5. Indigenous Women and Sexual Assault in Canada

Tracey Lindberg, Priscilla Campeau, and Maria Campbell

In this chapter, Tracey Lindberg, Priscilla Campeau, and Maria Campbell make visible the gaping chasm between the criminal law’s treatment of sexual assault committed against Indigenous women and girls and how those crimes are understood by Indigenous women and judged by Indigenous laws. Their discussion of four well-known prosecutions of men who preyed upon Indigenous girls and women challenges the law’s understanding of what is a “fact” and how we judge which “facts” are “relevant.” The authors refuse to look away from both the horror of these crimes and the way that they have in turn been minimized, discounted, and rationalized by actors in the Canadian legal system.

We would like, first, to thank the Algonquin people for allowing us onto their territory. We would also like to thank the Indigenous women who have taken their cases to court, the families who support them, and the communities who continue to build and re-build safe nations and communities so that Indigenous women and children may be provided with the confidence that they are living in communities where their safety and the integrity of the person is valued.

This is a hard thing to talk about. Talking about it, however, provides us with possibility. The possibility of seeing our struggle mirrored in other women. The possibility of violence-free homes, the possibility of acknowledging the seriousness of the nature of sexual violence against Indigenous women and children. There is the possibility of acknowledging the colonial construction of communities, individuals, governments, and citizens that do not value Indigenous women and children. There is the possibility of an open discussion of the particular devaluation of our humanity and the possibility of re-assigning values to the roles, responsibilities, and personhood of Indigenous women and children. There is a possibility of hope.

It is for this reason — the possibility of hope — that we open up our toolkits of experience to build something that we hope facilitates this possibility.
Indigenous Women and Sexual Assault in Canada

It is for this reason as well that we apologize, in advance, to the women, families, and communities we discuss. We want you to know, relatives, that we do so with good intent and with this hope at the back, front, and centre of our minds and hearts.

Home: Where We Are
When we look in the reflecting mirror that Canadian justice provides in the area of sexual assault, we do not see ourselves “at home.” Indeed, when we read case law and news reports and hear people talk about their particular trauma of sexual assault, we see fragments of our colonial selves — our selves away from home. Home has balance, home is safe, and home is where we are spiritually sound. Home is where our laws matter; home is where we are honoured, as women. Home is not a courtroom.

Home: Where We Are Not
In order for this not to be a parenthetical discussion (this happens all the time, when we tell our stories, when we achieve personal bravery), we need to tell you that the experience of sexual assault cannot be broken down on lines related to gender or race. Dehumanization, a particularly colonial breaking down of the understanding, valuing, and recognition of Indigenous peoples as human, has played a part in the construction of our understanding of sexual assault and Canadian law. We possess a shared understanding and one that we fear will be universalized: this is each of us, this is our family, and this is any one of us. To say that we are victimized cleans this colonial mess up. It whitewashes it in a way that does not ascribe responsibility to its rightful place.

Mind you, we are not cleaning up. It is important to note that in our perception we are not perceived as individuals in Canadian justice. We are seen as collectively impacted by the anger, power, and control of individuals. However, in our truth, we see that there are individual perpetrators but also that there is a collective responsibility.

We cannot separate our individual experience of sexual assault from our collective experience of sexual assault, which we know is matricide/genocide. No one needs to name this for us: we have experienced it through our great-grandmothers, our grandmothers, our mothers, and our children. There is little difference, for us, between the colonial assertion of presence and domination in the kidnapping and raping when we first met and in the contemporary domination of flesh and control of space and nationhood through attacks on our women in lands we held before settlement, and which are still being wrested from our hands.
We think of constructions of Canadian law, things like “known danger,” “equal benefit and protection of the law.” Our known danger is largely unknown to most Canadians. And it comes from and resides alongside most Canadians. Our known danger is not just the men who pick us up in cars, our known danger is not just the person who lures us into his hotel room, and our known danger is not just the person who arrests us or who adjudicates us. Our known danger is the fact that most people do not know about this, do not care about this, and consider Indigenous womanhood a generally cognizable and acceptable risk. Without hyperbole, we assert with some security in the knowledge (and fear of the understanding) that our known danger is that we are Indigenous women.

How do you effectively police this danger? We cannot see, when hundreds of our women are missing or murdered, how Canadian law has been of equal benefit or protection to us. We cannot know, with cousins missing and going missing, granddaughters gone in an instant, sisters lost from cities, towns, and the countryside, how Canadian law is of equal benefit to us. It certainly is not protecting us. So, with this in our minds, we believe we have to tell Indigenous women’s stories. In taking away the right not to know about this, and in addressing the danger of being Indigenous women, we, at least, address the known danger of ignorance.

**Approach**

We have, in this instance, decided to approach this lesson in the way we are most comfortable. As only one of us is a lawyer (although all of us should be), and we started with the presumption that Canadian law does not effectively address the silencing, sexual assault, and murder of Indigenous women, we are addressing this in the way we think the story can best be told.

Priscilla Campeau will first tell the story of the violence against Indigenous women in a way that is intelligible, but which is not profoundly connected to Canadian legal storytelling. As a Cree and Métis woman, and as an Indigenous woman who believes in the elegance, self-determination, and power of women, she will tell you four stories of sexual violence against Indigenous women.

Second, Tracey Lindberg will address the stories as an Indigenous woman, Indigenous scholar, a person schooled to some degree in Cree traditions and laws (although still in training), and as a law professor. Her job is to tell you how these stories resonate and require intellectual and actual activism. Her job is to show you yourself, in these four stories.
Elder Maria Campbell will finally take over, addressing the stories in terms of Cree-Metis (Neheyiwak) laws related to the societal role of protecting and honouring Indigenous women, the laws related to the sacredness of Indigenous women and children, and the laws related to the restoration of wellness and balance.

SPRING
Priscilla Campeau: Spring takes us to Tisdale, Saskatchewan, where a twelve-year-old girl has filed a complaint with the Royal Canadian Mounted Police [RCMP]. She is a small girl, five feet tall, eighty-seven pounds, and Aboriginal. She is in Grade 7 in school. She has made allegations that she has been sexually assaulted by three men on a country road. How did she get there? Like most teenage girls, she has had an argument with her parents. Unlike most girls, she finds herself in the company of three men. She alleges that they plied her with alcohol and assaulted her.

Her first court case takes place when she is fourteen years old. The first alleged assailant is Dean Trevor Edmondson, twenty-four years old at the time of the trial. The girl takes the stand for five hours, thirty minutes. Edmondson is convicted by a jury of being a party to a sexual assault. The two other men she identifies as assailants, Jeffrey Lorne Brown and Jeffrey Chad Kindrat, are then tried in her alleged assault. Brown and Kindrat are acquitted of the sexual assault. In this trial, they state that they believed that she was fifteen years old and that she had consented to have sex with them. The Crown appeals this verdict and a new trial is set.

In January of 2005, Edmondson appeals his conviction of being a party to a sexual assault. The Crown also appeals his sentence of two years less a day, to be served in the community. The appeal from conviction and sentence is dismissed.

Case 1
Tracey Lindberg: A Cree girl reports a sexual assault by three men.¹

Relevant Facts
She is a child: twelve years old. She is picked up by three adult males. They give her alcohol.

¹ R v Edmondson, [2005] SJ No 256 (Sask CA) at para 1.
In the courtroom, she is characterized as “Ms” and the accused as “the boys” at trial before the jury by Judge Kovatch.2

The Court of Appeal characterizes her as “the girl.”3

Edmondson is twenty-four years old.4

Edmondson states that his friends held her hips while they had sex with her, or tried to have sex with her, since he was too drunk to perform.5 She was held while an act of violence, any way you look at this, occurred and she then started vomiting.6 When they dropped her off at a friend’s house, she was screaming and hysterical.

Counsel for Edmondson said she was a child whose memory of the events was so uncertain, her credibility so suspect, and her background so clouded, as to have required a “clear and sharp warning to the jury.”7

Six times she testified. The effect of post-traumatic stress disorder on her memory should be a relevant fact.

That she is a citizen of the Yellowquill First Nation is a relevant fact.

2 Norma Buydens, “Beyond Borders: Ensuring Global Justice for Children.” The Winnipeg-based Canadian affiliate of ECPAT, the leading international Non-Governmental Organization against the child sex trade, brought a complaint because Judge Kovatch referred to the defendants, all over age twenty at the time of the trial, as “boys” twenty-eight times, while calling the complainant “Ms” Canadian Centre for Policy Alternatives, Saskatchewan Notes (2005) 1:42, online: <http://www.policy-alternatives.ca/documents/Saskatchewan_Pubs/2005/sasknotes_4_1.pdf> (26 Nov. 2009).
3 Edmondson, supra note 1 at paras 2, 18, 20, 22, 76.
4 Ibid at para 114.
5 Ibid at para 22.
6 Ibid at para 22.
7 As per the case of R v McKenzie (1996), 141 Sask R 221 (CA).
What Is Not Relevant
Whether she went willingly with Edmondson can possibly be relevant. What is will to a drunken twelve year old? Surely there cannot be such a thing. Whether she had previous experience with alcohol, and whether she may have been sexually assaulted by her father, and the unpredictable effects this may have had on her behaviour, cannot be regarded as relevant to whether or not she was sexually assaulted by three other men.

There is, in the discussion of the sentence appeal, a paragraph addressing Mr Edmondson as a first-time offender, single, living at home, gainfully employed, with a very supportive family.

The stated judicial understanding that this was an isolated act fuelled by excessive alcohol consumption all around is not a fact and is not rel-

8 Referring to the decision of the trial judge, the Court of Appeal wrote in their decision. Later, in the context of the specific issues to which the case gave rise, the judge reminded the jury that the complainant was twelve years old at the time of the occurrence, though she had told the three men she was fourteen, going on fifteen. He also drew their attention to her testimony that she had deliberately tried to appear older than she actually was. Still later, he referred to the need for the jury to take account of the indications of her attitude or state of mind at the time, drawing their attention to the frailties of her testimony in relation to whether she had willingly engaged in sexual activity with the accused, or had led the accused to believe she was a willing participant. He also reminded the jury that it was up to them to assess her credibility in this connection, having regard for the whole of the evidence. Edmondson, supra note 1 at para 54.

9 Cameron JA noted that the victim had “consumed alcohol on previous occasions.” Ibid at para 55.

10 Ibid at paras 47, 59. It is important to note that the assault by her father is characterized as “her father had sex with her” and “having sex with her father” by the court (in one instance reporting the statement of her foster mother). The trial judge also reminded the jury that she may have been sexually assaulted. Additionally, the Canadian Press reported that the same information was provided at trial: CP, “Doc Tells Sask Trial Some of Girl's Injuries Could Have Been Caused by Father” (23 May 2003), Saskatoon Star Phoenix.

11 The Court of Appeal found that: As the trial judge pointed out, Mr Edmondson was 24 years old at the time of the occurrence giving rise to his conviction and was a first time offender. He was single, living at home, and gainfully employed, with a very supportive family. What he had done on this occasion appeared to the trial judge to have been an isolated criminal act, fuelled in very significant part by excessive alcohol consumption all round. The trial judge went on to observe that many members of the community had come forward to express their confidence in Mr Edmondson and assure the court he posed no risk of further harm to anyone (Edmondson, ibid at para 114).
evant. Neither is the shared information that many community members came forward to express their confidence in Edmondson and assure the court he posed no risk of further harm to anyone. We wonder about the contrasting characterizations of the victim and the perpetrator and have to ask: whose community is represented and relevant in this discussion?

Critical Indigenous Analysis
The child in this case was twelve years old. Why we do not label this pedophilia? Legally, we understand the distinction. Perhaps calling it pedophilia allows the rapists to absolve themselves of responsibility. It transmutes into an illness, leaving the power, hatred, and violence outside of the neat word-box. This is someone’s daughter and these are someone's sons. We do not apply a label such as this without thinking of grandmothers, mothers, and daughters. But she is a child.

Assaulter. Rapist. Torturer. These are all she has, the only way that she can fight back anymore. Within those words, she gets to house the cruelty externally, keeping the ugliness where it belongs and away from her.

However, this is not sexual assault against a woman; somehow it is worse, in the spring of her existence. What we know about this, what our understanding of relevancy, leads us to say: this is the sexualization of a child and the dehumanization of a person. It strikes us that we are not just talking about the physical acts/assaults. We are also talking about her legal evisceration. A person who testifies about the brutality that was perpetrated on her/him is one of the bravest people we can imagine; sitting there in the courtroom while she is legally constructed as a drunken, potentially willing, and definitively sexual being is unbelievably brutish. Additionally, she is brutally constructed as a sexualized adult woman. Her childhood discarded on the courtroom steps, previous incidents of sexual assault are detailed, shaming her and making her act of bravery an act that must have been diminished by the revelation about previous sexual assault(s). The sexualization and assault by her father, in her home, is a continuum of violence. We wonder if this revelation should have been hers to make as well.

If she is a child for the purposes of her memory assessment, as argued by Edmondson’s lawyer, then she is a child when they take her into the truck, she is a child when they give her alcohol, when they hold

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12 The defendants in this case were actually tried separately. See Edmondson, [2004] SJ No 643 (CA) and R v Brown, [2008] SJ No 325 (QB).
13 Edmondson, ibid at para 46.
her by her child’s hips, and she is a child when they perpetrate sexual violence on her.

The relative disempowerment and the racialized nature of the crime is not even addressed. How can that be possible? It is an erasure.

In police questioning,14 the police officer states that the girl “might have been the aggressor.”15 How do you pursue evidence and address relevance in a way that is meaningful to a child, a child with toxic familial support? How do you address her as doubly victimized? How do you address the colonial settlement: the victim’s citizenship in Yellowquill First Nation,16 her Indigeneity as a Cree child, and the particular vulnerability of Indigenous children to settler violence? There is an amorphous blob of colonization here that is unaddressed, which holds many hips and offers many drinks. There are also power relations here and an intrinsic judicial assessment of what is community, of the worth and imbalance of community support, of which communities have voice, and of which communities have worth.

Finally, we are concerned about the nature of the investigation and the courtroom discussion that does not utter the words “racism,” pedophilia, or child sexual assault. Even if these words are found to be inapplicable, someone has to make sure that they are raised in the discussion.

Maria Campbell: Miwoskumik, the spring. A time of dawn, of new beginnings and new birth. It is the time of the child, a people’s future and the inheritor of a nation.

When a woman became pregnant, the family rejoiced and precautions were put in place to create a safe journey for that little spirit into the world of human kind. The pregnant mother was taught how to care for herself during this time and the foods she should eat to ensure good health. She was not to be in the presence of anything that might negatively influence the new life she carried. She was taught the songs and the stories she must pass on to her unborn child. And medicines were picked and prepared by the old women for her time of birthing.

When the baby was born, the placenta was returned to the earth by the old women to ground this new life in “place” and as a form of respect and

14 Ibid at paras 17, 19.
15 Ibid at para 18.
16 Buydens, supra note 2 at 1.
reciprocity to mother earth. Later a ceremony would be held, thanking the Creator for lending us this new life. A name was given and lullaby songs were sung, stories were told and speeches made about the baby’s life journey and who she might become. Perhaps she would be an artist, a healer, a teacher, a mother, maybe an auntie, a hunter, or a leader. Always she was surrounded by the old ones, who were the keepers and teachers of cultural and spiritual knowledge and, whose life experiences would make her road easier.

Stories upon stories upon stories that contained the family and tribal histories, the taboos and the laws of the people. There were naming ceremonies, walking out ceremonies. Ceremonies for a first tooth, for a first meal cooked, a first basket made and finally a ceremony to celebrate her passage into womanhood. The child was given kisaywatisowin, kindness, gentleness, and above all, a safe place to grow up.

SUMMER

Priscilla Campeau: Summer takes us to Northern British Columbia. It is a story of sexual assault, breach of trust, and intimidation. David William Ramsay is a member of the Provincial Court of British Columbia, appointed in 1991 to preside over Prince George and other northern communities. He is charged with ten offences. He pleads guilty to five of ten charges.

On count 2 of the charges, Ramsay picks up a sixteen-year-old Aboriginal/Métis girl in Prince George. He drives her out of town and agrees to pay her $150 for sex. She is naked and takes out a condom for his use. He becomes angry and assaults her, slamming her head into the dashboard and making it bleed. She struggles and makes it out of the truck. He catches her and continues his assault, pinning her to the ground, and penetrating her with his penis as she is crying. He finishes his assault, throws her clothes at her, and leaves her outside of town to find her own way back. No money changes hands. One year later, he is the judge presiding over a custody case involving her son.

On count 3, Ramsay picks up a twelve-year-old girl on the streets of Prince George. He pays her $80 for oral sex and intercourse. When she is thirteen years old, she appears before him in court and he becomes aware of her background and past. He sees her on the street months later and makes reference to her court appearance. He offers her $150 to stimulate aggressive sex. She agrees, but before the transaction can be completed, they become involved in a physical altercation. She escapes the vehicle and he drives away, telling her that
nobody will believe her if she reports him. He is convicted of obtaining sexual services from a person under eighteen. He is sentenced to three years.

On count 7, Ramsay picks up a fourteen-year-old Aboriginal girl (“A”). She agrees to perform oral sex for $80; he takes her out of town to complete the act. She provides sex four-to-six times from the ages of fourteen to seventeen years old; none of these acts involve violence. During this time, she appears before him several times in court. He is aware that she has a troubled background, including low self-esteem, limited education, abusive relationships with adults, and a fragile mental state. He is convicted of obtaining sexual services from a person under eighteen. He is sentenced to five years.

On count 8, Ramsay offers to let “A” off of her sentences if she keeps quiet about their sexual encounters. She appears before him eight times, each time expecting leniency. He is convicted of breach of trust. He is sentenced to five years.

On count 9, a fifteen-year-old Aboriginal girl appears before Ramsay in court. She is made a ward of the state and Ramsay is aware of her troubled life and her age. Months later he sees her on the street in Prince George; he offers her $60 for oral sex. She agrees and he takes her to the same out-of-town place “A” was taken. She performs oral sex on him and while nearing completion, he demands his money back. She struggles with him in the vehicle, and he grabs her hair while attempting to get his money back. She escapes the vehicle, naked. He threatens to have her killed if she reports him and leaves her there without her clothes. She finds her own way back to town. He is convicted of obtaining sexual services from a person under eighteen. He is sentenced to five years.

All sentences are to run concurrently.

Case 2
Tracey Lindberg: Northern circuit court judge David William Ramsay was charged with sexual assault, breach of trust, and obtaining for money the sexual services of a person under eighteen, totaling ten violations.17 These children and young girls were Indigenous.

Relevant Facts

Ramsay was in a position of trust. He had full knowledge of the children's and youths' circumstances, which included relative economic hardship and some substance use. His abuse of those vulnerabilities is relevant. The fact of the continuing violence in their lives is relevant. His role as a participant in a continuum of violence is relevant.

Ramsay admitted that he had obtained sex for money from minors. He admitted that he had offered one minor lenient treatment in return for sex. It is also relevant that those minors had appeared before him in court in his capacity as a judge.

It is exceptionally relevant that these were Indigenous children, confronted with violence from a circuit court judge in the north. One girl appeared before the accused where, by her “consent”, she was made a ward of the state.

Control, authority, and acts of violence take place in a continuum. It may be hard for many Indigenous people to distinguish his acts in a vehicle from his acts on the bench. Neither was to be trusted. These are relevant facts.

That they are Indigenous girls, that they experience a particular imperial, racial, and economic vulnerability, are completely relevant factors. Physical and sexual assault and explicit and implicit threats operate upon a continuum of the abuse of imperial and colonial power. These are relevant facts.

What Is Not Relevant

Ramsay’s loss of career and respect as a mitigating factor in his trial was not germane to the proceedings.

The court found that, at the time of these events all four girls were juvenile sex trade workers living on the streets in Prince George. We

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18 Ibid at para 13.
19 Ibid at head note.
20 Ibid at para 4.
21 Ibid at para 4.
22 Ibid at para 26.
23 Ibid at para 7.
question the relevancy of this characterization because the acts were exploitative and the victims cannot be dismissed as sex trade workers. The characterization of the acts as “sexual activity,” when they were violent acts, and the characterization of the victims as “young women,” was not relevant. While the girls were highly vulnerable because of their youth, their disadvantaged backgrounds, and their drug use, the relevance of those factors as anything other than an indication of their compounded vulnerability is suspect.

Critical Indigenous Analysis

Power and loss of power are seen as great shaming factors in this case; it is our opinion that affixing the label of pedophilia to the actions of the perpetrator should be the actual shame. Addressing the power imbalance and racism should constitute the actual shaming here.

In some small sense, Ramsay’s punishment can also be read as banishment, but a characterization of him as possessing a “split personality”24 by the sentencing judge separates the person from the action. He did this. He did this mindfully and he did this by exploiting his access to and knowledge of his victims. He exploited his position and power.

There was a joint submission on sentencing that suggested an appropriate sentence was three-to-five years of imprisonment.25 There were Eurocentric assumptions made about power and disempowerment in this case that were not analyzed or critiqued. We wonder at what point this will be addressed as collective and systematized violence and when the Canadian courts will discontinue the practice of seeing this systematized violence as one person making multiple mistakes?

That the high regard others held for him, his alleged compassion,26 and his community contributions as a judge27 should serve as a comparative point for the characterization of the victims as drug-addicted sex trade workers from disadvantaged backgrounds, is beyond comprehensible. That power differential needs to be taken into account; an accounting needs to be made with respect to that failure.

The racialization of the children also needs to be addressed critically and judicially. Describing these girls as coming from disadvant-

24 Ibid at para 14.
25 Ibid at head note.
26 Ibid at para 13.
27 Ibid at para 12.
aged backgrounds \(^{28}\) does not address the racialized and sexualized violence that Ramsay visited on Indigenous girls because they were Indigenous, because they did not have access to the vestiges of power, and because he did (and used it to his advantage). That colonial power imbalance not only lies entrenched in his actions; it is underwritten in the decision. Disadvantaged backgrounds does not excuse parenthetical thinking (they were on drugs, they allowed it, they wanted money, they deserved it) and in some way makes the flaws of the children observable, applicable, and actual when these “flaws” might have in no way been a reflection or component of their actuality.

That Indigenous female children and youth are so particularly vulnerable to systemic and personal violence is part of the amorphous blob of colonization. They almost certainly understood the known danger of being Aboriginal, female, and young. They also most certainly knew that the notions of equal benefit and protection of the law is farcical. Who do we turn to for protection and benefit of the law when the law is the rapist? What faith can we have in law?

It is important to note that these are people and cases that we know. We wonder what we will tell our families when they ask why this is not pedophilia?

Maria Campbell: *Neepin is the summer, a time of growth, beauty and strength. The ceremony of passage has been completed and Iskwew, the woman takes her place in the circle of sisters. This is the time for love, passion, for birthing and parenting, for nurturing, providing, and protecting. It is a time of motherhood. A time when there was equality and balance when Grandmother owned half of the circle and her societies and ceremonies taught women to be fierce and courageous protectors and nurturers.*

**AUTUMN**

Priscilla Campeau: Autumn sees us back in British Columbia, this time in Vancouver. Gilbert Paul Jordan used alcohol as a weapon in the death of Vanessa Buckner. Jordan met Vanessa Buckner in Vancouver in 1987. He asked her to have a drink with him and obtained a room at the Niagara Hotel that same evening using a fictitious name.

They consumed a large bottle of vodka and almost a full bottle of rum. Jordan's main purpose was to have sex with Vanessa while they were intoxicated. After a night of drinking, he left the Niagara Hotel

\(^{28}\) *Ibid* at para 7.
and returned to his room at the Marble Arch Hotel. Upon his return, 
he called emergency services to report that there was dead body at 
the Niagara Hotel; he did not leave his name. Police traced his call 
back to him at the Marble Arch Hotel.

Police found Vanessa’s body at the hotel, her blood alcohol reading 
was 0.91, and her death was attributed to a massive inhalation of gas-
tric contents due to acute alcohol poisoning. At the trial regarding her 
death, Jordan claimed that Vanessa was alive when he left. He made 
conflicting statements regarding her death and stated that he did not 
expect her to die. Jordan was not arrested for causing Vanessa’s death. 
He was released and police monitored his activities with a surveil-
ance team. Police watched him search out Aboriginal women on skid 
row in Vancouver; they rescued four women. Jordan preyed on their 
addictions and their dire financial situations.

Between 1980 and 1987, Jordan was present at six parties involving 
alcohol, each involving an Aboriginal woman. They all passed away 
from over-consumption of alcohol. Ultimately, Jordan was convicted 
of manslaughter in the death of Vanessa Buckner. He received a sen-
tence of fifteen-years imprisonment, which he appealed; his sentence 
was reduced to nine years. He served six years and was released. He 
was ordered not to drink with any females and was prohibited from 
attending a licensed establishment.

Upon his release, he was found with an Aboriginal woman and al-
cohol. An altercation had ensued in his hotel room and, when the wo-
man tried to leave, he wanted his alcohol back. He was arrested and 
received a maximum sentence of twelve months and probation of 
three years.

Case 3
Tracey Lindberg: Gilbert Paul Jordan was convicted of one count of 
manslaughter in the death of Vanessa Buckner. Vanessa was an Indi-
genous woman.

Relevant Facts
Vanessa Buckner was a mother.

    and had it reduced to nine years. R v Jordan, [1991] BCJ No 3490 (CA).
30  Jordan (BCCA), ibid.
There were eleven other incidents (admissibility ruled upon) and seven Indigenous women died in a similar manner.31

Eight of the incidents involved “sexual activity.” Jordan’s notes state that he was: “Useing (sic) that woman sexually until I am sexually satisfied. Upon completion of my sexual satisfaction she must leave. (Mostly Can. indian women)”32

He was a known danger; he was known to kill women with alcohol. The British Columbia Supreme Court held that, “The evidence clearly proves that alcohol is a poison. Jordan knew its over-consumption could cause her death. He was present on six earlier occasions when women died from drinking too much alcohol which he had provided to them.”33

Jordan writes in a journal that he does it and must stop it.34 He is under police surveillance; police monitor him and remove four women from his company.35

His crimes are racialized: he devalues Indigenous women’s humanity. The Court of Appeal notes that when testifying at the trial, Jordan admitted that “he sought out women so that he could do this 200 times per year” (from 1980 to 1988).36

Jordan offered the women money to drink; beyond that, he offered women money to drink themselves into unconsciousness.37 He knows he

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31 Jordan (BCSC), supra note 29.
32 Ibid.
33 Ibid.
34 Ibid.
35 Ibid.
36 Jordan (BCCA), supra note 29.
37 Jordan (BCSC) supra note 29. Police surveillance revealed the nature of one incident: Have a drink, down the hatch baby, 20 bucks if you drink it right down; see if you’re a real woman; finish that drink, finish that drink, down the hatch hurry, right down; you need another drink, I’ll give you 50 bucks if you can take it; I’ll give you 10, 20, 50 dollars, whatever you want, come on I want to see you get it all down; you get it right down, I’ll give you the 50 bucks and the 13 bucks; I’ll give you 50 bucks. I told you that. If you finish that I’ll give you $75; finish your drink, I’ll give you $20, etc.
is harming them and potentially killing them because it has happened frequently.

**What Is Not Relevant**

What is not relevant is the characterization and sexualization of these as “drinking orgies.” As a comparative point, is inviting men to your home and then shooting them a “gun party”? Describing the acts as “orgies” has within it a notion of consent. Jordan is fifty-six years of age. He says he has been an alcoholic since he was sixteen. This is not drunk driving; his pattern of alcohol abuse is of little concern. If he had been a drunk who liked to shoot people when drunk, he would be held accountable for that.

Vanessa Buckner was addicted to drugs and she had just had a baby taken from her by the Social Services Agencies because of her addiction to drugs. There was also evidence that she was very depressed about having her baby taken away. At British Columbia Supreme Court, she was characterized as a “female alcoholic.” These are irrelevant issues.

**Critical Indigenous Analysis**

Addressing this crime as manslaughter, and prosecuting only one incident, is likely attributable (and we don’t know if this is the case) to the “problem of proof.” Yet there are certain observable and probable assumptions that can be made when you have an understanding of the circumstances, the person, and their nature. In this instance, we would say that the problem of proof is that any assumptions that can be made about the circumstances, persons, and natures of the deceased are external ones.

Additional assumptions, outsider assumptions at best, cannot be made about the willingness of their participation, the particular vulnerability to violence of poor Indigenous women, and their circumstances and lives.

Their lives are unknowable to the judge and therefore no accurate assumptions can be made and no accurate understandings predicated upon those can be arrived at.

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38 Ibid.
39 Ibid.
40 Ibid.
41 Jordan (BCCA), supra note 29.
42 Ibid.
43 Jordan (BCSC), supra note 29.
It seems that the judiciary is more able to recognize Jordan and more easily identify the nature of his lifestyle. His alcoholism and his life seems more accessible than the victims’ in this case to the judge. For this reason, it might be said that his experience, life or nature is more legally cognizable to the judiciary than that of the women who died because Jordan paid them to drink themselves, in many instances, to death.

We should be asking, in a critical way, “whose voice is not heard?” There is power to engage with Indigenous women’s actualities and the power to ignore them.

The characterization of the acts as “sexual activity” does not address consent, does not address assault, and does not address sexual assault with a weapon.

Fifteen-years imprisonment seems appropriate. This sentence was appealed and decreased. What is not addressed is the fact that he was hunting Indigenous women. The stereotypes of Indigenous women remain unaddressed. Finally, we must note that the inability of Indigenous women to protect themselves and insulate themselves from the hunt and the hunter (he who could afford the room, afford the alcohol, continue to hunt) is situated on a terrain of influence and ownership that the original inhabitants of this country could not afford.

Maria Campbell: Takwakun, the autumn, a time of strength and authority. A time of leadership and the keeping of justice so that children can grow healthy and the community can be safe to ensure a strong nation. It is the time of kaytayiskwew, older woman, kokomnow, our grandmother. The time of birthing is over; now is the time of mystery, medicine, and teaching.

WINTER

Priscilla Campeau: Winter takes us to Saskatchewan in 1969 in a northern town called Pelican Narrows. A RCMP officer in uniform appears at the home of a fourteen-year-old Aboriginal girl. She is approximately five feet tall and weighs eighty pounds; she lives with her parents and siblings. The RCMP officer is thirty-two years old.

The police officer is the corporal in charge of the local RCMP detachment. He tells the mother of this young girl that he needs to speak with her daughter at the detachment. The mother agrees that her daughter can go with him. He takes her to the detachment and along the way starts asking questions of a sexual nature. While at the detachment, he asks her if her mother knows that she is not a virgin and asks her if she wants to have sex with him.
In 1998, Fred John (Jack) Ramsay appears in court. He is the former RCMP officer and at the time of the trial is a Member of Parliament. At the trial, the young woman testifies that Ramsay approached her in the detachment with his erect penis and penetrated her while she was standing with her pants around her knees. He states that penetration did not take place as he realized what he was doing and stopped. Ramsay is convicted of attempted rape and receives a sentence of nine-months imprisonment.

In 2001, Ramsay appeals his conviction. He argues that the complainant’s evidence that she co-operated or did not resist amounted to consent under the law at that time even though she was induced to do so by his authority as an adult and a police officer. He also argues that attempted rape should not have been presented to the jury as there was no evidence supporting it. He asks for an acquittal.

A new trial ensues and Ramsay pleads guilty to indecent assault. He receives a one-year suspended sentence with probation.

Case 4
Tracey Lindberg: An Indigenous woman in her forties comes forward and tells of a sexual assault by a former police officer, Jack Ramsay, when she was fourteen. Her complaint alleged that Ramsay raped her.

Relevant Facts
Ramsay took a fourteen-year-old girl to his police detachment office. He asked her if she was a virgin. She testified that he approached her with his erect penis and penetrated her while she was standing up with her pants around her knees. He stated that he approached her with his erect penis, put his hands on her, and then realized what he was doing and turned away in disgust.

The Saskatchewan Court of Queen’s Bench found that: “His actions were a serious assault on her privacy and an attempt to invade her body.

44 R v Ramsay, [1998] SJ No 829 (Sask QB) [Ramsay (No 1)].
45 R v Ramsay, [2000] SJ No 275 (Sask QB) [Ramsay (No 3)].
46 Ramsay v Saskatchewan, [2003] SJ No 317 (Sask QB) at para 7 [Ramsay (No 5)].
47 R v Ramsay, [1999] SJ No 843 (Sask QB) at para 2 [Ramsay (No 2)].
48 Ibid.
49 Ibid. supra note 4 paras 4, 35, 25.
50 Ibid at para 35.
They indicated a contemptuous disregard for her dignity and her feel-
ings.” 51

The nature of the contempt and what it stemmed from are relevant
facts. The power and authority of a non-Indigenous representative of a
non-Indigenous (in origin) institution is a relevant fact. The power im-
balance in this relationship is a relevant fact.

What Is Not Relevant
Ramsay stated that he had since married, he had four children, and
he had become a Member of Parliament.52 In addressing Ramsay’s re-
morse at sentencing, Noble J at the Court of Queen’s Bench noted that
Ramsay accepted “partial responsibility.”53 His failure to accept full re-
sponsibility is of no relevance to the mitigation of his crime; partial re-
morse is not remorse, we would argue.

The court noted that the victim’s impact statement painted a sad pic-
ture of her life, including alcoholism, bad marriages and relationships,
loneliness, and loss of self-esteem. In her view, it all originated with
the encounter with the accused in 1969.54 The court seemed less than
sympathetic and informed, finding at the Queen’s Bench that “the in-
cident did have a traumatic effect on her life but one cannot reason-
ably accept that every negative situation in her life can be traced back
to this event.”55 To what degree is a judge’s understanding of the effect
of a non-Indigenous authority figure’s sexual assault of an Indigenous
child even relevant to the discussion? What judge has the capacity to
determine the effects of colonial post-traumatic stress let alone the
traumatic effects from the assault of an empowered individual upon a
racialized child? We think that the effect on her is relevant and a judge’s
uninformed assessment of that effect is not. If the court does not have
the capacity to determine the effect, they should bring in someone who
does.

The judge stated that a “close examination of her statement indicates
she has accomplished several good things since the incident. She has

51 Ibid.
52 Ibid at para 42, 17.
53 Ibid at para 41.
54 Ibid at para 19.
55 Ibid.
conquered alcoholism.” Her personal fortitude and strength has no bearing on Ramsay’s sentence. As one who overcame (or not) the violence, that information cannot in any way be utilized to minimize what happened to her.

The court addressed Ramsay’s position of influence within Indigenous communities:

In 1977–1978 he worked as an Ombudsman for the Department of Indian Affairs in Alberta. I note that he has acted as an advisor to aboriginal groups over the years which suggest that he was interested in their welfare. His counsel advised the Court of his efforts to free a native person who he considered had been wrongfully convicted of an offence.

The relevance of this is only clear or meaningful to the legal conversation if you do not perceive this as possibly part of a story related to the potential for abuse of discretion. In fact, it makes his abuses of power all the more real because of his access, and less acceptable because of the information he held about his victim.

**Critical Indigenous Analysis**

The characterization of Ramsay’s action as taking the victim to the RCMP detachment does not specifically address the power differential between an Indigenous citizen in an Indigenous community being taken by a non-Indigenous police officer to a police detachment. There is NO addressing the power imbalance in this case and there is also NO addressing the racialized imbalance.

“The girl’s age and Ramsay’s position of authority added to the gravity of the crime” the Court of Queen’s Bench held in determining the length of the sentence. We wonder why her colonized existence, a particular racialized vulnerability, and the authority that non-Indigenous authority figures have over Indigenous women and children was not addressed in sentencing. Justice Noble found that:

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56 Ibid.
57 Ibid at para 42.
58 R v Ramsay, [2001] SJ No 17 (Sask CA) at para 6 [Ramsay (No 4)]. Notably, in the QB decision, the action is described as “escort[ing]” the victim. Ramsay (No 3), supra note 45 at head note.
59 Ibid at para 32.
A sentence of less than two years was appropriate to reflect the seriousness of the crime and Ramsay’s individual circumstances. Ramsay did not represent a risk to the community. He was rehabilitated since the offence. However, a conditional sentence did not meet the principles of denunciation and deterrence to others.60

There was an assumption about the risk he posed to the public, and an assumption about rehabilitation. Why is his participation in Canadian government a presumption of upstanding citizenship? We wonder if the assumptions are based upon an understanding of what whiteness and privilege provide.

The assumptions from a victim’s perspective are often quite different. An Indigenous victim facing a power differential very often sees police, trial courts, and appeal courts as part of the same systemized violence. She should have the opportunity to see that power and the colonial terror that it evokes addressed in a courtroom.

It is about what the uniform represents, in terms of power, and a justice official having additional knowledge, abusing power and potentially knowing the impact of shame and shaming in the Indigenous community. This is a crime of racism and a crime of power.

He is convicted of attempted rape.61 His sentence was nine months and a firearms prohibition for ten years.62 On appeal, his conviction was set aside and a new trial ordered on the charge of attempted rape.63 Critical analysis leads one to believe that there is no equal benefit and protection of the law for Indigenous women and children. Blameworthiness seems more attributable to the victim and less so to Ramsay.

There is a blaming that she took responsibility for: had she not unbuttoned her clothes as he suggested, it might never have happened.64

Maria Campbell: ‘Pipon, the winter, a time of rest and dreaming, a time of teaching of ahtyokewina, the sacred stories that taught us our creation, the taboos and laws of our people and the consequences when they were broken. Pipon is the first grandmother, Notokewew Ahtykan, keeper of the stories and the laws. This was the foundation of miyo pimachiowin, our good life. Spirit, ceremony, story, song, and societies all to make this

60 Ibid at para 34.
61 Ibid at para 1.
62 Ibid at paras 49, 51.
63 Ramsay (No 4), supra note 58 at para 28.
64 Ramsay (No 3), supra note 45.
journey on earth a kind and balanced one that celebrated and honoured womankind and through her honoured our people.

CONCLUSION
Relevancy is an area of importance in this discussion. The power to make decisions about what is central to a case and what is not is a power that contains both the potential of recognition and critical inclusion and of stereotyping and erasure. The extent to which Indigeneity and womanhood are excluded from these cases is astonishing. Stunning. It renders us incapable of coherent thought and capable action for a moment.

There is a layering of judicial supremacy and the construction and destruction of Indigenous womanhoods and childhoods in these cases. We note that there is a sense of bewilderment and an absence of discussion about who we really are.

Worse is that our spirits, spirituality, language, and cultures are unrecognized or unrecognizable when we read these cases. In assessing relevancy, we find Indigenous women’s lives have become irrelevant, once by the people who harmed them, and again through their erasure by the judiciary.

The messages should make us angry. We find they make us fearful and sad:

Our homes, if we have them, can be invaded.
Our bodies, without our consent — if we are even old enough to know what consent is — are not protected by Canadian law.
Our bodies are disposable.
Our bodies are vulnerable.
Our experience with the Canadian justice system represents a layering of violence.
Our experience as colonial oppressed goes unnoticed and unanalyzed.
Our communities and our support seem less important than the perpetrators’ communities and their support systems.

These Are Relevant Facts
Colonialism is terrifying, continuing and perpetuated so long as we do not take note of it in our actions, inactions, systems, and analysis.

Many Indigenous peoples see Canadian police officers, judges, and justice officials as enforcement arms of the policies, laws, and legislation that dehumanize us.
Violence exists on a continuum with many layers of overlap; Canadian justice is often viewed as a part of that violence.

Oppression includes ignorance and reconstruction of Indigenous women's actualities in ways that mythologize violence, sexualize nonsexual peoples and events, and erase our humanity.

**These Too Are Relevant Facts**

We come from communities with ancient traditions of honouring women.

We come from Nations who hold us dear in their hearts.

We come from places where women hold each other in the highest regard.

We love our families.

We love our people.

We are grandmothers, mothers, granddaughters, daughters, aunties, cousins, and sisters.

This is for Vanessa Buckner, Mary Johnson, Barbara Paul, Mary Johns, Patricia Thomas, Patricia Andrew, Vera Harry, Rosemary Wilson, Verna Chartrand, Sheila Joe, Mabel Olson, A, M, the unnamed children, and their families in these cases. We continue to hope to see the possibility of violence-free homes, and the possibility of acknowledging the seriousness of the nature of sexual violence against Indigenous women and children because of you. We mean no harm and write all of this with good intent.