Doc #6, 2012, p. 5).**	Identifying Indigenous peoples as a uniquely distinct group without expressly naming settler colonialism
*Acknowledging colonialism	Directly naming colonialism	Future research on the feasibility of a gender-informed instrument could explore which items and outcomes would best predict incarceration behaviours for women. For example, Farr (2000) suggests that because women pose little institutional risk, other outcomes (e.g., treatment needs) would be more suitable for classification than those that are based on risk. Monture-Angus (2000) argues that the notion of "risk" is not compatible with Aboriginal culture, law and traditions. Further, she suggests that measures designed to assess risk are problematic for Aboriginal offenders who, as a result of negative impacts from colonialism, may be rated more negatively on certain	Any statement that directly states the word "colonialism" or "settler colonialism"

		portions of the assessment. Hence, the CRS may include elements that demonstrate differential item functioning18 (Zumbo, 1999) that would automatically create scoring biases **(Doc #7, 2014, p. 56)**	
*Acceptance of undesirable data outcomes	Presenting and justifying unfavourable statistical results for Indigenous group	In general, predictive ability was very slightly higher for non-Aboriginal offenders, though the differences was likely insufficient to have practical implications **(Doc #5, 2011, p. 24)**	Any instance in which negative data outcomes are presented and in turn justified, such as deferring to small sample size or promptly bringing focus back to the overall predictive ability of the tool
*Reasons for Aboriginal higher classification	Providing a reason for why Indigenous peoples are placed at higher levels of security	Taken together, these results suggest that the more frequent initial placement of Aboriginal women at higher security is due to their higher scores on a number of objective criteria set out in the CRS **(Doc #4, 2002, p. 12)**	Any instance in which the reason why Indigenous peoples are not over-classified is given
*Highlighting nonsignificant or unclear trends in the Aboriginal group	Providing a "positive" nonsignificant or minimal trend observed in the data for the Indigenous group	In fact, there was a (non-significant) trend for staff to place Aboriginal women in security levels lower than those recommended by the CRS. Accordingly, the positive relation between CRS security classifications and Aboriginal identity was stronger in the CRS designations than in the final placement distribution. This indicates that decisions to override the CRS did not initiate, or aggravate, the more frequent placement of Aboriginal women at higher levels of security **(Doc #4, 2002, p. 11)**	Any mention of a data trend that was not found to be statistically significant but for which it was nonetheless emphasized/highlighted
*Room for improvement	Acknowledging that the CRS and/or actuarial instruments can be improved	That said, the strength of the CRS's predictive ability for most outcomes, though considerably greater than what would be expected without the use of an actuarial measure (see Ægisdóttir et al., 2006; Grove, Zald, Lebow, Snitz, & Nelson, 2000), could	Any direct statement indicating an acknowledgment that room for improvement for the CRS and/or actuarial instruments exists

		nonetheless be improved **(Doc #5. 2011, p. 38)**	
*Response to criticisms of actuarial tools	Outlining how CSC will respond to the criticisms put forth against the CRS	The results, outlined above, demonstrate that the CRS offers variable validity in the prediction of relevant outcomes for women offenders and inequivalence in the CRS between Aboriginal and non-Aboriginal women offenders. Concerns associated with this pattern of results, along with the continued use of the CRS in a form initially designed for men has prompted the Canadian Human Rights Commission (2003) to recommend the development of a security classification tool explicitly created for federally-sentenced women as well as actions that would address the disproportionate number of federally sentenced Aboriginal women classified as maximum security. To respond to these concerns, the goal of the current report is to reweight the CRS to improve its validity for Aboriginal and non-Aboriginal women **(Doc #7, 2014, p. 10)**	Any instance in which a criticism against the tool has been highlighted (whether by academics or researchers or third-party organizations) and a response is offered as to how the criticism will be addressed
*Acceptance of limited predictive ability	Highlighting the limited predictive ability capacity of the CRS	However, the CRS did struggle to predict the occurrence of minor institutional incidents and minor institutional charges. Given that the CRS is intended to measure poor institutional adjustment, and that it predicts the more serious indicators thereof, limited predictive ability with respect to minor incidents and charges is of less concern. **(Doc #6, 2012, p. 26)**	Any mention of the CRS being limited in statistical predictive ability
*Interpreting staff overrides as staff perceptions	The presentation of data outcomes from conducting statistical analyses (data not based in interviews or staff perceptions) and interpreting such outcomes	This concordance rate can be considered a measure of face validity, or the extent to which staff believe the scale is accurately measuring what it is intended to measure. From this point of view, the current	Any instance in which the interpretation of data outcomes (data that is not interview data of staff perceptions) was interpreted as reflecting staff perceptions or any

	as reflecting how staff members perceive the CRS	results suggest that staff members' perceptions of the accuracy of the scale are relatively unchanged over the intervening fifteen years **(Doc #5, 2011, p. 39)**	instance in which data outcomes were interpreted as representing how staff "feel" about the CRS
*Collapsing categories	The statistical process of collapsing data when insufficient data exists to for even distributions to carry out an analysis	With the exception of Aboriginal offenders, the institutional incident rate decreases and discretionary release increases as Custody Rating Scale designations move from maximum- to minimum-security. The low release frequency of maximum-security rated Aboriginal (n=3) may explain this anomaly. In fact as a result of the low frequency of release of maximum-rated aboriginal (3) female (1) and sex (5) offenders we combined maximum and medium-rated offenders and replicated the contingency table analyses for both the discretionary and post release success. Once again the relationship between the distribution of incidents, discretionary release, post release success by security rating, is maintained ($p<.05$) in all situations with the exception of aboriginal discretionary releases **(Doc #2, 1996, p. 17)**	Any instance in which researchers did not have "enough" data on the Indigenous inmate sample group and "collapsed" data for a more robust/evenly distributed data set

**Denotes emergent code*

APPENDIX “C”

Retrieved from: https://www.csc-scc.gc.ca/acts-and-regulations/705-7-cd-eng.shtml

ANNEX B - CUSTODY RATING SCALE

INTRODUCTION

For all items in the Custody Rating Scale, **no incidents or convictions will be counted if they occurred when the inmate was under the age of 16**.

PART I – INSTITUTIONAL ADJUSTMENT RATING

1. HISTORY OF INVOLVEMENT IN INSTITUTIONAL INCIDENTS

Definitions

Incidents: any actions or behaviours listed in Annex C that occurred prior to final penitentiary placement for the current sentence.

Last five years of incarceration (pertaining to item b): any accumulated period or periods of federal or provincial/territorial incarceration (including remand) in the inmate’s history that total five years or more, not just the five years immediately preceding the current admission to federal custody.

Serious physical injury: any injury as determined by Health Services personnel as having the potential to endanger life, or which results in permanent physical impairment, significant disfigurement or protracted loss of normal functioning. It includes, but is not limited to major bone fractures, the severing of limbs or extremities, and wounds involving damage to internal organs.

Instructions

Incidents involving convictions in institutional court or outside court, and incidents contained in institutional security reports should be counted. For incidents in the provincial jurisdiction, find the offence in Annex C that most closely corresponds. Incidents occurring while the inmate was in a youth facility (but not under the age of 16) should be included.

Where there is clear and substantial evidence to support that the inmate was a victim of an assault or fight and not the aggressor, no score should be given.

With the exception of item 1a) as shown below, the remaining items are mutually exclusive, that is once you have chosen the response option appropriate to the incident, **the same incident** is not applied to any other item under Institutional History.

Item	Score
1. History of Involvement in Institutional Incidents	
a) No prior involvement (proceed to item 2 – Escape History) pursuant to OMS	0
Any prior involvement	2

Notes

- a) refers to any period of incarceration
- **If a score is entered under b), c) or d), then a score of "2" must be entered under a) any prior involvement.**

b) Prior involvement during last five years of incarceration:	
in an assault (no weapon or serious physical injury)	1
in a riot or major disturbance	2
in an assault (using a weapon or causing serious physical injury)	2

Notes

- Score only one of the above options and choose the option that yields the highest score.

c) Prior involvement in one or more incidents in serious category	2

Notes

- c) refers to any period of incarceration.
- This includes serious incidents that occurred in the last five years of incarceration but that do not meet the criteria specified in 1 b).
- Also includes serious incidents in remand or intake on a prior admission.

d) Involvement in one or more serious incidents prior to sentencing and/or pending placement for the **current commitment** (includes incidents occurring while the inmate is awaiting completion of the Offender Intake Assessment)	5

Notes

- Serious incidents while in remand, awaiting transfer to federal custody or in intake status on previously completed sentences are not scored here.

Sources of Information

- FPS record
- Discipline and Dissociation file
- Security incident base (Security Information Reports)
- Provincial records/files
- Inmate interview

2. ESCAPE HISTORY

Definitions

Escape: includes only escapes from federal/provincial/territorial correctional institutions, from police/peace officer custody or while on escorted temporary absence (ETA). It does not include leaving an open custody youth facility, a community residential facility (CRF), a community correctional centre (CCC) or where an inmate has been unlawfully at large from an unescorted temporary absence (UTA) or probation.

Last five years of incarceration (pertaining to item d): includes any accumulated period or periods of federal or provincial/territorial incarceration (including remand) in the inmate's history that total five years or more, not just the five years immediately preceding the current admission to federal custody.

Instructions

Where charges were laid against the inmate, it is not necessary that a court conviction be registered to count the incident of escape. When reviewing cases where the inmate was charged with "escape lawful custody" or "unlawfully at large", count only those situations where the act leading to the charge was an escape from a federal/provincial/territorial institution, from police/peace officer custody or while on an escorted temporary absence from a federal or provincial/territorial institution.

Provincial or territorial designation of security levels maximum, medium and minimum is equal to the federal levels, except in the case of provincial/territorial jails and detention/remand centres which are considered to be maximum security for the purposes of scoring the CRS.

Escapes from provincial/territorial closed/secure custody youth facilities should be counted under category b.

Item	Score
2. Escape History	
a) No escape or attempts	0
b) An escape or attempt from minimum or police/peace officer custody with no actual or threatened violence:	
over two years ago	4
in last two years	12
c) An escape or attempt from medium or maximum custody or an escape from minimum or police/peace officer custody with actual or threatened violence:	
over two years ago	20
in last two years	28
d) Two or more escapes from any level within the last five years	28

Only the single highest score for any one item from 2a) to 2d) is entered on the Scale even though any number of them may be applicable to the inmate.

Sources of Information

- FPS record
- Discipline and Dissociation file
- Security incident base (Security Information Reports)
- Provincial records/files
- Inmate interview
- Police reports

3. STREET STABILITY

Street stability refers to the evaluation of an inmate's level of functioning in the community as it relates to socially and legally acceptable norms. In order that street stability can be assessed consistently and objectively, four specific key life style areas must be evaluated separately and a composite rating reflecting these areas determined.

Street stability is assessed against the inmate population and not relative to non-criminal individuals. In addition, it should be assessed relative to the community in which the inmate was residing at the time the offence was committed. For example, if unemployment was relatively high in a particular community, the inmate should be assessed against the employment opportunities in that community.

Where applicable and if completed as part of the current assessment, the domain ratings from the Dynamic Factor Identification and Analysis (revised), Associates and Community Functioning domains can be used to support the Above Average (Factor Seen as an Asset or No Immediate Need), Average (Low or Moderate Need) and Below Average (High Need) rating.

(i) Employment/Education

CRS Guidelines

Above average – The inmate has been steadily employed or attending an educational program for more than six months prior to the present incarceration.

Average – The inmate has been employed or attending an educational program sporadically in the last six months prior to this incarceration and there have been significant periods of unemployment during this period.

Below average – The inmate has been usually unemployed and was not employed when the current offence(s) was committed. If the inmate verbalizes that the employment/educational situation contributed to the present offence(s), the rating should be "below average".

(ii) Marital/Family Adjustment

CRS Guidelines

Above average – A stable marriage (including common-law) exists. The inmate is presently supported by an intact nuclear family (includes parents, siblings, spouse and children).

Average – The inmate has a marital partner, however, periods of instability have occurred, and/or the nuclear family is somewhat unstable.

Below average – No significant family relationships are identified as having existed during the six month period prior to the commission of the present offence(s) and/or immediate family members do not provide pro-social supportive roles.

(iii) Interpersonal Relationships

CRS Guidelines

Above average – The inmate associates with essentially non-criminal persons in the community.

Average – Associations with unstable or criminally oriented persons, along with a mixture of stable individuals has been identified.

Below average – The inmate's social circle is made up almost entirely of persons with criminal backgrounds or unstable lifestyles. The inmate may have a co-accused in the present offence(s) with whom social ties in the community are identified.

(iv) Living Arrangements

CRS Guidelines

Above average – Lengthy period of time (more than one year) at a single residence unless legitimate reasons for relocation are identified.

Average – Changes of residence once or twice per year have occurred with no strong rationale identified.

Below average – Changes of residence have occurred two or more times during the six month period prior to the current offence(s).

After having examined each lifestyle area, place the individual in the category that best describes the life circumstances prior to incarceration. An overall assessment should be made of the areas considered together.

Item	Score
3. Street Stability	
a) Above average	0
b) Average	16
c) Below average	32

Sources of Information

- Police report(s)
- Presentence report
- Community Assessments
- Suspension report
- Inmate interview

4. ALCOHOL/DRUG USE

Applicable results from the Dynamic Factor Identification Analysis (revised) (Substance Abuse) or other substance abuse assessment instruments can be used to support the No Identifiable Problem (No Immediate Need for Improvement), Abuse Affecting One or More Life Areas (Low/Moderate Need) and Serious Abuse Affecting Several Life Areas (High Need) ratings.

Item	Score
4. Alcohol/Drug Use	
a) No identifiable problems – Drug/alcohol use does not occur, or alcohol is used in socially acceptable situations. Drugs and/or alcohol were not used prior to the commission of the present or previous offence(s), or	0
b) Abuse affecting one or more life areas – If the inmate's use of drugs or alcohol has been identified as negatively affecting at least one major area in the inmate's life and/or drugs/alcohol were used prior to the commission of the present offence(s), or	3
c) Serious abuse affecting several life areas – If most life areas are negatively affected by drug and/or alcohol abuse, and they are used before the commission of present and past offences (e.g. there is a pattern).	6

Sources of Information

- Police report(s)
- Presentence report
- Community Assessments
- Suspension report
- Inmate interview

5. AGE (AT TIME OF SENTENCING)

Select the score for the inmate's age at time of sentencing for the current offence(s). When there is more than one current offence, take the earliest sentencing date.

Readmission

For inmates returning on suspension with/without new convictions, use the executed suspension warrant date to calculate the inmate's age.

For inmates returning on revocation without new offences, use the PBC revocation decision date as the date of sentencing to calculate the inmate's age.

For inmates returning on revocation with new offences, use the date of sentencing on the new offences to calculate the inmate's age.

Item	Score
5. Age (at Time of Sentencing)	
a) 30 years or more	0
b) 29	2
c) 28	4
d) 27	6
e) 26	8
f) 25	10
g) 24	12
h) 23	14
i) 22	16
j) 21	18
k) 20	20
l) 19	22
m) 18 years or less	24

PART II – SECURITY RISK RATING

1. NUMBER OF PRIOR CONVICTIONS

Definition

Prior convictions: convictions other than the ones for which the inmate is presently serving a sentence.

Instructions

Convictions are counted separately only if they were awarded a consecutive sentence. All convictions that are dealt with by the imposition of concurrent sentences, even if they are different (e.g. false pretences and fraud), or occurred on different dates, are counted as a single conviction for the purpose of completing the Scale. Unless the conviction is stated as being consecutive, it is assumed to be concurrent. Convictions under the *Juvenile Delinquents Act*, *Young Offenders Act* or *Youth Criminal Justice Act* should be counted. **No incidents or convictions will be counted if they occurred when the inmate was under the age of 16**.

Item	Score
1. Number of Prior Convictions	
a) None	0
b) One	3
c) Two to four	6
d) Five to nine	9
e) Ten to fourteen	12
f) Fifteen or more	15

Sources of Information

- Canadian Police Information Centre
- FPS record

2. MOST SEVERE OUTSTANDING CHARGE

All outstanding charges at the time of admission on the inmate's current sentence are to be identified. Using Annex D, determine which outstanding charge is the most severe, and enter only the score for that offence.

For suspension or revocation admissions, check for any outstanding charges and score accordingly. If parole has been revoked following the commission of an offence and the charges have not yet been dealt with by the courts, count the offence under this item. In situations where the police have informed CSC they are planning to charge an inmate but have not yet done so, do not count the charge below. However, this may be an issue to take into account in the rationale for decision-making on placement.

Item	Score
2. Most Severe Outstanding Charge	
a) None	0
b) Minor	12
c) Moderate	15
d) Serious	25
e) Major/extreme	35

Sources of Information

- Sentence Management screen
- Canadian Police Information Centre
- FPS record

3. SEVERITY OF CURRENT OFFENCE

Using Annex D, determine which of the inmate's current offences is the most severe. Choose the single highest score that applies to the inmate.

Note: A revocation of parole or statutory release for a technical violation or conviction for a breach of a long-term supervision order (LTSO) counts as a current offence in the "minor or moderate" category.

Item	Score
3. Severity of Current Offence	
a) Minor or moderate	12
b) Serious or major	36
c) Extreme	69

Sources of Information

- Sentence Management screen
- Warrant(s) of Committal
- Admission Form

4. SENTENCE LENGTH

This is the total aggregate sentence as calculated at admission to CSC. Life or indeterminate sentences are included in "over 24 years".

Item	Score

Item	Score
4. Sentence Length	
a) 1 day to 4 years	5
b) 5 to 9 years (more than 4 years and up to 9 years)	20
c) 10 to 24 years (more than 9 years and up to 24 years)	45
d) Over 24 years (includes life or indeterminate)	65

Sources of Information

- Sentence Management screen
- Warrant(s) of Committal
- Admission Form

5. STREET STABILITY

This item is to be rated following the same definitions and instructions provided previously for Institutional Adjustment Score – Street Stability (item 3). The difference is in the scores assigned for each category and the special category "other". "Other" is to be selected for inmates convicted of a criminal organization or a terrorism offence included in Part II.1 of the *Criminal Code*, or an offense determined by the court to constitute a terrorism offence as defined in section 2 of the *Criminal Code*.

Item	Score
5. Street Stability	
a) Above average	0
b) Average	5
c) Below average	10
d) Other (i.e., convicted of criminal organization offences or terrorism offences)	20

6. PRIOR PAROLE AND/OR STATUTORY RELEASES (MANDATORY SUPERVISION)

Definition

Parole release: provincial/territorial or federal day or full parole.

Only federal statutory releases/mandatory supervisions are counted.

Releases at warrant expiry date are not counted.

Instructions

A calculation of the number of releases the inmate has obtained throughout his/her criminal history is required. Whether or not the release was revoked is not relevant for the completion of this item.

Item	Score
6. Prior Parole and/or Statutory Releases (Mandatory Supervision)	
a) None	0
b) Previous parole release (OMS offers choice from 1-21. One point is given for each release.)	
c) Previous release on statutory release or mandatory supervision (OMS offers choice from 1-21. Two points are given for each release.)	

Count only one release following a formal admission of any type. If an inmate was released on a day parole (the first release following a current admission), then received either a day parole “continued” or a full parole decision, count only the one release on the first day parole.

If an inmate was released from federal custody on statutory release, then revoked (formally re-admitted) and then released on day parole, count one statutory release and one parole release.

7. AGE AT TIME OF FIRST FEDERAL ADMISSION

If the current sentence is not the first federal sentence for this inmate, enter his/her age at the time of admission for the first federal sentence on the record. If the current sentence is the inmate’s first federal sentence, use the age at the time of admission for the current sentence.

Choose the score that applies to the inmate’s age category.

Item	Score
7. Age at Time of Admission	
a) 35 years or more	0
b) 34	3
c) 33	6
d) 32	9
e) 31	12
f) 30	15
g) 29	18
h) 28	21
i) 27	24
j) 26	27
k) 25 years or less	30

FINAL SCORES AND SECURITY LEVEL RATING

OMS calculates the scores for institutional adjustment and security risk separately and then provides the security level rating (classification).