

EXPERIENCING HISTORICAL TRAUMA: AMERICAN INDIAN DISPARITIES  
IN THE CRIMINAL JUSTICE SYSTEM

By

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## **ABSTRACT**

### **EXPERIENCING HISTORICAL TRAUMA: AMERICAN INDIAN DISPARITIES IN THE CRIMINAL JUSTICE SYSTEM**

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For over 500 years, American Indians have endured physical, social, emotional, psychological, and spiritual genocide from European conquest. The cumulative wounding of Native peoples has left profound effects over a lifespan and across generations. My work is a consideration of the overrepresentation of American Indians in the criminal justice system and how that is rooted in the genocide of Native peoples in what is now the United States, and the resulting historical trauma; I also consider how overrepresentation of American Indians in the criminal justice system perpetuates both historical trauma and genocide.

Racial formations theory is used to explore the concept of race as a social construction. Social, political, and economic forces determine the meaning of race and in the context of American Indians race is intersected with settler colonialism. Complex personhood theory (Gordon, 2004) takes into account the depth of peoples' identities and complexities of race, class, and gender. Intersectionality (Crenshaw, 1991) combines advocacy, analysis, theorizing, and pedagogy, which are basic components to heal historical unresolved grief. Intersectionality also provides a critical analytical lens to contest existing ways of looking at structures of inequality. Historical trauma is critical to

this thesis because it takes into account the cumulative wounding across generations. I use the aforementioned theories to draw attention to the continued genocide of Native peoples through the criminal justice system. Despite the continuance of genocide, Native communities are healing and showing resiliency, which is part of the work I was able to take part in with the Youth Disparities Reduction Collaborative in Humboldt County. I hope that upon completion of this thesis, we can push for more in depth discussions of historical trauma and further analyze the continued genocide of American Indians.

## **DEDICATION**

To two essential people in my life:

Bob Randall Jr., my Dad

&

Linda Lee Medina, my “Grams”

Your spirits stay with me forever.

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I would like to thank the Youth Disparities Reduction Collaborative for the opportunity to be a member and for taking on such a heavy task. Thank you to the Humboldt County Probation Department for providing endless opportunities of growth for me as a student and community member. I would like to extend my gratitude and appreciation to Dr. Jennifer Eichstedt whose support, mentoring, and encouragement inspired me every day. I am indebted to you for your guidance in my academic career and personal life. You were cheering me on from the very beginning and I cherish all that you have taught me! Dr. Renee Byrd, I am grateful for your honesty and endless support. You always encouraged me to speak up and understand the importance of my voice. The subjects we have discussed in classes brought up many emotions and you didn't silence the emotions, you encouraged them. I am grateful for your wisdom and insight!

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Phill, you have a large part to do with the completion of this thesis! Without your encouragement, I could've procrastinated a lot longer, but you never gave up on me. I love you and thank you for pushing me beyond my own limitations. It takes a special

person to endure my stubborn spirit, so I commend your perseverance! This project and achievement would not have been possible without my rhyme and reason: my Randall tribe! Mom and Dad, thank you for your endless love, support, encouragement, and strength. The pep-talks worked, and thank you for the countless sacrifices you have made for me. I know I don't say "thank you" as often as I should, but THANK YOU! Mom you have endured so much in life and your strength is one of the many beautiful traits you possess. March 4<sup>th</sup>, 2016 your entire world changed, and I do not know your pain, but I can be strong for you when you don't feel the need to. I would have never made it this far without you! I love you! To my beautiful sisters, Danielle "Big Kid" and Emily "Bonkers"; I love you both beyond measure, and will do anything for you. Thank you for being my inspiration and guiding ambition to always be a better person. We are each other's rocks, and I want you both to know that Dad was beyond proud of you! Both of your graduations this year, after losing our best friend, will be hard, but I wouldn't choose anyone else to endure this with. I love you both with every fiber of my heart and soul! I can't wait to see what you intelligent Randall women will do with your lives!

Dad,

You may have been ready to leave this Earth, but I certainly was not ready to have you go. As your oldest, and having me at a young age, you told people I saved you from a dangerous path. While that may be true (based on all the stories I hear), I never got the chance to tell you that *you* saved *me*. That may sound strange because I am your daughter, but I could have also gone down that same path. You never let that happen.

Your family was so lucky to have had you in our lives, if even for a short while. Not only to have you in our lives, but to be loved by you! Anyone who knows you, knows how much your heart was overcome with love for your daughters. You filled so many roles for many people, and your legacy will live on because of it. I will miss your enormous bear hugs, your infectious smile, your wit, your cackle that you called a laugh, your dance moves, your “slow jams” CD’s, your constant questioning of my sociological standpoint and then conceding, your love of softball, your humor, your friendship, your love, and your beautiful soul. My world is different now, but I will be okay. You and mom raised three strong, independent, intelligent, and caring daughters who will carry you with us always. Like you said, you really were the smartest, craziest, realest, funniest, and nicest person I will have ever had the pleasure to know. And I had the privilege to call you Dad!

I love you Dad!

Rest in Peace, Freedom, and Love

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## INTRODUCTION

My ancestors inhabited the land that is now considered Sonoma County, California. The Round Valley Indian Reservation, to which my tribe was forced, is in Covelo, California, which is three hours north of our original land and home. Growing up I knew I was Pomo-American Indian, but I did not understand the meaning of that identity and culture. Watching family members struggle to live their everyday lives was painful, yet I was more confused than angry because I did not place meaning to “living on a reservation,” being an Urban Indian, or “city cousin”. As I grew older, went to college and found a home in the field of Sociology, I was able to name genocide, poverty, inequity, and other disparities including high suicide rates, high crime rates, and high rates of drug and alcohol abuse that I was seeing on the reservation. This helped give me the language to talk academically about what I was seeing and experiencing amongst my people.

American Indians vary across this country, and across the globe, but in this thesis, I reference American Indians colonized by European settlers/colonizers in the 17<sup>th</sup>, 18<sup>th</sup>, and 19<sup>th</sup> centuries. Despite the attempts of complete desecration, we are here. Our ancestors reverberate in our blood and soul, and I hope to bring justice for the ghosts that linger in the now, so they and I may find peace. My heart carries a weight that I cannot be rid of unless I strive to understand the plight of the American Indian and fight for our resiliency and honor.

The reason I am pushing beyond a Bachelor's degree, which I was fortunate enough to receive, is to claim the space that my ancestors and people were denied. I draw on Audre's *Sister Outsider* (2007) as an intersectional analysis to ground this thesis because she acknowledges that the very act of writing and/or speaking of our grievances as oppressed peoples is an act of courage and survival. I would like this thesis to be grounded in and encourage emotion, when in most academic settings feeling or expressing emotions is discouraged. Lorde also speaks to silence as a working of power that crushes efforts to identify or name oppression and how the internalizations of our oppressions then works from the inside to keep us silent (2007). Finally, Lorde discusses the loneliness or isolation that exists within our silence and oppression (2007). My goal is to fight against that silence. Native peoples are historically displaced and the context of our displacement leaves the majority of Indians isolated and alienated. (Raphael, 2007; BraveHeart, 2003; Norton, 2007). We, American Indians, are forgotten and we often internalize our inferior status that was fixed to us when Europeans arrived to this land. (BraveHeart, 1995).

While we have been taught to dismiss our feelings and view ourselves as suspect (Lorde, 2007), we have a responsibility to name and address our grievances to claim our voice, space and power. I chose this topic because writing about this heavy subject, genocide and historical trauma, resonates with my people and ancestors, and felt like it was the right topic for me to choose. I knew I would have to address the systemic oppression and genocide of American Indians and how we have arrived at the state we are in today. The genocide of American Indians is rarely discussed and still denied by the

U.S. government. I chose to take on the task of acknowledging U.S. sanctioned genocide of Native Americans and the colonization of survivors. As part of this, I realized I had to discuss what structures today perpetuate these concepts since we are seen by many as an extinct people. When I began this journey, it seemed overwhelming to narrow a broad topic such as American Indian genocide, to a more tangible thesis topic. This was no easy task because anything I wanted to discuss could have endless chapters of its own.

Organizing my exploration through a discussion of the criminal justice system helped me craft the discussion in a way both personal and academically and politically useful.

Many of my family members have been through the criminal justice system and much of what I analyzed in my undergraduate years was that same system. American Indians are incarcerated in federal and state prisons at a rate of 808 per 100,000 American Indians as compared to the 702 persons of all races per 100,000 U.S. residents (Ross, 1998). Native Americans are incarcerated at a rate 38% higher than the national per capita rate (Ross, 1998). With these alarming statistics it seemed fitting to take the justice system in the U.S. and incorporate it into this thesis topic, especially since I already considered this system as a tool for oppressing people of color. I felt connected to my writing because the dynamics involved in historical trauma and the criminal justice system's disproportionate incarceration rates of American Indians is relevant to my experience and family experiences. I ran into a roadblock at this point in my research because as a forgotten people, American Indians are excluded from jail/prison statistics when looking at large data sets and reports. The literature was also scarce on American Indians in the criminal justice system. The several factors for this include: Indians being a

disregarded people, American Indians constituting a small population percentage, the presence of separate criminal systems for reservations, Rancherias, etcetera, and the federal and state governments direct involvement with tribes and jurisdiction regulations just to name a few. However, the majority of literature I did come across found that American Indians are overrepresented in jails and prisons across the U.S. (Alexander, 2012; Poupart, 2002; Reingle, 2012; Irvin, 2011; Piquero, 2008; Saperstein, 2014; Freed & Smith, 2004; Long, 2008; Freng 2007). My topic then became clear: The U.S.'s continuing genocide and colonization of American Indians through the criminal justice system.

Again, this discussion was heavy and I approached my writing with caution because of the feelings such research brought up, but I also wanted to bring to light the ways American Indians and allies are resolving the inequities and providing healing to our communities. Given my interests, I incorporate the powerful concept of “social justice” in the framework of this thesis. Interlacing history, theory and social justice creates room for disempowered people to participate in the “intellectual work” that we are so often denied (Gordon, 2004). Social justice work requires generous time and space because “real social change requires the gestation, production, and refinement of an imagination well beyond what is usual or socially acceptable” (Gordon, 2014). I think it is important to understand that despite an almost complete genocide of indigenous peoples, voices of native people, our experiences, knowledge's and ways of interpreting the world are still present and crucial.

The chapters of this thesis are organized as follows. In Chapter Two, I explore theories of Racial Formations, intersectionality, complex personhood and historical trauma, which take into account the evolution of race, ethnicity, and the political charge for American Indian identity today. As I'll discuss, American Indian identities are not only created by indigenous people, but are identities defined by the U.S. government since European conquest; this creates a unique dynamic of identity for American Indians. The theories I explore allow us to think through issues of identity within genocide, colonization, and assimilation. The past experiences surrounding American Indian identity reflect the current climate and complexities of such an identity. Chapter 3 discusses the genocide of American Indians through historical events in the U.S. and the conquering of indigenous peoples and land. Describing the events of genocide that European immigrants committed against American Indians provides the basis for understanding ongoing oppression. The genocide of American Indians is still denied by the US government and most of the US population; similar to the way the Armenian genocide is denied by the Turkish government (Attallah, 2007). To counter this denial, I acknowledge the genocide and purposefully include a chapter dedicated to documenting the genocide and asserting there was a sanctioned genocide on U.S. land. Chapter 4 discusses how the U.S. colonized American Indians, or more specifically the process of forced assimilation that American Indians experienced. The genocide survivors were forced to become "civilized" according to Euro-settler standards of living. This attack on indigenous culture after a mass slaughter, had/has devastating effects on American Indian lives, cultures, and sustainability. The large scale wounding of peoples and the passing

down of this wound through multiple generations (called Historical Trauma) has impacts on current and future generations of American Indian's which I argue plays out in the criminalization of American Indians.

While historical trauma is a fairly recent concept in academia, it reflects the psychological and emotional wounding that is present in American Indian communities today. Indian criminalization perpetuates such trauma, as discussed in Chapter 5. Since Europeans arrived, to what is now the contemporary U.S., Indians have been criminalized for being an "other" or non-white. Indian rights have been and still are under constant attack and jurisdictional mazes leave many American Indians in the U.S. criminal justice system. The criminal justice system perpetuates the dominance and control the U.S. has on Indian peoples, land and rights, tying it back to a form of genocide. Chapter 6 brings hope and discussions of resiliency to this thesis. During my graduate career, I worked with the Youth Disparities Reduction Collaborative (YDRC). YDRC is made up of the Humboldt County Probation Department, Indian social service providers, tribal members, community members, and local non-profits for youth advocacy and wellness. As I will discuss in the final chapter, YDRC is part of the social justice work that I find necessary to heal as well as current healing endeavors and resiliency work being done in Indian communities. As important as I find understanding genocide, assimilation, historical trauma, and criminalization, it is just as important to discuss solutions.

The concluding chapter summarizes the previous chapters, along with my hopes and critiques for future work among indigenous communities. We cannot change what has happened, but I hope my work, though not exhaustive, will help provide American

Indians, or any marginalized group, a reason to keep pushing against colonist/colonized ways of knowing.

Lastly, I would like to clarify terminology within this thesis that may be of concern. I use the term American Indian as an inclusive term for all indigenous peoples of this land that were colonized by European settlers in the 17<sup>th</sup>, 18<sup>th</sup> and 19<sup>th</sup> century. I use American Indian, sometimes simply Indian, because my people identify as such when not specifying the tribe we come from. I also use the term “American Indian” when I generalize historical contexts and current trends in the criminal justice system. For many reasons, I do not agree with the term Indian, mostly because it was assigned to indigenous people by Europeans, however I will use it, as it is the most common reference to indigenous identity in the U.S. I may use other terms such as Native American, Native, Nation(s) or Indigenous, depending on the context of other author’s discussions and concerns about identity meaning. If unsure which name to use when with indigenous peoples, the most appropriate and respectful response is to find out what the group/person calls themselves and use the name they give. It is also important to understand that generalizing does not provide an accurate portrayal of Indian nations, as they vary in countless ways, though common experiences are shared. Different nations had vastly diverse experiences of genocide, assimilation, and responses to historical trauma, so note that common culture is not equal to common understanding.

## CHAPTER TWO: THEORETICAL PERSPECTIVES

The framework for this thesis comes from particular authors, poets, scholars, and intellectuals that inspire me on a daily basis, or have struck a profound chord that resonate with Native peoples. This chapter explores four main theories I use to analyze the systemic oppression and continued genocide of American Indians. I explore the theories of racial formation, intersectionality, and complex personhood to understand American Indian identity, which, in the context of American Indians, cannot be separated from structural inequality and trauma experienced in the past and present, including our experiences of the criminal justice system.

### **Racial Formations**

The basis of Omi and Winant's (1994) theory of racial formation is the idea that race, as a core concept, needs to be separated from ethnicity, economy and nation in order to understand racial identity, politics and social structure. The concept of "race" was created to provide a rationale for why some people should be free and why "others" should be enslaved/murdered. Racial formation refers to:

"The process by which social, economic, and political forces determine the content and importance of racial categories, and by which they are in turn shaped by racial meaning. The sociohistorical process by which racial categories are created, inhabited, transformed, and destroyed" (Omi & Winant, 1994).

Race is the “central axis” in this approach, and their focus is on a process of situated projects, or representation of race that situates it in social structure, and the evolution of hegemony, or the domination of a society by a ruling group (Gramsci, 1971).

Race, they argue, must be understood as unstable patterns of meaning in a political struggle with a changing narrative, therefore race has no fixed meaning. They also analyze racial formation in micro-macro social processes. At the macro level a *racial state* is composed of institutions, policies carried out within the institutions, the conditions and rules that support and justify the policies, and the social relations in which the condition and rules are imbedded. The racial state maintains the “unstable equilibrium” of the racial order, or the racial politics of everyday life. The disruption and restoration of the racial order has a trajectory of cyclical movement. Racial movements that arose from those oppressed by a current racial order/formation are the result of political projects/interventions that changes the racial order into a newly unstable equilibrium. Change in the racial order is only achieved when the state has initiated reforms in response to movement demands; “the re-articulation of pre-existing racial ideology is a dual process of disorganization of the dominant ideology and of construction of an alternative, oppositional framework” (Omi & Winant, 1994). An example of this theory in the context of American Indians is with legal racial identity.

### **Racial Formation and Identity**

American Indians differ from any other racial group because their racial identity is governed by law, and introduces federal and tribal legal definitions that regulate racial

formation for Indians (Garrouette, 2011). The exploration of the processes of racial formation that applies to American Indian people considers who is able and unable to satisfy legal definitions of identity. These processes are rooted in the history of genocide and forced assimilation. Each tribe sets its own legal definitions and criteria of identity and citizenship in any way they choose, except in the case when the government denies a group/tribe/people as a “recognized tribe.” The unrecognized tribe can still delegate their own tribal identity requirements; however, the benefits they receive would not be the same as a recognized tribe, if any at all. To reiterate, or simplify, there are two levels of “legal identity” as an American Indian. The first is if a tribe is “recognized” by the U.S. government as a sovereign nation. The second is the enrollment within a recognized nation where the individual tribes set enrollment requirements, such as 1/16<sup>th</sup> Indian blood, or proof of maternal/paternal lineage.

The consequences of tribal identity negotiations have harmful outcomes for American Indian families. Due to the fact that tribal and federal definitions of Indian do not correspond, many people cannot fit either identity definition. Blood quantum for both tribal and federal requirements is challenged by non-recognized and recognized tribes/members because the question becomes “how much blood is ‘enough’ to be American Indian?” and therefore able to gain tribal and federal rights. American Indians are forced to demonstrate higher than 1/16<sup>th</sup> blood quanta to claim such an identity and be accepted as legitimate. Historically, the slightest trace of “black blood” *forced* people into a racial category of “Black” and into slavery, with or without consent, whereas Indians must formally provide *strong evidence* of substantial amounts of Indian blood to be

“allowed entry” into Indian tribes (Garrouette, 2011). The comparison shows that European colonizers/settlers enforced race on any non-white group, and required/imposed different criteria for who counted in these different racial categories. Various racial groups then experienced different treatment from white colonizers. For instance, there are many ways to gain and lose Indian identity, which have little to do with qualities assumed to be of central importance in determining Indian identity to Indians themselves. Specific elements of the racial formation process for Indian people are clear examples of settler colonialism. This includes the framing of Indians, by settlers, as less than human, as dangerous, and as potential criminals – that is, people who posed a danger to white “civilization.” By controlling Indian movement and attempting to control Indian identity, white power was solidified. While Omi & Winant laid the foundation of racial formation theory, there are also other theorists who have drawn upon racial formation and apply it to the American Indian experience.

Andrea Smith is influential in the study of colonization and Native American historical trauma. According to Andrea Smith, settler colonialism is the acquisition of indigenous territories and resources, and the elimination of the Native through genocidal processes in order to gain these resources (Smith, 2005). Settler colonialism happens in overt and subtle ways including both physical and cultural genocide. The overt approach is through biological warfare and military domination. The subtle approaches of this colonialism are national policies of assimilation through allotment of Indian land, forced enrollment in boarding schools, and “American” citizenship all of which attempt to destroy Indians as a group with their own identities. Smith states that the lack of analysis

of settler colonialism hinders analysis of race and white supremacy by those focused on race and racial formations. Smith takes into account settler colonialism and addresses the shortcomings of Omi & Winant's definition of racial formations. She argues their definition is problematic because they do not consider settler colonialism and that indigenous people must always be disappearing. Smith argues that there are three pillars of white supremacy and they are: slavery anchored by capitalism, genocide anchored by colonialism, and orientalism anchored by war.

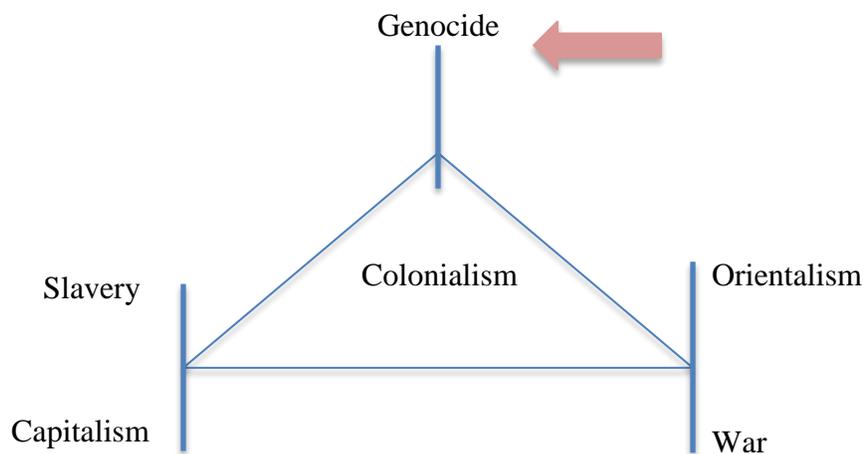


Figure 1: Three Pillars of White Supremacy

The pillars are not to be seen as competing with each other but more should be seen as interconnected because all are mechanisms to keep white supremacy intact. Using the framing of decolonization, I would like to focus on the pillar of genocide anchored by colonialism.

According to Smith, the goal of genocide of Indian peoples is that “indigenous people must disappear and always be disappearing for non-indigenous people’s rightful claim to land” (Smith, 2012). Non-natives then become rightful inheritors of all that was indigenous including resources, indigenous spirituality, and culture. Non-natives can possess the home of indigenous peoples because indigenous people have disappeared (Smith, 2012). There is a parallel between the colonization of Native people and the U.S.’s current colonization of other countries; for instance, the work of Dr. YellowBird (2012), focuses on the analysis of Native involvement in the Iraq War (Smith, 2012). He argues that the U.S. is essentially colonizing and invading people in Iraq, which is what was done to our indigenous ancestors. The European settlers mistreated indigenous nations and it has “conscripted our minds and hearts so we participate in oppositional behavior towards another race” (Smith, 2012). Racial formation theory ignores genocide and colonialism, but with Smith’s nuanced definition of racial formations intersecting settler colonialism and white supremacy, it is applicable to this thesis.

### **Intersectionality**

I am also using the theoretical framework of intersectionality as it provides a critical analytical lens that takes multiple forms of oppression into account and looks at how they interlock and support each other simultaneously (Crenshaw, 1991). This approach is in opposition to existing ways of looking at structures of inequality, which take a one-dimensional approach by focusing on one identity status at a time. For

example, focusing on only one status, such as Black, poor, woman, Indian, or queer, excludes experiences of other statuses and can make it appear that people can be put into a single category without thinking about how the other identity categories intersect, or shape, people in that categories' experience. For instance, a White woman does not have the same experience as an Indian woman, and vice versa. Intersectionality provides context to a person's experiences and allows us to consider how multiple identity locations can exist in a single person at the same time and shape their experience. The U.S. criminal justice system punishes people who commit crime(s), but doesn't take into account these multiple identity locations. For the criminal justice system it's an either/or system, you commit the crime or you don't, and in the case of American Indians, does not consider how the past wounding shapes today's wounding & its effects.

Intersectionality, then, is a useful tool for understanding historical trauma. For over 500 years, Native Americans have endured physical, social, emotional, psychological, and spiritual genocide from European conquest. The cumulative wounding of Native peoples has left profound effects over a lifespan and across generations (BraveHeart 1995). These effects include depression, anxiety, suicidal thoughts, crime rates, and sexual violence.

Intersectionality combines advocacy, analysis, theorizing, and pedagogy, which are basic components necessary to heal historical unresolved grief (Dill & Zambrana, 2013). Dill & Zambrana (2013) argue that there are four common domains of power (structural, disciplinary, hegemonic, and interpersonal) in interconnected structures of inequality and that each needs to be analyzed in reference to American Indian's historical trauma experience (Dill & Zambrana, 2013.)

The structural level of government (housing, education and the legal system) all have sanctioned the genocide of Native Americans at one point in time or another, and are further discussed in Chapter Three (pg. 28). The disciplinary level of ideas and practices that sustain bureaucratic hierarchies create an insider/outsider dichotomy through blood quantum's and federal recognition policies and criteria. The hegemonic level of images, symbols, ideas and ideologies that shape social consciousness are fueled by Indian imagery, including mascot appropriation. The interpersonal is the fourth level of power and captures patterns of interaction between individuals and groups such as being the token person of color in a space and being delegated the role of representing all peoples of a particular demographic. It is important to apply knowledge to create a society where all voices are heard, and part of the healing process of historical trauma is to acknowledge and understand the complexities of the different intersections of race, class, gender, and sexuality embodied within the structural, disciplinary, hegemonic, and interpersonal levels of power.

### **Complex Personhood**

Complex personhood is a theory more micro than I anticipated using for this thesis, but I think this theory adds an interesting layer. "Life is complicated" is the summation of complex personhood, but I would like to incorporate this theory because it is not a linear or binary theory and takes into account the depth of peoples identities and complexities of race, class, and gender, much like the theory of intersectionality.

“Complex personhood means that the stories people tell about themselves, about their troubles, about their social worlds, and about their society’s problems are entangled and weave between what is immediately available as a story and what their imaginations are reaching towards” (Gordon, 2004).

According to this theory, people are shaped by multiple histories and *personal agency*, and the way people voice the stories of their lives and the larger society they are in, is entangled in past personal history, experience, imagination, and cultural tales (Gordon, 2004). Complex personhood resonates with many cultural traditions of American Indian nations who use oral histories and storytelling as part of their survival and spiritualities. To those who observe us, and to ourselves our lives are not black and/or white or as straightforward as they seem or are perceived. Often time’s Tribal governments have difficulty proscribing enrollment requirements because there are different meanings of what it is to be “American Indian.” Tribal Nations understand the complexities of personhood, but in order to register as a federally recognized tribe, Indigenous Nations have to subscribe to federal government standards, which lack the capacity of accounting for complex personhood. “That life is complicated is a theoretical statement that guides efforts to treat race, class, and gender dynamics and consciousness as more dense and delicate than those categorical terms often imply” (Gordon, 2004). This theory helps shape my writing by encouraging emotion, and understanding that complexities exist.

## Historical Trauma

Historical Trauma is defined as, the collective emotional and psychological wounding, both over the life span and across generations, resulting from a cataclysmic history of group trauma and genocide (BraveHeart, 1995). Historical trauma is essential to discuss in this thesis because American Indians have for over 500 years, endured physical, emotional, social, and spiritual genocide from European and American colonialist policy. In most trauma literature the subjects are non-Natives, so when the trauma discussed is applied to American Indians, there are elements excluded (Evans-Campbell, 2008). The theory of historical trauma provides American Indians the opportunity and voice to release the pain and understand the experiences of their peoples' wounding. While historical trauma is a new concept stemming from the understanding of post-traumatic stress disorder (PTSD), there are government policies, as previously mentioned, that are responsible for causing historical trauma. These policies often go unidentified or not directly correlated to historical trauma (Grant, 2008). A systematic exploration is needed to understand the problems that arise from historical trauma.

The theory of historical trauma allows us to expand our analysis of harm from isolated events and their impacts, such as boarding schools or a jurisdiction law, to the compounding effects of numerous events over time (Evans-Campbell, 2008). The concept of historical trauma applies to American Indians experiences since genocide was widespread among American Indian communities, which has led to high levels of distress and mourning, and the past events were perpetrated by outsiders, purposefully and with

destructive intent (Evans-Campbell, 2008; BraveHeart, 1995). While the historical trauma may be generalized across the U.S. for indigenous nations, some scholars also argue that responses are somewhat different because tribes throughout history have experienced different forms of genocide, assimilation, and colonization (Norton, 1979; Grant, 2008). Historical trauma has severe outcomes for the communities and individuals affected (BraveHeart, 1995; Whitbeck, 2004; Grant, 2008). The framework of historical trauma and its outcomes can be further analyzed at three levels: individual, family, and community (BraveHeart, 1995; BraveHeart 2011; Lowry, 2013; Whitbeck, 2004).

At the individual level, American Indians can experience posttraumatic stress disorder, guilt, anxiety, and grief. Feeling inadequate or disregarding personal struggles as trivial compared to what their ancestors endured, leaves American Indians silenced, ignored, and with no way to mourn or understand their feelings (Whitbeck, 2004). Although vulnerability is seen at the individual level, resiliency is also a common thread in the literature on the historical trauma experienced by Indians (BraveHeart 2011; Evans-Campbell, 2008; Whitbeck, 2004). Braveheart (2003) argues that survivor identity is the assumed role of younger American Indian generations or the seventh generation. Survivor identity acknowledges one's present, while taking into account the histories and experiences of ancestors. For American Indians, survivor identity carries the weight of past loss (genocide) and present loss (alcoholism related deaths, suicide, etc.), while maintaining strength and honor in declaring survival and standing as a visible presence in the U.S.

At the familial level collective distress and mourning are the characteristics exhibited by people affected by historical trauma. The term that is often associated with the familial level is intergenerational trauma, although this trauma may also be present at the individual level. Much like the individual level, the familial level also shows signs of trivializing personal problems to not burden the family. Child rearing is also explored at the familial level because of the effects of the boarding schools on American Indians and familial structures. Child-rearing practices at the boarding schools were not centered around traditional parental role models, but instead relied on violence and degradation of Native children. This meant that children lost knowledge of traditional ways of child rearing and also were made to feel worthless and often, as rightful victims of violence. It is also worth mentioning that along with boarding schools, there was forced removal of children who were then placed into non-Indian homes for child-rearing (Norton, 2007; Platt, 2011; Smith, 2005) since the government did not consider American Indian families as appropriate places in which to raise American Indian children, or children in general (Evans-Campbell, 2008). The internalization of that message, sponsored by the government, is believed to be detrimental to American Indian identity and culture, and parenting styles (BraveHeart, 2011; Smith, 2005).

Community level impacts of historical trauma coming from genocide can include loss of traditional practices, higher alcoholism rates, internalized racism, and victimization and violence (Reingle, 2012; Lowry, 2013). Boarding schools enforced assimilation efforts and punished American Indian youth for practicing cultural and spiritual traditions (Norton, 1979; Norton, 2007; Reyhner, 1994). The educational system

that was enforced when Indians were being overthrown and massacred is relevant to the school systems in place today on reservations (Rehyner, 1994). As experienced in school, the Californian grade school curriculum places emphasis on Spanish missions and the priests' reformatory practices designed to "cleanse" Indians rather than educating youth on the actual violence and conquest this country was founded on (Journell, 2009). The forced removal and relocation of American Indian children to boarding schools was sanctioned by the government, and this removal affects American Indian families and communities today. This removal stripped traditional practices where, as a whole, tribes shared responsibilities in child rearing; the loss of children, then, affected not only individual parents, but whole societies. The grief from mass historical loss of generations compromised the future of American Indian communities (Evans-Campbell, 2008). It is important to note that alcoholism seems to be a common thread in historical trauma studies involving American Indian community analysis. (Whitbeck, 2004; Evans-Campbell, 2008). High rates of suicide among American Indian communities also present the most comprehensive empirical data of historical trauma response (Duran & Duran, 1995). Chapters could be filled with the rates of substance abuse and suicide among indigenous nations, and although my thesis does not specifically address these issues, their impact is worth acknowledgement. It is important to note that I am also making the claim that higher rates of incarceration are related to both the processes of genocide and dehumanization as well as the experiences of historical trauma.

By using the theory of historical and intergenerational trauma, American Indians can confront the trauma they experience, understand the trauma, release the pain

stemming from historical trauma, and lastly transcend from the trauma (BraveHeart, 1995). Discussing historical trauma is crucial to not only this chapter, but this thesis overall because historical trauma helps explain contemporary experiences of American Indians. Being viewed as second class people and citizens goes beyond personal experiences because the institutions in place today perpetuate the trauma American Indians experience. One such institution is the U.S. criminal justice system.

### CHAPTER THREE: GENOCIDE, COLONIZATION & ASSIMILATION

The United States of America was built on deceit, manipulations, and slaughter. This statement makes people uncomfortable, but it's important to start here because the U.S. government does not acknowledge the acts of genocide committed on this land against indigenous peoples. Additionally, there is little discussion in the literature of genocide here in the West. Overall, the literature on genocide of American Indians is scarce, and usually describes genocide of Plains Indians of the Great Plains (Norton, 1979). While that work is important and valuable to American Indians/Alaska Native peoples in general, the differences in treatment and conquest here on the West, are also important to discuss. The genocide of Northwestern California American Indians is rarely acknowledged unless history books make small mentions of American Indians in the "Gold Rush Era" (Norton, 1979). The history of genocide and colonization along the western United States is essential to my project because YDRC is situated in Humboldt County, CA, and the western genocide differs from that committed in other areas of the U.S. Additionally, the ways American Indians are criminalized and experience the criminal justice system, is related to the fallout of genocide and intergenerational trauma.

I can remember in grade school, American Indians were rarely mentioned until "Thanksgiving" arrived and we had to memorize demeaning chants about "one little, two little, three little Indians", create fringed vests out of paper grocery bags, and stick a feather on a headband. In fourth grade the *California Missions* lesson was a month long

journey to discuss the Spanish Missions and the glorified priests who we were told worked diligently to keep peace in California. Meanwhile American Indians and their experience with missions are briefly mentioned. In the required mission diorama, there would be one figurine that was allowed, and the only mention of Indians at a field trip to a California Mission, was in the Indian graveyard. Being a California Indian during this field trip, I did not yet understand the disgust I was feeling for the Mission my school ventured to that day. However, even being so young I sensed a hypocrisy in the words of my teachers, the tour guides, the literature in school; the overwhelming feeling of being in such a place still sends chills down my spine. The deception and erasing of American Indian culture and being needs to be addressed and the untold stories brought to light. There are admirable indigenous scholars, poets, and activists who expose the hypocrisy and deceit of past and present abuses of power (Stannard, 1992; Churchill, 1997; Norton, 1979), and there are young indigenous scholars throughout the country, still in school trying to heal, understand, and bring justice to and for our ancestors.

Since American Indian genocide is denied and unacknowledged, I will first define genocide. The United Nations Convention on Prevention and Punishment of the Crime of Genocide defines *genocide* as:

- “any of the acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:
- a.) killing members of the group;
  - b.) causing serious bodily or mental harm to members of the group;
  - c.) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
  - d.) imposing measures intended to prevent births within the group;
  - e.) forcibly transferring children of the group to another group.” (1948)

The first criterion for actions to be considered genocidal is to kill members of a group. As early as 1490 the conquest of American Indians was core to conquest of what is now the United States. Conquest was brought about through slaughter, slavery, rape, and torture, but this form of conquering was not the easiest as many, and/or most, American Indians met the Euro-colonizers with opposition to such treatment (Venables, 2004). Such opposition was seen as deviant or “savage” to the settlers ways of living and the form of punishment was outright killing. When physical subjugation was not effective, European colonizers saw extermination as the only option. Bounties were given for Indian scalps and bodies or “proof of kill” would be sufficient to claim a reward for killing Indians, women and children included. Despite evidence of this historical slaughter, the United States will not acknowledge American Indian genocide.

A second criterion for an act to be considered genocide is the intent to cause severe bodily and/or mental harm to members of a group. There are many examples of actions that cause severe bodily and/or mental harm to Indians. For example, Andrea Smith, discusses sexual violence against Indian peoples as a form of genocidal behavior (2005). Sexual violence violates peoples on a physical as well as spiritual and cognitive level and is ultimately sourced around power. Additionally, researchers and religious groups have been seeking to “know” these communities, which has sexually violent undertones (Smith, 2005). Further, business and corporate interest constantly seek Indian lands. These lands are inextricably tied to Native spirituality. These spiritualities may die if lands are not preserved as ceremonies are tied to specific locations. Non-indigenous enterprises also patent native medicines and/or native spirituality- by doing this they are

inflicting bodily/mental harm. Non-Indians commodify Natives and their practices, beliefs, and artifacts resulting in cultural prostitution and/or genocide and can be “understood as the act of sexually possessing a people” (Smith, 2005). Despite co-opting our customs and traditions of spirituality, American Indian prisoners are denied sacred artifacts to practice their customs while imprisoned (Trudell, 2005). However, to the U.S. government, meeting two criterion under the genocide definition still does not qualify for acknowledgement.

The third criterion listed as a genocidal act is forcing conditions of life on a group to deliberately cause physical destruction. Colonization is a historical process where genocide is the policy (Trask, 2006). The colonizer cannot have ownership over land and peoples if the people are still present and non-conforming, so forced assimilation (after attempted extermination) becomes the new strategy. To get rid of the Indian cultures, colonizers had Indians cut their hair, change their names, dress in European clothes, speak English, and practice Christianity; in other words colonizers forced European conditions of life on indigenous people to wipe out Indian ways of being and knowing. What follows is that Indians ourselves become disconnected from our cultures, and Indians become located on the outside of our homeland. Incite! asks

“how do we, as a terminated people, understand the color of violence? We look at all the non-native settlers around us and know we are subjugated in our own land...consigned by the American government to the periphery of our own country...” (2006).

Indigenous people suffer from extreme poverty and the loss of everything culturally relevant; again this forcing of conditions of non-native life has caused the physical

destruction of a people. Forced displacement was not only to the reservations from traditional homelands, but also to large cities where identities were ripped away and cast as something inferior to what it means to be American. Indians were basically told “you can’t be Indian and American because they are opposite of each other” (Smith, 2005; Deloria, 1983; Braveheart, 2011). For Indians to be an outsider on your own land is a destructive and devastatingly emotional experience that contributes to the many issues affecting Native communities, such as suicide, alcoholism and higher rates of incarceration (historical trauma). In the United States “white people are the dominant group, Christianity is the dominant religion, capitalism is the dominant economy, militarism is the dominant form of diplomacy” (Incite!, 2006). Violence is normalized on and off reservations, hence the “savage,” “criminal” and “crazy” Indian stereotypes, but violence is present because there is violence in the dominant culture in the U.S. This violence rests upon the subordination of those defined as “other,” and the internalization of that status by subordinated people. The exercise of violence against Native peoples, and the forced acceptance of a subordinate, othered, role, is an example of this third form of genocidal activity.

Another set of actions that is an example of forcing a lifestyle as a method of genocide, racism, and colonialism is colonizers using sexual violence against native women and demonizing/delegitimizing non-patriarchal family arrangements. Many American Indian tribes were not patriarchal and honored women in a non-possessive way. On the other hand, European women were seen as needing white males to protect them from colonized savages (Smith, 2005; Stoler, 2002). This served as a tool for

patriarchy and the criminalization of Native men. Smith argues that White men perpetuate rape as a warning to white women as a consequence of the absence of white patriarchy. Colonized groups are also sexually assaulted as a way of establishing hierarchy through white patriarchy. The dysfunctional patriarchal system in the U.S. mirrors the dysfunctional system in the nuclear family (Smith, 2005). So far, three measures of genocide have been met under the UN definition.

A fourth type of a genocidal act is the use of intentional measures that prevent births within a group. Women of color have been targeted as a threat to the white system of power because of their ability to reproduce and thereby keep communities of color alive, or criminalizing women of color for being just that, a woman of color. As a result, policy aimed at sterilizing minority women was established throughout history. Unethical medical experimentation in native communities was not limited to experimenting with contraceptives, but also included testing medicines, treatments, and vaccines (Smith, 2005; Ross, 1998). Disturbingly similar to the Tuskegee experiments on Black Americans, these studies ran into the 70's. Many of the health conditions such as diabetes, tuberculosis, depression (actually historical trauma) affecting Native communities could be attributed to infrastructure but instead of fixing those issues, the pharmaceutical companies maintained profit by treating resulting ailments instead of the government-fixing infrastructure (Smith, 2005). Native communities also lack access to healthcare, which leaves many families with inadequate resources when pregnant, ill, or needing overall health and wellness care. Attempting to prohibit or interfere with American Indians reproduction means that four criteria for defining something as

genocide are supported; still, the U.S. government has given no formal acknowledgement of the genocide.

The fifth and final act to be considered genocide, when aimed to destroy in part or whole a people based on their identity, is the forcible removal and transfer of children from one group to another. There are many examples of U.S. and non-Indian actions that meet this criteria. First, boarding schools were established to “Christianize” already colonized native cultures. Indian children were targeted by white society, because they were not fully culturally incorporated into their tribes and were able to be physically and culturally manipulated to serve a different religion. This cultural genocide was rationalized as positive because the alternative was overt genocide. Part of the boarding schools curriculum, although most likely not stated, was the establishment of patriarchy (Lomawaima, 2006). These boarding schools, spread across the U.S., were marked by sexual, physical, and emotional abuse (Norton, 1979; Smith, 2005; Lomawaima, 2006). Indian children are also more likely to be subjugated to child welfare services, which exposes them to the same harms as boarding schools. Indian families are defined as “inadequate” to raise Indian children, so public and private agencies step in and place Indian children into white homes because white families are deemed “adequate”. Social movements have been fought for reparations for this systematized violence on Indian children (60’s American Indian movements), and the Indian Child Welfare Act (ICWA) was a result of such action to “protect the best interests of Indian children and to promote the stability and security of Indian tribes and families” (25 U.S.C §1902). ICWA was created to stop this fifth act of genocide, which was a band-aid remedy because American

Indian families were still viewed as unfit parents and families, and can still internalize such actions deeming themselves inadequate. The federal government has still not acknowledged the American Indian genocide.

The five criterion for acts to be considered part of a genocide have all been met when analyzing the experiences of American Indians. Only one criteria needs to be met, and American Indian experiences meet all 5! If this is the case, why is the genocide of American Indians hardly acknowledged? There would be no United States without genocide. (Smith, 2006). The fewer Indians there are, the less problematic for the U.S. government. Access to Native lands was possible through genocide and the denial of such genocide maintains the absence of Indians. American Indians are a “present absence” in U.S. society where culture, spirituality, and land are co-opted so that Native people are always vanishing and land occupation justified (Smith, 2006). The U.S. fears condemnation of historical acts of genocide, so the rationale to dismiss Indian genocide as “no intent” upon the governing body of the U.S.”(Norton, 1979). The U.S. government is complicit in the non-acknowledgement of past and present genocide of Indigenous peoples. If people do not acknowledge this genocide, they are also complicit in the erasing of Indian. I acknowledge this genocide. My tribe, Pomo, Round Valley Reservation, acknowledges the genocide.

## **Forced Assimilation**

Colonization was anchored through a genocide that happened in the U.S. against American Indians. Assimilation is part of genocide and colonization, but I felt the need to elaborate more on assimilation and its current impacts. Assimilation is defined as “the process by which an outsider, immigrant, or subordinate group becomes indistinguishably integrated into the dominant host society” (Scott & Marshall, 2005). Working with this definition, the subordinate group, American Indians, were integrated into dominant society, European or white society, more overtly between 1790-1920, though still occurring today. Colonization is intertwined in this definition because U.S. land was owned by Indians and taken by conquest; European/white colonizers took the land by force. Therefore, in this context we are talking about forced assimilation because immigrants and outsiders invaded this land and criminalized the native way of knowing and being.

Once explicit genocide was no longer required, the surviving American Indians were forced into assimilation. Rather than kill off all American Indians, the ones who survived would be trained to become more “civilized” like the colonizers (Ross, 1998; Venables, 2004). American Indian people were not entitled to bodily integrity because they were seen as property of the colonizers. This was seen through activities such as boarding schools where grooming and clothing were forced upon Natives according to European standards. Land was also a resource for colonizers, and “the connection between the colonization of native people’s bodies – particularly Native women’s bodies

– and Native lands is not simply metaphorical” (Smith, 2005). White male patriarchal/colonial ideology seeks to control indigenous women’s bodies as well as their lands, as seen in the 1970’s mass sterilization of Native women (Stoler, 2002). Taking indigenous lands is justified through the same means as sexualized violence of indigenous women’s bodies. Terming patriarchy as “normal”, and naming environmental damage as “normal” exerts power and dominance over American Indians and imposes a new “normal.”

Furthermore, colonial ideology points the finger at women of color (Native women) and seeks to sterilize them for the good of the world and limit overpopulation. This lets the wealthy of industrialized nations claim innocence for their major part in environmental degradation, when the environment is inextricably tied to Native spirituality. The disregard of mistreatment of American Indian women and American Indian spirituality reflects the Christian missions of European conquest to “save” the Indians from themselves. The U.S. maintains explicit control over American Indians very existence. The evidence is imposed in U.S. laws and policies.

### **U.S. Policies**

There are several federal laws surrounding indigenous ways of living. To provide context to the claim that American Indians are constantly identified and defined by the U.S. government I will briefly include laws, policies, and cases where indigenous communities were forced into assimilation. The General Allotment Act, or the Dawes Act, of 1887 significantly reduced tribal land from 138 million acres to 48 million

acres. Parcels of land were sometimes allotted to individual tribal members or families. However, the land was usually dry, remote, and unsuitable for farming. This allotment created ownership where plots of tribal and are owned by tribal, private, or federal entities, creating a pattern like a checkerboard. When Indians were on land that had recently become part of a “new state”, removal and relocation of Indians ensued. For example, “Indian Territory” in the land that is now Oklahoma was occupied by The Five Civilized Tribes: Cherokee, Choctaw, Chickasaw, Seminole, and Cree. When Oklahoma was to become a state, these tribes were forced to move once again to Reservations or Rancherias on an even smaller portion of land.

Another law, The Indian Citizenship Act of 1924 was created to grant Indians U.S. citizenship in an effort to further assimilate tribal peoples. Another assimilation tactic came about with the Indian Reorganization Act of 1934 (IRA). The IRA encouraged tribes to implement a form of self-government by electing officials, creating constitutions, and negotiate with federal, state and local governments. The federal government still holds power over tribes because the government still outlines how tribes must govern themselves. A benefit of the IRA for tribes is that it was the initial Act to provide a framework for tribes to exercise political authority (Poupart, 2002). While I appreciate the silver lining of such an Act, it is still imposed by non-Indians, and the U.S. government maintains control, and thereby challenges tribal sovereignty.

American Indian rights were also decided in court cases, showing the disregard and control of Native peoples. A Supreme Court case *Cherokee Nation v. Georgia* 30 U.S. (5 Pet.) 1 (1831), declared the Cherokee Tribe a state with a distinct political society,

though not a foreign state and one which must operate like “a ward to a guardian” with the federal government. *United States v. Wheeler* 435 U.S. 313 (1978) decided on double jeopardy, where a tribal government and the federal government (two separate sovereigns) can prosecute a tribal member for the same crime in each respective court. Because tribes and federal government are separate with concurrent jurisdiction, double jeopardy does not prohibit prosecution by two separate sovereigns, therefore it does not apply to Indians. In all laws and cases, the federal government has the upper hand. Even when laws are scripted as “good” or “considerate” for tribes, there are undertones that leave the U.S. in total control and continue the assimilation of American Indians.

The genocide, colonization and assimilation policies of American Indian Nations were traumatic and continue to be traumatic for Indians today. Government regulations on American Indian rights and American Indian identity effect generations of people. American Indian identity is complex and constantly reframed or redefined by American Indians and non-American Indians alike, including the U.S. government. The governments power and control of American Indian tribes is vast and lengthy, so it should come as no surprise that the criminal justice system, as a U.S. institution, disregards Native rights and research regarding Indian imprisonment rates are scarce. Most coverage, data and research of prisoners consider black, white, and Latino populations. American Indian criminalization is largely unexplored and disconnected from contemporary justice system statistics.

## CHAPTER FOUR: THE CRIMINAL JUSTICE SYSTEM & AMERICAN INDIANS

As I presented before, genocide and colonization created historical trauma for generations of American Indians and is continually maintained through the criminalization of American Indians in today's justice system. After looking at genocide, colonization, and historical trauma, I will now draw those chapters together to describe the processes of criminalizing American Indians.

“...Native criminality/deviance must be seen within the context of societal race/ethnic relations; otherwise, any account of crime is liable to be misleading. A thorough analysis of Native criminality must include the full context of criminal behavior-that is, their victimization and the criminalization of Native rights by the United States government” (Ross, 1998).

Most literature that undertakes crime and race is focused on Blacks and Latinos in the United States. American Indians, who make up a large percent of the prison population compared to their population rates, are left in the background, and their experiences are left untheorized. Significantly, one in twenty-five Native Americans are in the U.S. criminal justice system, which is 2.4 times the rate of whites (Ogden, 2006). When we look at South Dakota, Native women make up 34 % of the prison population, while their respective population rate is only 8.3% (Ogden, 2006). I argue, along with Ross (1998) and Ogden (2006), that the criminalization of American Indians has to do with the assimilative and colonization efforts of the U.S. government and is a form of

continuing genocide. The external oppression manifests towards the community and their families resulting in violence and the criminalization of Indians. Crime in Indian communities is a response to dependency on the government due to conquest and deprivation; it is also a form of expression of historical trauma, unresolved grief, and normalized violence (Poupart, 2002). In her work, Poupart examines how historical domination and oppression of American Indians created and continues to perpetuate crime and injustice in American Indian communities (2002). American Indians are portrayed in dominant culture as violent, self-destructive, and dysfunctional in ways that blame the victim (Reingle, 2012). In the media, American Indians are portrayed as criminals, and they are also impacted by victimization at a higher rate than any other race/ethnicity in the United States (Freng, 2007). Courts often dismiss reports of violence against Indians because of this portrayal as criminal. American Indians cannot be victims in U.S. courts because they are seen as criminal and therefore make up a high percentage of the prison population. Stricter sentences are implemented for American Indians, more so than White, Black, and Latino offenders (Franklin, 2013).

Overall, reservations have high crime rates, though the most common scenario is of non-Indians attacking Indians. When a Non-Indian is the offender and an Indian the victim, jurisdiction lies in federal courts for both felonies, and misdemeanors, including assimilative crimes, or when the state law is applicable to crimes committed on federal reserved, or acquired land (Cardani, 2009). Even when the crime occurs on Indian land/territory, the federal government is involved. Arrest data is complex due to jurisdictional issues on and off reservations. The issues of the victim-offender overlap

[being both a victim and perpetrator of violence (Reingle, 2012)] that many tribal communities face could be related to alienation and isolation. Victimization of American Indians are higher on reservations than off, whether the offender is Indian or non-Indian (Reingle, 2012). American Indian communities have little resources for productive outlets and activities because of systemic racism and colonialism. With little resources, victims and survivors cannot heal and thrive, and preventative programming for offenders is happening too late. Being victimized and living in impoverished areas increases chances of educational problems, such as underachievement and dropping out (Irvin, 2011), which can exacerbate criminal activity in the given area (Luna-Firebaugh, 2003). Reingle studies the impact of criminal activity and violence on reservations (2012). Much of the research Reingle discusses has violence and victimization falling into a continuous cycle. The cycle affects Native American communities and contributes to the high rates of violence, high crime rates, and high death/homicide rates on reservations; the most evident impact is among Native women.

Colonization of Native women is part of the project of strengthening white male ownership of white women. Therefore, when there's mass rape against Indigenous women it is normalized. Additionally, U.S. attorneys decline to prosecute about 75% of *all* cases involving *any* crime in Indian Country (Smith, 2005), including rape. This racialized policing and reporting relates to state police having no jurisdiction on reservations and tribal police having to let non-Indians free, so the government is well aware they are perpetuating Indian genocide. Interestingly enough, there are large numbers of non-Indians living on reservations so they're free to commit crimes while

Natives are arrested and populate jail/prison/probation systems. The “war on drugs” has legitimized many oppressive policies and in the case of women of color, has legitimized an assault on reproductive rights (Smith, 2005). Further, Native women in prison were given medication, such as Thorazine or Prozac, in order to “cure” them of what led to their incarceration and kept at a level for guards (and the U.S.) to maintain control (Ross, 1998). A concern of many American Indian women prisoners is not only can the drugs compound addiction problems and impair their ability to defend themselves (in court and from correctional officers advances), but the overuse of these mind-altering drugs is a way to “break & control” the prisoners (Ross, 1998). This also assumes that signs of depression are universal across all cultures rather than a spiritual dilemma or a feature of everyday life for Native women.

American Indian prisoners are also denied religious leaders from their culture and communities to attend prayer services. Prisons will readily admit they allow religious leaders from a pre-approved list, but it is not acknowledged that the Native prisoners are denied the right to add a spiritual leader to the list, let alone view the list (Ross, 1998). Most, if not all religious services and programs in prison settings are Christian. Even when the offered program is focused on drug and alcohol treatment, the program centers around Christian faith, making the American Indian prisoners feel “backward,” alienated, and hopeless (Ross, 1998). Denying American Indians the right to practice their religion in prison reflects the assimilationist policies and legislation that has historically been mandated by the federal government. The American Indian Religious Freedom Act came into effect in 1978 where Native prisoners cannot be denied the rights to practice their

religion, however this law is not enforced today and sacred objects are not allowed into the prison. The U.S. government has control over federally recognized tribes, reservation jurisdictions, prosecution & sentencing, and treatment of American Indian prisoners prior to, during and post-imprisonment. The government's policies and mentality have not changed and continue to oppress, disregard, and "kill the Indian" that is stereotyped as threatening to U.S. society.

Despite evidence of this cultural genocide, academia also largely fails to explore how the legal structure of society perpetuates domination of Indian people. Mainstream studies also don't acknowledge that knowledge & recognition of Indian history & identity are imperative because the U.S. government has historically dominated and oppressed Indian people. Conservative criminologists have also thwarted the proclamation that tribal nations should be allowed to practice their traditional beliefs and approaches of dealing with conflict and deviance within their communities (Poupart, 2002), which otherwise imposes foreign laws and procedures on Indian people.

With such an institution as powerful as the criminal justice system, let alone the United States, where does that leave American Indians? Caste off in the shadows of our original homeland, and seen as criminals for simply living on this land first. Such high rate of imprisonment is genocide. Most Indian people have either been incarcerated or know someone who is/has been in jail/prison (Ross, 1998). Despite past genocide and continued forms of genocide, American Indians remain resilient. Healing is transforming indigenous communities all over the world. Humboldt County American Indian nations are participating in such resiliency and healing.

## **CHAPTER FIVE: RESILIENCY & HEALING**

The lasting impacts of genocide and the historical trauma experienced by American Indians have not destroyed tribes. There is amazing and transformative work happening in many parts of the U.S. and the world. Humboldt County has many local tribes that are affected by historical trauma and genocide and working to improve the lives of current and future generations of Indians. As previously mentioned, I have worked with the Youth Disparities Reduction Collaborative to explore disparities in Humboldt County youth probation rates. As I delve into the YDRC, my actions with them, and their actions past, present, and future, it should be clear that I respect all the people involved in the processes discussed. Growth comes from successes and failures, and YDRC was no different.

### **Youth Disparities Reduction Collaborative**

In 2012, The Humboldt County Probation Department received a support grant, the Disproportionate Minority Contact grant, from the California Board of State and Community Corrections to expand on community based efforts to reduce incarceration disparities among different youth populations. The goal was to strengthen engagement of juvenile justice stakeholders and continue data analysis to analyze, measure, identify, and engage in solutions to reduce the disparities among diverse juvenile populations. The collaborative was first named after the grant, Disproportionate Minority Collaborative

(DMC), but is now known as the Youth Disparities Reduction Collaborative (YDRC). Once the DMC grant period came to an end in 2013, the Collaborative had to shift from a grant-based collaborative to a community-action group, which brought the shift in name to YDRC. The DMC originally was facilitated by the State of California through The Burns Institute. The last meeting of the DMC in December of 2013 was to discuss further action of the group once the grant ended and The Burns Institute involvement was no longer needed. The suggestion by the State was to re-name the collaborative R.E.D. which stood for Reducing Racial and Ethnic Disparity and the title of a new State grant that the Collaborative was encouraged to apply for. Humboldt County was the only county The Burns Institute encountered that had a grievance with the acronym "R.E.D." It was no surprise to YDRC, which was comprised of various American Indian tribes, community members, and Native service organizations that the government would sponsor such an acronym, but it was alarming to realize we were the only county to make note of the offensive acronym. Due to the history of referring to American Indian peoples as "red", the YDRC shifted from Disproportionate Minority Contact Collaborative, denied the title Racial and Ethnic Disparities Collaborative, and settled on Youth Disparities Reduction Collaborative.

The name of YDRC was/is only one of many conflicts we have had not only with the state, but amongst the juvenile justice branch, or probation, and tribal entities as well. There is justified distrust between American Indian nations and the justice system, as well as state/federal systems in general. YDRC bridges the American Indian communities in Humboldt County and the probation aspect of the criminal justice system, where both

sides can converse about the data driven evidence of racial disparities in the probation rates of Native American youth. Before leaving the DMC, The Burns Institute did commend Humboldt County for the collaboration between tribal communities and the probation office, when no other counties were as willing and progressive in action as Humboldt County was/is. What is happening with this collaborative is historic as far as the openness and ability of the two communities (tribal and criminal justice) to connect, listen, learn, and act upon ending racial disparities in the justice system. However, this is not to say that there is not conflict within the group or that such important work is finished within the collaborative.

The American Indian nations within the collaborative are at times hesitant to present the Probation Department with suggestions of ways to operate and which programs to back as productive to youth because of the historic distrust and broken laws and treaties on the part of the U.S. government. Communication styles differ and can be rather complex when most youth and tribal community members live on reservations. As the collaborative shifted to a community-based collective, many tribal & community members stopped attending meetings. It is difficult to pinpoint the reasoning behind the low attendance, but there were many structural changes within the tribal service provider's organizations, as well as transportation issues from rural areas, to main hubs of town where meetings were hosted.

The Collaborative focused on data and responded to the largest overrepresented group. Based on data analysis from 2009-2013 provided by the Humboldt County Probation Department, American Indian youth are referred at a rate 60% higher than

white youth. According to disparities shown in the data, Indian youth are also 2.5 times more likely to be booked into juvenile hall than white youth. Approximately 20% of minors under Humboldt County probation supervision are American Indian. The overrepresentation of American Indian youth in the probation department was obvious when analyzing the data. Interestingly, African Americans were also disproportionately represented. The population of African Americans in Humboldt County is low, so even if the number of African American youth on probation was 1 youth, it would still count as overrepresentation.

The different population rates respective to probation rates were difficult to navigate. In Humboldt County, American Indian youth are consistently overrepresented in probation and juvenile hall rates alike. Data is continuously reviewed by YDRC to monitor disparity and to explore potential solutions and as of the most recent data (2013), Latino youth are trending to become the highest overrepresented group in Humboldt County probation. The balancing act of “whom” we serve becomes convoluted because we started out working with American Indian youth, mentors, tribes, and community members. Because American Indians are continuously overrepresented, the Collaborative has a heavy American Indian constituency and/or stakeholders. Even though Latino overrepresentation is becoming apparent, and indeed just as important to address, the Collaborative is unsure how to move forward. Do we shift the constituency based on the group that has the highest overrepresentation rates? Do we expand our constituency to other groups of color if the probation rates are high, but the actual number of youth on probation is lower? For instance, despite the low population rates of African Americans

in Humboldt County, this group is still four times as likely to be in the system than their white peers. As previously mentioned, African American youth are four times as likely to be in the system, but this could also mean that a really low number of youth are in the system. Respective to the population rate the overrepresentation makes sense, however the actual number of youth served can vary and if the number is low, YDRC can help the low numbers, but want to reach as many youth as possible.

The impact YDRC has for probation youth is profound and has a holistic support system in place. While there are mentors for all probation youth, there are culturally specific mentors in place for American Indian youth. Many of the Native youth live on reservations that are difficult to travel back and forth from to court, programs, and services, so the mentors are members of their own community. The mentor piece is the essential piece that is missing in many American Indian youth lives, but especially those involved in the juvenile justice system. There can be several people involved with one case, and most are paid to be involved with the youth, so it can be difficult for these offending youths to know who to trust and who they can come to for support when there are so many players involved. The mentor/mentee relationship alleviates the stress of navigating support and accountability. The Probation department works in tandem with the mentor to ensure that their specific mentee is meeting the requirements for the court. The mentor works in tandem with the Probation Department to provide cultural support and advocacy for American Indian youth surrounded by non-Indian adults in the juvenile justice system. It is a collaborative process involving many other branches of service, such as American Indian mental health services, American Indian spiritual advisors, and

education and career services, but the mentorship between community members, American Indian probation youth and the facilitation through the probation department creates a conversation and base of healing.

I find the perspective and determination of the collaborative to be essential to progress in Humboldt County regarding ethnic disparities. The conflict between tribal entities and government structures is dwindling due to this collaborative process. Again, I must reiterate that Humboldt County was the only county to push beyond the grant period, commit to solving discrepancies, and provide solutions for Native youth. Sometimes when I think Humboldt County is overtly racist or seriously lacking ethnic diversity, the fact remains, there are allies for people of color here. There are other groups of people that may be missing from the table, and probation is just a tiny fraction of the larger criminal justice system, but it is certainly a step towards healing for these communities. When I feel isolated or alienated for being a woman of color in a predominately white county, I recall the work I am doing with YDRC. Sometimes it may not feel like a swift enough change, or that so much more can be done, but we are not silenced in this group. We have a seat at the table, when quite frankly that is not the case in many areas, and can converse about what is or is not working for our communities. My hope is that soon we will no longer be “asked” to the table, but to build the table and stand on it with a decolonizing agenda for Native communities.

## CONCLUSION

This country is haunted by the ghosts of the unacknowledged past, and that is why progress is not available to America. An acknowledgement of the genocide of Native nations of this land is owed as a representation of what this country is now. I find arguments surrounding the genocide of American Indians interesting because several claim that disease and illnesses wiped out 80-90% of people on this land (which is not verifiable) so genocide is too extreme of term. Regardless of how many Natives were left after disease outbreaks, there is proof that Natives were killed for a bounty, scalped for a bounty, children were taken from their families, boarding schools were set up that forced assimilation and the destruction of indigenous cultures, and any defiant act towards these was deemed criminal.

The policies in the U.S. surrounding American Indians have filtered out indigenous cultures with an implicit intent to do so. Policies such as the ones mentioned in this thesis are evidence of the federal government controlling and restricting the lives of indigenous peoples. With these policies, the simple status of *being* an American Indian is criminalized.

The current American criminal justice system is a tool of oppression that serves the country's most elite and powerful. While those outside of the prison system may not realize the importance of something as little as an eagle feather or beading, the denial of such simple products are a real concern for Native inmates who are continually denied

their religious and spiritual necessities. The denial of such artifacts is an assimilative process to “wash out” the culture of indigenous nations. The criminal justice system allows no room for restorative justice models because it is a system built on power and profit. The system needs bodies to remain in power and gain profits, so the current racial order upholds the hegemonic hierarchy needed for white dominated power structures and institutions.

Part of the dismantling of such oppressive structures and institutions relies in the power of resiliency and healing. The Youth Disparities Reduction Collaborative is working towards healing for American Indian youth who have entered the juvenile justice system. YDRC is a fraction of healing that is taking place throughout the country in Native communities, but a larger framework is missing. De-colonization is the framework needed for all groups to heal historical trauma and repair the structures of oppression. I have included in the following section, a list of resources that American Indian communities, and others, can utilize and information to take part in such resiliency and healing work.

This work is not exhaustive and we live in a unique moment where de-colonizing work may be done. While I don't know if the U.S. acknowledging the genocide of American Indians will bring complete solidarity between American Indians and the governing systems of the U.S., but I think it is a step in the right direction. Once the genocide is acknowledged, we can work on healing the historical trauma stemmed from the U.S.'s troublesome history. This could also open doors for other communities to push past the narratives of the conquerors in the U.S. and explore their own histories and truth.

## RESOURCES

Center for Native American Youth- Dedicated to improving the health, safety and overall well-being of Native American youth through communication, policy development, and advocacy (<http://www.cnay.org/>)

Federally recognized Indian tribes and resources for Native Americans-  
<https://www.usa.gov/tribes>

Indian Country Today-Native American news and information site  
(<http://indiancountrytodaymedianetwork.com/>)

Indian Law Resource Center- Provides legal assistance to indigenous peoples of the Americas to combat racism and oppression (<http://indianlaw.org/>)

National Center for Victims of Crime- Information, resources and advocacy for victims of all types of crime (<https://victimsofcrime.org/>)

National Congress of American Indians- Oldest, largest, and most representative American Indian/Alaska Native organizations serving the broad interests of tribal governments and communities (<http://www.ncai.org/>)

National Domestic Violence Hotline- (<http://www.thehotline.org/>) 1-800-799-7233 or 1-800-787-3224 (TTY)

National Indian Child Welfare Association- “Protecting our children. Preserving our future.” Improves the lives of American Indian children and families  
(<http://www.nicwa.org/>)

National Indian Education Association- Advances comprehensive, culture-based educational opportunities for American Indians, Alaska Natives, and Native Hawaiians (<http://www.niea.org/>)

National Indigenous Women’s Resource Center- Addresses domestic violence and safety for Native American women (<http://www.niwrc.org/>)

National Resource Center on Domestic Violence- (<http://www.nrcdv.org/>)

National Sexual Assault Hotline (<https://rainn.org/>) 1-800-656-HOPE (4673).

Native American Rights Fund- Non-profit law firm dedicated to asserting and defending the rights of Indian tribes, organizations, and individuals nationwide  
(<http://www.narf.org/>)

Tribal Law & Policy Institute- extensive resources on tribal, state, and federal law  
(<http://www.tribal-institute.org/>)

United National Indian Tribal Youth- fosters the spiritual, mental, physical, and social development of American Indian and Alaska Native youth and to help build a strong, unified, and self-reliant Native America through greater youth involvement (<http://unityinc.org/>)

Women Empowering Women for Indian Nations- provides Native Women with the knowledge, support, and resources, necessary to achieve success in their personal and professional lives (<http://www.wewin04.org/>)

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### **Federal Court Decisions**

*Cherokee V. Georgia* (1831) 30 U.S. 1

The Dawes Act (or General Allotment Act) (1887) 25 U.S.C. ch.9 331

Indian Citizenship Act (1924) 8 U.S.C. ch.12 1401b

Indian Child Welfare Act (1978) 25 U.S.C. 1902

Indian Reorganization Act (1934) 25 U.S.C. ch.14 461

*United States v. Wheeler* (1978) 435 U.S. 313