

Engendering Alternative Justice: Criminalized Women, Alternative Justice, and Neoliberalism

By

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Abstract

Feminist criminologists have a long history of arguing against the use of imprisonment and other formal justice system processes for criminalized women. Often feminist analyses of the formal criminal justice system end with a call for community alternatives. There has not, however, been a corresponding analysis of community programs. Critical criminologists have examined informal justice and have shown the variety of ways that seemingly alternative programs reproduce and support the formal criminal justice system. This dissertation draws from both of these criminological literatures and examines alternative justice programs for criminalized women. Based on interviews with staff at community justice programs in Winnipeg MB, I argue that these programs are neither the complete alternatives called for by feminists nor spaces which simply reproduce dominant justice system norms as found by critical criminologists. Rather, they are complex spaces of governance of criminalized women. The community programs exhibit both informal and formal characteristics. These programs engage in a variety of informal justice practices. The programs also offer informal care, advocacy, and culture services. Alongside these informal aspects of the programs, staff also engage in highly formal criminal justice work of supervision and case processing. I account for the presence of both informal and formal practices using governmentality theorists' concepts of government-at-a-distance and responsabilization of the community. This makes them spaces in which dominant discourses and practices are reproduced. However, a close examination of the ways in which the programs construct the subject of governance, the Criminalized Woman, shows the influence of feminist discourses and reveals these spaces to be spaces of resistance as well. The specific ways that the programs respond to criminalized women and the mentalities embedded in them also reflect a tension between neoliberal and social justice approaches. Both a neoliberal mentality of proper self-governance and an ethic of care are present in the work the programs do. I argue that the presence of the multiple types of work, the alternative subjectivities offered to criminalized women, and ethic of care and practices of self-care all make the alternative justice programs spaces of resistance to dominant neoliberal strategies of governance.

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INTRODUCTION

In twenty minutes one could drive past all six of the community agencies in Winnipeg offering justice services to criminalized women.¹ The agencies – Onashowewin, Mediation Services, Salvation Army, The Elizabeth Fry Society of Manitoba, Native Women’s Transition Centre and New Directions – are located in the downtown and North End of Winnipeg. They are housed in non-descript buildings. Their foyers are similar; posters advertise legal aid and pardon services, positive parenting programs, public health announcements about being “With Child, Without Alcohol,” and community events. Many have Aboriginal² art hanging on the walls and at two of the sites the smell of sweet grass is strong as they are spaces where smudging takes place. I visited these agencies to learn about informal justice: justice programs and practices that exist outside the formal structure of the criminal justice system.³ What kinds of justice practices are available for criminalized women in the community? What kind of work is done in these community spaces? What alternative to the formal justice system do they offer to criminalized women? In this dissertation I examine community alternatives as spaces of governance of criminalized women and assess to what degree they engage in or resist dominant forms of governance.

In order to study community alternatives this project involved interviews with staff at the above mentioned community agencies. Fifteen staff members, employed in various positions at

¹ I use the term criminalized women, rather than female offenders or criminal women, to highlight the fact that criminalization is not an inherent feature of people but a social process which happens to only some women who commit criminal offences.

² The term “Aboriginal” has been criticized for being assimilationist language. Taiaiake Alfred (2005), for example, argues that “this identity is a legal and social construction of the state, and it is disciplined by racialized violence and economic oppression to serve an agenda of silent surrender” (23). I use the term “Aboriginal” throughout the dissertation because it is the term most frequently used by my participants. I want to note here though that they do so in a political context in which Aboriginal is the official government language.

³ See both the end of this section and Chapter Two for an extended discussion on the phrase “informal justice.”

the agencies, sat with me for in-depth, semi-structured interviews. These interviews constituted the bulk of the data for the project. I also gathered a number of documents ranging from internal program documents to website material to media reports. This data provided me with a wealth of in-depth, primarily descriptive data about the work being done in the community with criminalized women.

Feminist researchers have made a strong case for the need for alternative justice for women. The formal criminal justice system has been criticized as unable to respond well to criminalized women. Indeed a criminal justice response has been seen as unnecessary as feminist research has pointed to the impact of women's social marginalization on their criminalization. Criminalized women are generally young, poor, and under-educated (Comack 2014; Johnson and Rodgers 1993). Most women are incarcerated for non-violent, property offences. Johnson and Rodgers (1993) argue that many women who are sentenced to jail or prison are there because of issues with addiction and poverty. Comack (1996) illuminates the clear connections between criminalized women's histories of abuse and their criminal behaviour.

Women's marginalization based on gender is complicated and compounded with other forms of marginalization. Aboriginal women's experience of marginalization is unique because Canada is a settler colonial nation. Although colonization involves a wide variety of practices I highlight three here that the participants centre as key to understanding the lives of the women with whom they work. All three are practices that have involved the apprehension of Aboriginal children from their families and communities.

The first is the Indian Residential School system. Through this system, which operated from the early 1880s to the late 1990s,⁴ over 150,000 Aboriginal children were taken from their

⁴ These dates are approximate as it is difficult to identify exactly when and by what identifying events the IRS system began and ended.

families and communities and placed in schools which strove to assimilate them. Children at the school were not allowed to speak their languages, they were taught their cultures were inferior, and they suffered physical and sexual abuse (for more information on the IRS system see Milloy 1999; Truth and Reconciliation Commission of Canada 2012, 2015). Although these schools no longer exist, and the Indian Residential Schools Settlement Agreement was reached in 2006, the intergenerational effects are being felt by families and communities, as the participants note.

The second broader settler colonial practice that is referenced in my interviews is the “sixties scoop.” This is an issue that is only beginning to be brought to the general public’s attention, with class action lawsuits launched in several provinces. The term sixties scoop refers to a period from approximately 1960 into the 1980s in which Aboriginal children were removed in large numbers from the families and placed in predominantly non-Aboriginal foster and adopted homes. Children were separated from the siblings and often placed in families located far from their own families and communities.

The third aspect of colonization most often discussed by the participants is contemporary child welfare policies, which in several ways are seen as a continuation of residential schools and the sixties scoop. Currently in Manitoba the majority of children in Child and Family Services care are Aboriginal children (Hughes 2013). There are more Aboriginal children in care currently than at any point in history (Blackstock 2007, 2011). Aboriginal children are removed from their families at higher rates than non-Aboriginal children; they are more often removed for reasons related to poverty than abuse; and child welfare services for Aboriginal families are funded at a much lower level than those for non-Aboriginal families (Blackstock 2011; for more information see more of the work done by Cindy Blackstock and work produced and distributed by the First Nations Child and Family Caring Society of Canada). These child removal practices are but a

few of those that make up the settler colonial project in Canada. My description even of these few practices is brief. I discuss them here in order to provide some context for the issues the participants raise and I encourage interested readers to access the large literatures that exist on all of these topics.

These child removal practices, and the other myriad practices and event that make up settler colonialism in Canada, have led to high levels of social marginalization for Aboriginal people. The colonial impacts on Aboriginal people can be seen in stark relief in the Prairie Provinces. Winnipeg has the largest Aboriginal population in Canada (Statistics Canada 2006). When compared to the non-Aboriginal population in Winnipeg, Aboriginal people are less likely to have completed post-secondary education, and have both lower incomes and higher unemployment rates (Urban Aboriginal Peoples Study 2011). A higher percentage of Aboriginal people (43 percent) live under the low income threshold than non-Aboriginal people (16 percent) in Winnipeg (Statistics Canada 2010). This disparity is even higher for children. In 2005 57 percent of Aboriginal children lived under the low income line compared to 20 percent of non-Aboriginal children (Statistics Canada 2010). Brandon and Peters (2014) found a number of factors including the legacy of colonialism, discrimination, and poverty lead to the high levels of homelessness experienced by Aboriginal people in Winnipeg. The settler colonial context of Canada is crucial to understanding the criminal justice response to Aboriginal men and women (see AJI 1999).

The Canadian criminal justice system responds disproportionately often and severely to Aboriginal women. Aboriginal people make up 3 percent of the Canadian population. In 2010 Aboriginal women made up 41 percent of the incarcerated female population (Comack 2014). This over representation is even more pronounced in the Prairie Provinces. In 2008/2009

Aboriginal women made up 12 percent of the general Manitoban population but accounted for 85 per cent of women sentenced to provincial corrections (Mahony 2011). The number of Aboriginal women in prison in Canada has more than doubled since 2004 (Office of the Correctional Investigator 2014). Aboriginal women (and men) are overrepresented in the maximum-security designation (Wesley 2012). Colonization, and the patriarchal relations brought with it, have created a situation of complex marginalization for Aboriginal women, and it is within this context their criminalization occurs (Fontaine 2014; Monture-Angus 1999). Formal criminal justice responses are inappropriate for what feminists have identified as issues of social justice.

Feminists have also shown the myriad ways that the formal system, particularly through the use of prison, harms women. While prisons are inherently violent institutions, they also have many unique impacts on women. As often sole caretakers of children women risk losing custody when incarcerated. Strip searches, while intrusive for anyone, take on a more violent meaning for women who have been sexually assaulted (Kilty 2014; Loucks 2004). Women prisoners spend more time in segregation than men (Balfour and Comack 2014). This occurs despite the fact that segregation has been shown to increase instances of self-harming behaviour (Faith 1993; Kilty 2012, 2006; Martel 2000), which is common and increasing for female prisoners (Balfour 2014; Faith 1993; The Office of the Correctional Investigator 2014). In extreme cases, being incarcerated can result in prisoners' deaths.⁵

For Aboriginal prisoners, prison in many ways mirrors the racist social context of the outside world. Adleberg and the Native Women's Association of Canada (NWAC) (1993) note

⁵ The highly publicized case of federal prisoner Ashley Smith and her death while incarcerated, a death that has been ruled a homicide, stands as a stark contemporary example of the risks of prison for prisoners. See Kilty (2014) for an analysis of the structural and cultural factors of prison that contributed to Ashley's death.

that “physicians, psychiatrists, and psychologists are typically white and male.” (83). They (Adeberg and NWAC 1993) ask, “How can we be healed by those who symbolize the worst experiences of our past?” (83). A failure to engage with these professionals results in Aboriginal women facing further punishment for non-compliance (Adeberg and NWAC 1993). As Martel (2000) shows through her examination of segregation, all aspects of the prison experience are racialized for Aboriginal women. In light of these serious problems, and others, feminist researchers and advocates have called for the decreasing use of incarceration for women.

Despite this, the number of women incarcerated in Canada, and other Western countries around the world, continues to grow. Women are, in fact, the fastest growing group of incarcerated people in many countries, including Canada (Sudbury 2005; The Office of the Correctional Investigator 2014). In the past ten years the number of women in federal custody has increased by 67 percent (The Office of the Correctional Investigator 2014). Since 1995 the number of women in remand has doubled (Kong and AuCoin 2008). Aboriginal and other racialized women have even higher rates of growth (Sudbury 2005). The number of Aboriginal women in federal custody has more than doubled since 2004-2005 (The Office of the Correctional Investigator 2014). Balfour and Comack (2014) predict that several of the Canadian federal government’s recent policy changes, including increased mandatory minimum sentences and the removal of community-based sentences for certain offences, will mean even more women, particularly Aboriginal women, end up behind bars. This increases the need to examine alternative justice programs and to assess what potential they have to offer a more just response to criminalized women.

The use of prison as a criminal justice practice has had many negative effects on women, as outlined above. It has also involved particular ways of thinking about criminalized women.

There have been multiple discourses in the criminal justice response to women. They have been ignored, treated with paternalism and maternalism, targeted with racism and assimilation, seen as outrageous failures as “women,” sexualized, and taught to be more domestic (Faith 1993).

Much of the time criminalized women have been simply neglected, both by criminology and by the criminal justice system. From the beginning of the use of incarceration in Canada in the early 1800s until 1913 women were housed in men’s prisons (Cooper 1993). In 1913 a female prison was built on the grounds of the men’s penitentiary at Kingston Ontario. It was not until 1934 that a separate, female penitentiary was built in Kingston and federal female prisoners from across the country were brought to this new prison (Cooper 1993). Correctional programming and facilities are generally designed with the male prisoner in mind and then applied without modification to women (Task Force on Federally Sentenced Women 1990; see Monture-Angus 1999 for an examination of risk assessment tools and an outline of how this phenomenon is compounded for Aboriginal women). Their small numbers relative to men mean that criminalized women are generally a correctional afterthought.

When women have been considered there have been a variety of ways of thinking about their imprisonment, in both criminal justice system discourses and in the discourses of those trying to reform the system. The predominant early mentality was one of paternalism/maternalism. Here, notions of ideal femininity, motherhood, and domesticity included the notion that women were naturally morally superior to men (Boritch 1997). This was reflected in the response of police, judges, magistrates, and other justice officials to women (Sangster 2001). These ideals also translated into middle-class female reformers arguing that “if given a chance to bring their feminine influence to bear, they could redeem the fallen woman and make her into a ‘true woman’ (Feedman 1981)” (Hannah-Moffat 2001, 29). Strategies of helping

and protecting “fallen” women (Boritch 1997; Minaker 2014), including moral and religious teaching to female prisoners, and training to be good mothers (Hannah-Moffat 2001), were put into practice. Aboriginal women who were criminalized were seen as in need of the same moral uplift as other criminalized women. This was considered both necessary as an assimilative practice and unlikely due to their “cultural inferiority” (Sangster 1999). Criminalized women were incarcerated and supervised under the language of protection and assistance.

Both academic and activist feminists have provided a different way of thinking about criminalized women.⁶ As mentioned above, feminist researchers argue that criminalized women must be situated and understood in their social context. They have highlighted the links between women’s victimization and their criminalization (Comack 1996). Feminists have argued that women’s criminal behaviour can only be understood by confronting hetero-patriarchal, colonial, capitalist structures and discourses. Though this is generally a perspective that is critical of and comes from beyond the criminal justice system, there is a well-documented moment in Canadian correctional history when it was incorporated into the formal justice system.

The Task Force on Federally Sentenced Women and its report, *Creating Choices*, approached the issue of the imprisonment of criminalized women from a women centred, feminist perspective.⁷ The Taskforce was a joint venture between the Correctional Service of Canada and the Canadian Association of Elizabeth Fry Societies (Shaw 1993). Members of the committee included representatives from volunteer organizations and from women’s groups, government members, and two women who had served federal sentences. The inclusion of Aboriginal women’s perspectives was stressed and their unique situation and needs were noted

⁶ This feminist perspective is outlined in more detail in Chapter 3.

⁷ My discussion of the Taskforce and its report is very brief. For extended analysis of the process, final report and implementation see Adelberg and NWAC 1993; Balfour 2014; Hannah-Moffat 2001; Hayman 2006; and Shaw 1993.

throughout the final report, with the Task Force (1990) commenting that “just as we cannot tack women onto a men-oriented system of corrections, so we cannot tack Aboriginal women onto any system be it for men or women.” Although the goal of the Task Force was to examine and recommend improvements to the correctional management of federally sentenced women, the Task Force addressed larger goals of reducing social inequities, and envisioned a future where Aboriginal people have self-determination and where crime is prevented rather than responded to after the fact. *Creating Choices* begins with the voices of federally sentenced women and the analysis the report puts forward consistently situates criminalized women in their social context.

This discourse, however, was absorbed and used alongside dominant ways of thinking about and responding to women. The Correctional Service of Canada was able to construct “women centred” prisons using the feminist analysis provided by the Task Force rather than implement a more far-reaching decarceration strategy. Hannah-Moffat (2001) argues “this selective integration of some feminist ideas and not others contributes to the production of a feminized social control dressed up in therapeutic and feminist language” (197). In the global context, Sudbury (2005) argues that focusing on women’s offending, even when explaining it in terms of the criminalized woman’s social position, “obscures the broader social disorder signified by mass incarceration, and sidesteps the question of why the state responds to abused women with punishment” (xv). Contextualizing women’s offending behaviour in their social conditions is no guarantee that the justice system will change their response in a way feminists and other advocates will find acceptable. *Creating Choices* is one poignant example, documented by feminists, of the “authority and power of the law and its ability to co-opt feminist concerns” (Hannah-Moffat and Shaw 2000, 12; see also Bumiller 2008; Hannah-Moffat 2001; Smart 1995; Snider 2003). One of my objectives in this project is to assess whether informal spaces of justice

are able to provide a way of thinking about and responding to criminalized women that is substantially different and can resist this formal system absorption.

The criminal justice system has long responded to women based on social norms around gender, race, and class (Faith 1993; Minaker 2014; Sangster 2001) but the current strategies of neoliberal governance actually de-contextualize criminalized women from their social context.⁸ Although neoliberalism, both as a general mode of governance and its specific application to criminalized women, will be explored more fully in the following chapters, I provide a brief introduction here for readers unfamiliar with the concept.

Neoliberalism is a ubiquitous concept that is often defined and interpreted differently (Larner 2000). It will be examined in this project primarily as a mode of governmentality rather than as a macro-economic ideology or system, although these two understandings of neoliberalism are connected. In my usage, neoliberalism is a way of thinking about and enacting governance that centres on an active, responsible citizen and his/her ability to make good choices (Rose and Miller 1992). In the context of criminalized women, this has meant a significant change from earlier maternalistic and feminist ideas that the state had a responsibility to rehabilitate or support women to the contemporary mentality that “the offender is responsible for her own self-governance and for minimizing and managing her own needs and the risk she poses to both the public and herself” (Hannah-Moffat 2001, 172). When inequality is recognized as contributing to women’s offending, the response by the criminal justice system emphasizes “the need for prisoners to rectify perceived defects within themselves” (Hayman 2006, 239). Although the response to criminalized women in Canada and many other Western nations uses “gender responsive” language, gender is seen as an individual trait, and there is a “slippage from

⁸ See Chapter Three for an extended discussion of this point.

gender oppression as a political and socio-economic structural force to one that is psychological” (Pollack 2013, 105). The responsibility lies with the individual woman to change her behaviour and make better choices (Hannah-Moffat 2001; Kemshall 2004).

As a corrective to this criminal justice discourse and the use of incarceration many feminist scholars end their critiques of the formal system by calling for alternative justice programs (see for eg, Hannah-Moffat 2001; Sudbury 2006). Despite this recognized need for community alternatives there is very little feminist research that looks at existing alternatives.

Feminist criminologists and socio-legal scholars have examined one particular justice alternative: restorative justice (RJ). They have largely done so, however, only as it relates to women who are victims of crime and, in particular, victims of gendered violence: sexual assault and intimate partner violence. Overall, feminist scholars have argued against the use of restorative justice in cases of gendered violence. For these scholars, the safety of restorative justice is suspect. Many worry women could be physically and emotionally re-victimized during a restorative justice process (Cameron 2006; Curtis-Fawley and Daly 2005; Daly and Stubbs 2006; Stubbs 2002). Some object to the presence of the community in the restorative justice process, arguing that communities provide the patriarchal context in which the violence takes place and as such often may condone the violence if they do not support it outright (Lewis, Dobash, Dobash, and Cavanagh 2001; Stubbs 1995; Coker 2002;). Feminist researchers also worry that by responding to violence against women with something other than the criminal justice system the effect will be to de-criminalize and re-privatize a crime advocates have worked tirelessly to bring to the system’s attention (Cameron 2006; Curtis-Fawley and Daly 2005; Hopkins, Koss and Bachar 2004; Stubbs 2002).

Others argue that restorative justice can bring many benefits to women. Pennel and Burford's (2002) study of a Family Group Conferencing program that addressed violence against women and children found no incidence of violence within the conference and noted a considerable decrease in violence within the families afterwards. The community is seen by some as a key resource for women; involving a woman's friends and family in a process can help keep her safe (Morris and Gellsthorpe 2000). Pranis (2002) and Presser and Gaarder (2004) argue that the community is better equipped than the criminal justice system to provide support, enforcement, and a contextual understanding of violence. A restorative justice process can assist victims to resolve the power imbalance between themselves and offenders, and allow them to tell their story and hold offenders accountable, particularly when used once an abuser has been found guilty rather than as a diversionary program (Miller and Iovanni 2013).

This literature is varied and yet narrow in scope. It has yet to look substantially beyond the issue of violence against women. Feminists have not adequately assessed restorative justice as an alternative for criminalized women. Though some research has looked at differences in attitudes towards and participation in RJ between Aboriginal and non-Aboriginal victims of violence (Coker 1999, 2002, 2006; Goel 2000; Nancarrow 2010), feminist analyses of RJ on the whole have not paid sufficient attention to the intersections of gender with other forms of marginalization.⁹ Nor have they examined the discursive aspects of the practice. As Daly and Stubbs (2006) call for: "realist approaches need to be supplemented by phenomenological and discursive approaches that, although rarely used in RJ research, offer the potential to deepen our understanding of gender (and other social relations) in RJ process" (16).

⁹ Barbara Hudson's work (1998, 2003, 2006) stands as a clear exception to this.

There are good reasons to believe that restorative justice could be useful for criminalized women. It has been described as a form of justice that gives conflict back to communities (Christie 1977; Van Ness and Strong 2002), inspires empathy and change in those who break the law (Braithwaite 1996; Sullivan and Tifft 2005), and allows victims to forgive and to heal (Elliott 2011). In contrast with the formal system wherein justice is delivered by professionals and punishes to little or no effect, restorative justice promises to engage those affected by crime, to build relationships, and to make lasting change (Llewellyn and Howse 1998; Zehr 2005). Perhaps, in their community offices, away from the justice system, these agencies are engaging in practices that create this type of justice – empowering, participatory, and community building.

Critical criminologists are, however, skeptical of the degree to which RJ and other alternative justice forms represent real alternatives. Stanley Cohen's classic book *Visions of Social Control* (1985) remains one of the most influential studies of alternative justice. Cohen (1985) argues that the effect of the movement to deinstitutionalization and the appearance of community control or community alternatives has not been to diminish the reach of the formal criminal justice system. Rather, these alternatives have increased the number of people processed by the system, increased the level of intervention, and supplemented rather than replaced the formal institutions. Social control is rendered invisible and stretches further into society through the use of alternative programs (Cohen 1985).

Other scholars, coming from a different critical perspective, have reached similar conclusions. Restorative justice theory and programs have been critiqued for over emphasizing their difference from the criminal justice system. RJ programs are often “evaluated, vetted, approved, funded (wholly or mainly) and even initiated by state officials” (Pavlich 2005, 19). They receive participants via referral from the criminal justice system (Woolford and Ratner

2008). They are not discrete, separate spaces in the way restorative justice theory often portrays them. Beyond these practical linkages, Pavlich (2005) shows a deeper theoretical connection between restorative justice and the criminal justice system, arguing that “it is presented as a separate and autonomous entity; yet its foundational concepts derive from the very system it claims to substitute” (14). These critics are pessimistic about the potential for restorative and other alternative justice programs.

One of the few pieces of research that looks at community alternatives for criminalized women is Madonna Maidment’s book *Doing Time on the Outside*. Maidment takes Cohen’s work and uses it from a feminist perspective. I will discuss Maidment’s book in detail, despite the problems I identify below, because it stands as one of the few research projects that has addressed the experience of criminalized women in the community from a feminist perspective. Her research consists of a socio-demographic profile of all sentenced women in Newfoundland and Labrador over eleven years and twenty-two semi-structured interviews with prisoners and ex-prisoners (Maidment 2006a). Maidment’s focus is on structural inequalities that frame women’s criminalization and “the omnipresent control functions of penology at the local level” (Maidment 2006a, 4). She argues that once women are released from the formal control of the criminal justice system they remain entrenched in a system of local, transcarceral controls (Maidment 2006a).

Maidment uses the concept of transcarceration, to argue that social control expands from the criminal justice system to embrace other institutions, such as education, health and welfare, as well as spaces beyond institutions. This “peno-judicial, mental health, welfare, tutelage complex” pushes social control in the community and results in more control as “the control mandate will increasingly entail ‘fitting together’ of subsystems” (Lowman, Menzies and Palys

1987, 9). Maidment (2006) uses this concept convincingly when she discusses the continuing contact that women have with various institutions when they leave prison, particularly the medical system. Sixty percent of the women in her study, though out of jail or prison, are either residing in mental health facilities or have full-time home care. She provides many stark examples of child welfare and social welfare agents' continuing surveillance of and control over women. Maidment forcefully makes the point that a variety of institutions are involved in the control of women upon their release from jail. As one of her participants states: "It's much more than the criminal justice system. It's the mental health system. It's social services. It's every other system that plays into it" (Rebecca, quoted in Maidment 2006a, 131). While I do not disagree with this analysis, Maidment overextends her reach and makes a number of unsupported claims.

Throughout her book, Maidment documents the overlapping institutional controls women face upon their release from prison. She makes a strong case for the transinstitutionalization of criminalized women. Maidment (2006) argues, however, that transinstitutionalization is not a robust enough concept to capture criminalized women's reality, that we must focus on "women's entanglement with/in the criminal justice system and with other state and/or local agencies" (5). The data she provides, however, only deal with state institutions, though sometimes in their local form. While she provides no data on the type of non-profit, community agencies studied here she does offer several sweeping conclusions about them. Maidment (2006) argues that "local agencies reliant on core government funding are now expected to be everything to everyone. For the state, that means doing business at a cut rate with non-profit agencies and without interference. For the non-profit organizations, surveillance now takes precedence over advocacy. For women who have been in prison, this means a replication of control and a diminished trust of

local agency staff who double as counsellors and enforcers” (147). This claim, which she makes several times, is not supported with any specific data from her study, nor could it be since she only interviewed criminalized women not staff at non-profits or government officials. While she is correct in arguing that “community” can mean many things to many people, she does not seem to give it any meaning beyond being “an elusive concept that has been too easily appropriated by the state to engineer support for limited initiatives that fail to grapple with fundamental inequalities in corrections” (18). Maidment (2006) relies heavily on Cohen’s theory of social control and so assumes a priori that community or local initiatives will simply extend state control, but she does not show it through data beyond local offices of state institutions. Maidment (2006) concludes that there has been “a co-opting of local organizational missions and principles to accommodate state-imposed policies and practices” (123) and thus leaves no room for the community to act as a space of justice for criminalized women.

A fundamental problem with the research that does look at community justice more broadly defined – including Maidment, Cohen, and the feminist literature on restorative justice – is that it constructs a binary notion of alternative justice. A simple definition of informal justice sets it as a non-state justice, based in the community (Pavlich, 2005; Feenan, 2002). Beginning from this type of definition leads to a tendency to set up informal justice and formal justice, the criminal justice system and community, as separate and distinct spaces that either remain untouched by each other or in which the state/system/formal dominate the community/informal. Here I frame these practices differently. Following much of the contemporary critical criminological literature, I use a Foucauldian framework that sees power and governance as diffuse. This approach looks for power everywhere and thus does not see the community as a space free of power relations. It also sees power relations as mobile and always containing the

conditions for resistance, refusing to see the community as only ever dominated/co-opted by the state.

This project began, then, as a conscientiously exploratory one. I did not want to assume before the empirical research that these programs were alternative or mainstream, good or problematic. Practically I defined informal justice programs as those that are operated by a non-profit, social service agency and provide a service to criminalized women. One of my main analytic tasks has been to determine the degree to which they are informal or formal and what that means to the participants. To that end the project got off to an inauspicious start when, before the tape recorder had even been turned on, my first interviewee said “I wouldn’t call what we do here informal” (Hannah). In Chapter 2 I describe the various formal and informal elements of the programs. I want to note here that there are enough formal elements to the programs – formal relationships, goals, and practices – that labelling the work the agencies do “informal justice” quickly began to feel inaccurate. While no other participant challenged my use of the phrase “informal justice” as Hannah did, neither did any of them use it. That being said, they did feel like they were providing something that was different than the formal justice system. Overall, my language has shifted. Unless referring specifically to the informal components of the programs I use “alternative justice” to describe the programs here rather than “informal justice.” I do so whilst acknowledging that this too is an imperfect label. When I turn to the mentalities present in the programs it is clear that they are very similar, in some ways, to the criminal justice system rather than clear alternatives. There is discursive power in the framing of something as “alternative,” as Pavlich (2005) clearly demonstrates, and using the word “alternative” evokes the binary that I am trying to avoid. That being said it is the most useful phrase. I use this label here because it reflects most precisely my participants’ understanding of their work.

Throughout this project I utilize a Foucauldian feminist perspective. I begin from the feminist commitment to identifying, analyzing, and ending social inequality based on gender and intersecting power relations. I find Foucault's work, and the work of those feminists who have used Foucault, to be indispensable tools. In particular I use his concepts of power/knowledge (Chapter 1), power (Chapter 2), the subject (Chapter 3), governance (Chapter 2 and 4), and resistance (Chapter 5) to structure the dissertation.

Foucault's ideas, and the multiple other authors and ideas grouped under postmodernism or poststructuralism have not been taken up by feminists un-problematically. For each concept I use, I briefly outline the feminist debates around it. One criticism that is shared by feminists that use his work (and those who reject it) is that Foucault himself does not address gender, despite the seemingly clear relevance it posed to his work, especially his work on sexuality and the body (Foucault 1978). This is not reason enough to dispense of his work entirely but it does mean that throughout this project, though I acknowledge the influence of Foucault's work, I often rely more heavily on feminist interpretations and uses of Foucault than on Foucault himself.

I use a Foucauldian feminist perspective in order to overcome the binary framing of alternative justice that plagues much of the literature. I adopt this perspective in order to examine community justice programs for women in such a way as to move out of the dilemma of total alternative to/extension of the system and to provide a more discursive feminist analysis. The project addressed two primary research questions: How are criminalized women governed in informal spaces of justice? What is the potential for resistance to dominant practices, subjectivities, and mentalities of governance? These are the questions that have brought me into alternative justice offices.

Structure of the Dissertation

In Chapter 1 I outline both my epistemological and methodological choices. This is a poststructural project. While I rely mostly on Foucault's work, in this first chapter I outline poststructuralism as a broader perspective and argue that it is useful here in order to get at the ways in which the alternative justice programs constitute and then respond to the Criminalized Woman.¹⁰ This chapter also contains a detailed account of the data collection procedures and a reflection on my role as researcher.

Chapter 2 focuses on the question: What alternative justice options exist in the community for criminalized women? I outline the various programs offered by community agencies in Winnipeg. I argue that not only do the programs engage in alternative justice work, they also offer care, advocacy, and culture services to criminalized women. By examining the work the programs do, various features of the programs, and the goals they have, I argue that the programs are neither entirely informal nor formal; instead, they have elements of each type of justice. Using governmentality theory and literature this chapter analyzes the programs as being articulated into neoliberal government at a distance.

Chapter 3 focuses on the subject of governance for the programs, looking at how staff and program documents constitute the Criminalized Woman. I outline the three main subjectivities found in formal correctional discourse: the Neoliberal Subject, the Psychologized Woman, and the Victimized Woman. Turning to the alternative justice discourse, I argue that the dominant subject positions are reconstituted there with slight modifications. However, where the

¹⁰ Criminalized Woman is capitalized here and throughout to refer to the subjectivity constructed in justice discourse. This is distinguished from the non-capitalized, and plural, criminalized women who are the actual people responded to by the criminal justice system and alternative justice programs.

Neoliberal Subject is the overriding subject in the formal discourse, my participants primarily constitute the Criminalized Woman as the Marginalized Woman.

Chapter 4 analyzes the mentalities of governance present in the data. How do staff think about the work they do with criminalized women? Embedded in their description of their work is a strong neoliberal discourse on knowing and changing the self. Staff engage in a variety of practices that encourage criminalized women to become experts on themselves and work to change themselves. Alongside this, however, is a clear ethic of care. In this chapter I argue that these two governing mentalities interact in a contradictory manner, in some ways reinforcing neoliberal discourses and in other ways challenging them. The primary challenge I identify is the deployment and analysis of the techniques of the self offered to criminalized women as techniques of self-care. I argue that they fulfill many self-defined needs of criminalized women and assist in building capacity in women.

Chapter 5 brings the analysis together and assesses the degree to which the programs resist dominant neoliberal criminal justice discourses. I argue that there are a variety of strategies of resistance present in the programs that allow them to be spaces where staff and criminalized women can resist. This resistance is both constrained and enabled by the programs' placement in the justice complex and their role as governing spaces.

In the Concluding chapter, I summarize the analysis and argument of the dissertation and speak to some of its limitations. From these limitations several future directions for research are considered. Several of the key findings also point to future work that could be done in this area. In this chapter I also offer some concrete recommendations for programs engaged in alternative justice work.

I argue throughout the dissertation that the programs under study are not wholly informal, that we must think of them as spaces of governance, which in many instances contain dominant criminal justice discourses. That is not to belittle the work that is being done by staff. In one important sense some of these programs are doing something radically different for some women: they are getting them out of institutions. Elizabeth Fry's bail program allows women to avoid custody on remand. If not for this program the women they work with would be sitting in Winnipeg Remand Centre waiting for their case to come before the court. Eagle Women's Lodge allows women to serve a portion of their sentence in the community and in doing so assists women to come out of provincial jails and federal prisons. Though I will argue throughout this dissertation that the distinction between informal and formal is nuanced, complex, and often overstated, for criminalized women the difference can be stark. As Caitlin described it, it is a difference "in terms of custody and freedom" and by participating in the program "they can walk outside and breathe the fresh air." As someone who has always been able to walk outside, I do not want to minimize this difference with the analysis that follows.

CHAPTER ONE THEORETICAL AND METHODOLOGICAL CONSIDERATIONS

Introduction to a Feminist Poststructural Project

Both labels I have taken here, “poststructural” and “feminist”, are terms that encompass a variety of authors and perspectives. Poststructural is often used as specific descriptor within the even broader field of postmodern theory. Jacques Lacan, Jacques Derrida, and Michel Foucault are all cited as contributors to poststructuralist thought. This project specifically employs the work of Foucault. I read Foucault, however, through a feminist lens. Feminism is the primary epistemological, theoretical, and political commitment of this project. As a feminist project this research is motivated by an overarching commitment to the end of social injustice and oppression based on gender, race, class, sexuality, and other markers of difference. Prefacing my label of feminism with poststructural or Foucauldian assists in locating the project within the wide and varied field which is contemporary feminism.

In this chapter I begin by outlining the broader position of poststructuralists. I then focus on the usefulness of Foucault for feminism and describe some of the ways in which feminists have put Foucault’s ideas to work. This is a task that I engage in within the following chapters as well. Here, I focus on his ideas around knowledge/power and discourse. These notions have all been utilized by feminists as correctives to flaws and biases identified in positivist epistemologies and methodologies. Feminists have also used Foucault’s ideas to construct an anti-essentialist account of gender.

After discussion of my overarching theoretical framework, I present my study design, in particular, the epistemology and methodology that guided my research. I also situate myself in the research and discuss the impact of my identity on the data. Finally, I discuss the data analysis approach I took in this project and outline some of the specific analysis strategies I used.

Ramazanoglu & Holland (2002) argue that whatever the epistemological and methodological choices made by a researcher “if feminist knowledge claims are to be well-founded, well-justified, and useful for social transformation, they must be able to stand up to criticism. Researchers should be clear about how their claims can be challenged and defended” (146). It is in that spirit that I outline in some detail here my methodological choices.¹¹

Foucault and Feminism

One generally unifying feature of feminist thought is a highly critical view of positivist claims of value or power-free knowledge (Flax 1990; Fraser and Nicholson 1990). Harding (1990) argues that “objectivism places women and feminists firmly outside a tightly defended barricade within which is claimed to lie all there is of reason, rationality, scientific methods and truth” (87).

Feminists have argued that knowledge claims purported to be universal are based on the particular experience of privileged men (Haraway 1990; Nicholson 1990).

Feminists have drawn on Foucault’s notion of knowledge/power as an alternative way of thinking about epistemology. He too is critical of the idea that science or rationality can produce Truth.¹² Instead, Foucault argues that knowledge is always tied to power. The link he draws between knowledge and power goes beyond the idea that knowledge is power or that power can enable knowledge; rather, Foucault argues “that power and knowledge directly imply one another; that there is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time power

¹¹ I also recognize, however, in the spirit of my particular poststructural choices, that this is a strategy of power and legitimation. I cannot offer a clear window into my project, I can only offer my construction of it, one which is designed to be persuasive even in the move to make it as transparent as possible.

¹² Truth is capitalized here and later in this chapter to signal the claim that there are immutable, trans-historic truths and to problematize that claim.

relations” (1977, 27). Foucault argues that knowledge and power always co-constitute and implicate one another. Foucault’s task then is to trace the ways specific forms of knowledge support certain power relations and the particular types of knowledge inherent in power relations (Foucault, 1980).

Foucault’s notion that all knowledge is implicated in power has been a particularly useful tool for feminists to analyze the universalizing tendencies of feminism. If all knowledge is implicated in power there is an imperative to examine the ways in which feminist knowledge creates and reflects oppressive power relations, as Flax (1990) suggests when she argues “we cannot simultaneously claim (1) that the mind, self and knowledge are socially constituted and that what we can know depends upon our social practice and contexts and (2) that feminist theory can uncover the truth of the whole once and for all” (48). Feminists have used Foucault-inspired analyses to show that often when feminists speak of “woman” they are denying the differing experiences, realities, and power relations that exist within that group, based on other axes of difference such as class, race, and sexuality (for eg, Butler 1995; Flax 1990). Those working from a Foucault inspired feminism are not the only ones to critique essentialist notions of “woman.” The unique contribution of poststructural feminism is the conclusion that we can never settle on a firm foundation of identity because “identity categories are never merely descriptive, but always normative, and as such exclusionary” (Butler 1995, 50). It is not simply a matter of adding other differences to our analyses but of always thinking about what our additions, our definitions, allow and disallow and how that is connected to power (Scott 1992). Foucault’s concept of power/knowledge has, for me, meant that we can – and must – bring feminist knowledge and discourses into the field of our critical analyses. This dissertation

analyzes the role of feminist knowledge and discourses in the governance of criminalized women.

Although many feminists have argued the concept of power/knowledge is a powerful tool for feminist theory others remain skeptical (Harstock 1990, 1996). Here it is sufficient to say that there is nothing in Foucault's work, or in feminists' use of that work, which precludes our ability to accurately trace the use of discourse and the constitution of subjectivity. There is a rejection of any transcultural, transhistorical Truth. There is a commitment to being critical about the use of and the implications for power relations in every claim, including particular, contextual truth claims. That is part of the usefulness of Foucault for feminism because it can assist in identifying, interrogating and ameliorating oppressive power relations.

The object of study for this project is discourse. This is due to the ontological claim made by Foucault that the subject, identity, and power relations are constituted in discourse¹³ (Foucault, 1980). For Foucault, and poststructuralists generally, language is not simply a representation of reality; rather, it is the site of reality construction (Weedon 1997). Flax (1992) argues "to the degree that thought depends on and is articulated (to ourselves and others) in language, thought and the 'mind' itself will be socially and historically constituted" (453). The knowledge we create is in turn constructed through language. As researchers the goal is not to get as close to reality as we can, not to uncover the *real* experiences or *real* people in our data, because we are unable to access these in an unmediated way. Instead it is to identify the ways in which social reality is constructed through discourse.

Discourses, according to Foucault, are not stable or only ever produced in dominant ways: "Discourse transmits and produces power; it reinforces it, but also undermines and

¹³ I discuss language, discourse and gender identity here. The subject and power relations are dealt with in more detail in subsequent chapters.

exposes it, renders it fragile and makes it possible to thwart it” (Foucault 1978, 101). That is not to say that there is ever one dominant discourse and one resistant discourse. Instead, Foucault argues we must view discourses as tactical elements that can be deployed in any number of ways (Foucault 1978). I have approached the analysis of the data for this project heeding this point of the multiplicity of discourses and uses of discourse. The analytic value of this approach becomes clear in chapters Three, Four, and Five, where I trace the multiple and overlapping discourses present in the alternative justice programs.

A key aspect of a feminist poststructural epistemology is that language is the site of both the construction of and resistance to social inequality (Weedon 1997). Weedon (1997) defines poststructural feminism as “a mode of knowledge production which uses poststructural theories of language, subjectivity, social processes and institutions to understand existing power relations and to identify areas and strategies for change” (40). A main tenet of this approach is that gendered identities are constructed in discourse. Those working from a feminist poststructural position argue that “it is language in the form of conflicting discourses which *constitutes us* as conscious thinking subjects and enable us to give meaning to the world and to act to transform it” (Weedon 1997, 31 emphasis added). This perspective analyzes discourse with a focus on how the discourse is structured and what power relations and subjectivities are produced and reproduced (Weedon 1997). Throughout this project I use a number of Foucault’s concepts to analyze the power relations constituted through alternative justice discourse.

Judith Butler (1999) has offered an extended and detailed theorization of gender in this perspective. For Butler (1999) gender is neither an intrinsic characteristic, nor a cultural construct that follows from a pre-discursive sex, instead, gender is performative. It is not that gender causes people to become either masculine or feminine but that these identities cause

gender, that is “that identity is performatively constituted by the very ‘expressions’ that are said to be its results” (Butler 1999, 33). Discourses, particularly the practices of compulsory heterosexuality, create the gendered identities of subjects. This is an unstable process not a fixed event. Discourses must be repeated and in this repetition there is room for failure and resistance (Butler 1999). Butler’s (1999) task is to “deconstruct the substantive appearance of gender into its constitutive acts and locate and account for those acts within the compulsory frames set by the various forces that police the social appearance of gender” (44). For poststructural feminists generally the goal is to destabilize discursive constructions of gender (Weedon 1997).

Feminist criminologists have taken these poststructuralist, Foucault-inspired ideas to examine the ways in which law and justice operate on women as discourses. Smart (1992) traces the ways in which the “Bad Mother” is brought into being through law and argues that this mother works “to reinforce our cultural understanding of what ‘proper’ motherhood means” (39). McCorkel (2013) traces the gendered and racialized ways that medical discourses on addiction and neoliberal discourses around responsibility in prison construct a “self that must be ‘surrendered’ to a lifelong process of external management and control” (12). Hannah-Moffat (2001) adds social reformer and feminist knowledge claims to those which impact how the criminal justice system constitutes and responds to criminalized women. These studies have added detail and depth to Martin’s (1988) Foucauldian feminist claim that “woman, as a category of meaning, and women have been subject to the gaze, the interventions, and the control of medical, psychoanalytic, and aesthetic experts who do the work of limiting and regulating what it means to be a woman in line with the exigencies of their own discursive fields and legitimating truths” (14). This project looks at the ways in which this is done for the Criminalized Woman in alternative justice.

The object of study here is alternative justice discourse. The questions the research addresses are: How do the alternative justice staff position themselves in relation to the criminal justice system? How do they construct the criminalized woman? With what mentalities of governance do they respond to her? These are not questions of how they are *really* positioned, what they *really* do, who the woman is with whom they *really* work. Instead, I examine the constitution of all of these things in the discourses used by staff. This is important. It affects the ways they practice their justice, funding, and relationships. So while I do not study the material practices and relationships here, they are not totally separate; they depend on each other.

Foucauldian feminism rejects the humanist idea that we can ever “get it right” once and for all. It rejects the idea that there is *a* way forward for everyone, everywhere. Those working from a poststructuralist perspective do not claim to offer an alternative regime of truth. It is not the case that previous, modernist theories were wrong and poststructuralists are right. Instead, the goal of these types of analysis is to examine “the functions and effects of any structure or grid of regularity that we put into place” (St. Pierre and Pillow 2000). Doing poststructural research is to enact a contradiction; it is to “question the belief in representation even as [I] must practice representation as a way to intervene critically in the constitutive constraints of discourses” (Britzman 2000, 38).

Though I start from a poststructuralist epistemology, one that sees all claims to knowledge as enactments of power relations, I do not hold to the logical end point of complete relativism. Throughout my work on this project, but particularly here in the writing of my methodology, I have struggled with a dilemma that Donna Haraway (1988) outlines: “how to have *simultaneously* an account of radical historical contingency for all knowledge claims and knowing subjects, a critical practice for recognizing our own ‘semiotic technologies’ for making

meanings, *and* a no-nonsense commitment to faithful accounts of a ‘real’ world” (579).

Bosworth (1999) discusses her own ways of dealing with the “twin problems of representation and legitimation” (84) in her research in women’s prisons. She strives to resolve it through thick description of data and a lengthy reflexive chapter on methodology, the title of which speaks to her, and my own, unease about methods “Towards Legitimate Research Methods” (Bosworth 1999). The rest of this chapter describes some of the strategies and techniques I employed to construct data that were faithful to the ways in which the discourse I analyze here exists in the justice complex.

Research Design

The agencies under study were selected through a purposive and snowball sampling method. An Internet search was conducted for Winnipeg agencies that provide service to women who have broken the law. The only sampling criteria for agency inclusion was that the agency be a non-profit, social service organization that works with women. At each interview I asked participants if they knew of other agencies doing this type of work. This process yielded seven agencies: Onashowewin, Mediation Services, Salvation Army, Elizabeth Fry Society, Native Women’s Transition Centre, New Directions, and Restorative Resolutions, all of which run a variety of programs for criminalized women.

The agencies range from mid-size, all-encompassing community agencies that have specific justice programs, like New Directions and their program Transition Education and Resource for Females (TERF), a program for women involved in the sex trade, to small specifically justice oriented agencies, like Onashowewin that self-describes as Winnipeg’s only Aboriginal Restorative Justice agency. Some are societies affiliated with national organizations

like Elizabeth Fry and Salvation Army while others are local institutions like Native Women's Transition Centre and Mediation Services. Native Women's Transition Centre historically has worked with women who are victims of violence, but in 2011 they opened Eagle Women's Lodge, a residential facility for criminalized women. My criteria demanded only that they work with women, not that the programs work exclusively with women. Elizabeth Fry, Eagle Women's Lodge, and TERF work only with women while the other organizations work with women and men. All of the participants, however, made gender-based distinctions in their discussion with me.

The recruitment process was the same for all seven agencies. A letter (see appendix A) was sent to the Executive Director (ED) of the agency. A follow-up phone call was made a week later in which I both invited the ED to participate in an interview and requested the opportunity to recruit staff and volunteers. This process was slightly different for Restorative Resolutions (the unique circumstances of that program are outlined below).

Once the initial contact had been made with either the Executive Director or program head at each agency the recruitment process for staff varied. At two agencies I gave presentations to staff, circulated my contact information and recruitment letter and asked anyone who was interested to get in touch with me. At one agency the ED introduced me to staff individually, those staff gave me their contact information and I followed up with email invitations to participate. At one agency the ED circulated my letter among staff, two participants responded and I asked them to circulate my letter among volunteers. At one agency only one staff member was made available and at another a request to invite staff was denied by the ED on the grounds that they could offer no information beyond what she had already provided.

Two of my participants were staff members at Restorative Resolutions. Restorative Resolutions was originally a program sponsored by the John Howard Society and funded by Manitoba Justice (Maloney and Lloyd 2003). As outlined by Maloney and Lloyd, the program was a community-based sentencing program, focused on combining restorative justice with “what works” case planning and staffed by criminal justice staff seconded from throughout the system. Once a referral was made to the program a case planner would develop a community-based plan “which is similar to a Pre-Sentence Report, but more complex” (Maloney and Lloyd 2003). If the court accepted the plan, the case planner and Restorative Resolutions would be responsible for supervising the individual in the community. The John Howard Society’s website describes Restorative Resolutions as a “unique partnership between the John Howard Society of Manitoba and Manitoba Justice” (<http://www.johnhoward.mb.ca/wp/programs-services/restorativeresolutions/>). While not fully run by a non-profit, community group this categorization of the program as a partnership and the focus of the program on restorative justice and community alternatives led to my decision to include the program in my sample.

Upon beginning the recruitment process I began to realize that describing the program as a “partnership” between Manitoba Justice and John Howard was probably an overstatement. The acting ED of John Howard referred me to the Area Director for Restorative Resolutions. The Area Director referred me to Manitoba Justice’s Privacy and Access Co-Ordinator. I supplied a brief summary of my project and the interview schedule to the Co-Ordinator and arranged a meeting for the three of us to discuss the project. Both the Area Director and the Co-Ordinator were enthusiastic about the project; they brought a research agreement between myself and Manitoba Justice and offered more access than I needed for the project. My interactions with the Justice staff and the agreement with the province both stem from the fact that Restorative

Resolutions is an official justice system program. It is, in fact, a probation office, housed above the John Howard Society offices but run by Manitoba Justice.

I conducted interviews, despite knowing that the program was a justice system program, in order to assess the degree of community involvement and to examine any informal elements of the program. Regardless of the online mention of partnership, the main relationship my participants identified with John Howard was a historical one. They noted that currently they refer their clients to some of the John Howard services and share a physical space. My participants stressed that the work they did was the same as any other probation office: “Ok, so we’re actually a probation unit. We just sort of have a different slant.” This component generally involved providing victims with more information than would usually be shared, occasional victim offender mediation which they outsource to Mediation Services and more community service work for offenders. As one Restorative Resolutions staff member clarified, “Yep that’s really the only difference. The involvement with the victim and then, you know, for example, if it is going all the way to mediation, that would be something that you would be helping prepare the person for. Helping them write their apology letter, you know, those kinds of things. I think we do, do a little more work too on trying to understand victim empathy. But that’s not something that is exclusive to us, that’s something that other offices do. So really the only piece is the restorative piece.” While the staff had, in the past, backgrounds in a wide variety of criminal justice roles they are now probation officers.

Based on the fact that the program is a justice system program and the lack of substantive informal elements to the program I decided the program did not meet my sampling criteria and chose not to include the data acquired from Restorative Resolutions in the analysis presented in this dissertation. I am sincerely grateful for the participation of the program, as I am for all my

participants. Though I do not include these data in the core of the analysis they were often useful as comparative data. There were only two interviews and I do not mean to suggest that I engaged in a robust comparative analysis, but reading these interviews, and the more dominant criminal justice system discourse they contained, alongside the others often assisted to clarify some of the unique things the bulk of the data contained. Morse (1995) argues that in qualitative research “it is often the infrequent gem that puts other data into perspective, that becomes the central key to understanding the data” (148). The Restorative Resolutions interviews assisted several times in elucidating aspects of the other data.

This study consists of fifteen participants from six agencies. All of the participants were staff of the agencies. Though the number of participants is relatively small this is, in part, a reflection of the size of the agencies. My final sample of seventeen is far smaller than my proposal aspiration of 30 to 50. This is, in large part, because of an ignorance on my part as to the size of the agencies in Winnipeg and the number of paid staff. The percentage of staff that participated ranges from 3.5 percent in one case, to 80 percent in another. To the best of my knowledge, no Winnipeg agency which met the sampling criteria was excluded from the study.

Participants shared many demographic details. The majority were women, only two of the participants were men. Though I did not ask for my participants to do so, the majority identified as Aboriginal. Eleven of the seventeen participants self-identified, several did not specify beyond Aboriginal or Native but some identified as Métis, Mohawk, and Inuit. Most had long careers in front-line service, either in the agencies they were currently in or other community agencies. Some came from social work backgrounds. A few became interested in justice-related work through their university study. Besides the two probation officers at

Restorative Resolution only one participant spoke about any formal justice system experience: she spent several years as a correctional officer.

Each participant took part in a semi-structured, in-person interview. The interviews ranged from 25 minutes to just under two hours, with most being around an hour long. Each interview was structured around a set of predetermined questions (see Appendix B) designed to elicit descriptive data about the work the individual and the program does, the women they work with, and the relationship of the agency or programs to the criminal justice system. These questions served mainly as a guide with the interviews sometimes going in unexpected directions at the lead of the participant. In most cases the first question “Can you walk me through the process” was enough of a prompt for the participant to describe at length the work they do.

Participants were asked if they consented to the interview being audio recorded and transcribed in full. All but two gave permission to do so. The two that were not audio recorded were documented with copious, sometimes verbatim, notes. Both summary and analytic notes were taken during all of the interviews and were later transcribed and treated as data. The audio recordings were transcribed in full and the data presented throughout the following chapters has been left without significant modification in order to retain the voice of the participants. Data have been edited to omit pauses and most interjections (um, like, so) unless they change or contribute to the meaning of the statements.

Throughout the presentation of the data the agencies and programs they run are named. Participants were informed that this would be the case but that their identity would be kept confidential. Each participant was assigned a pseudonym and this name accompanies most of the data presented in the following chapters. In some instances no participant is identified with the data. This is done mainly in cases where the program or agency is named, as in “one participant

from Onashowewin described their work as...” In cases like this I felt that presenting the pseudonym along with the name of the agency could potentially work to reveal the identity of the participant. A reader could link all of the statements made by that participant and identify where he or she works, with that information they may be able to make a reasonable guess as to who that person was. The alternative justice community, and non-profit community in general, in Winnipeg is small so in order to fulfill my commitment to confidentiality the data are sometimes left unattributed.

As supplementary data, program documents were also collected and analyzed. Any and all information pertaining to the agency or program involved in the interview process was transcribed in full from the official websites. I also conducted Google searches in order to find media and government related documents for each agency or program. I did not specifically ask for any documents from my participants, but in four cases participants offered me documents ranging from program brochures not available online to intake forms to demographic statistics to research reports carried out by the organizations. I was also able to access a large number of planning and partnership documents for one program that had been collected for another research project.

Data Quality

This project studies alternative justice discourse and the ways in which it draws on larger discourses. In accessing this discourse I have also participated in creating it. In a very concrete way these results cannot be generalized. This particular discourse was created by me and my participants. It draws on and replicates broader discourses but it was constructed in the interview process. That being said, there is reason to expect that the discourse drawn out of these

interviews bears a fair resemblance to the one used by my participants in their daily work. Discourses are not created anew with each individual. Instead, we constantly draw on dominant discourses. So although the particular conversation between myself and participants may be one that is new it was created by drawing on established understandings, knowledge, and ways of thinking and acting. I believe that the interviews reflect the discourses that staff bring to bear on their work. This expectation rests on the criterion of saturation. Saturation is a key measure of data quality in qualitative research and refers to “collecting data until no new information is obtained” (Morse 1995, 147). The time between the interviews assisted in assuring that saturation had been obtained. The first interview took place in May 2013, the last in December of the same year. By the time I conducted the last three interviews in late November and early December I had been organizing, coding, and analyzing the other interviews and could tell that nothing new was coming from the last three.

The interviews formed the core of the data for this project. The documents I collected, as described above, allowed me to better assess the saturation of the interview data. There was no main information or themes or identities that were present in the document data but absent in the interview data. At the same time, much of the content of the interviews was reproduced in the document data. In some cases, such as the case of the intake interview schedule, the documents allowed me to see in more detail aspects of the program about which the participants spoke. Wood and Kroger (2000) argue for the use of natural discourses in discourse analysis, ones that do not occur at the researcher’s behest. The document data in this study represent a more natural discourse of the programs under study and that discourse mirrors the discourse produced through the interviews. This assists in confirming that while both my participants and I were active in shaping the interviews, the transcripts do reflect the discourses present in the agency’s work.

My Identity and its Impact on the Data

Reflexivity is a key feminist methodological issue. Feminist researchers are concerned with the ways that their social positioning, power, and privilege impact their research (Hesse-Biber 2014). In particular feminists are sensitive to questions of identity and difference between themselves and their research participants. Much feminist research begins with a statement of the researcher's positionality. This is a laudable exercise in so far as it recognizes the social embeddedness of the researcher. It aligns very closely with poststructural arguments about power/knowledge and can allow researchers to reflect on the ways their power has shaped their research. However, even upon reflection, it is not always clear how the researcher's identity has impacted the research. In her ethnographic research Haney (1996) argues that this task was near impossible due to the multiple and sometimes shifting identity positions she occupied through the course of her field work. Haney outlines the conflicting ways that her role as academic and her age, gender, and class in turn positioned her as a powerful outsider and an insider. She urges researchers to adopt an "understanding of reflexivity that recognizes the power dynamics of particular research settings" (Haney 1996, 776). As both researcher and participants hold a variety of identities the impact of the various aspects of difference can change throughout the interview (Hesse-Biber 2014).

This discussion resonates strongly with my experience in conducting the interviews for this dissertation. Several key facets of my identity – my (assumed) class position, whiteness, and role as a student – were all salient in the interview context but not in ways that clearly positioned me as the powerful researcher. Below I outline my reflections on how these identity markers contributed to the content of the interviews.

Feminist researchers often position themselves by speaking to their power and the ways in which this, potentially, constrained their data. The most striking impact of my identity was not how it silenced my participants but the particular ways it incited my participants to speak. Foucault's argument that power is productive is well heeded here. My role, particularly as a non-Aboriginal person and as a student, led my participants to offer information that they would not have had I been Aboriginal or a more established researcher. Hesse-Biber (2014) notes that being an outsider can mean the researcher asks questions that may have been taken for granted by an insider. In this project, without my asking, participants spoke to things that would have been taken for granted with an insider.

The role of researcher, academic, or scientist, is often held to be a powerful one. Researchers look for ways to minimize the impact of their expertise upon research participants. This was a role, an identity, that was not precisely the one I occupied. I am, and clearly identified myself as, a student. I described my research as a project I must complete for my degree. I stressed that I wanted to learn from the participants. When this was combined with my relative youth participants treated me very much as a student to teach.

Because I am not Aboriginal my participants clearly articulated Aboriginal issues in ways I do not think they would have if I were also Aboriginal. My participants made sure to clearly connect the lives of the women they work with to colonialism. They did so in a spirit, I think, of teaching someone who does not know anything. This assumption of no prior knowledge of the colonial context of Canada is not one they would have made of an Aboriginal researcher. One participant went so far as to say: "I'll give you an example of what life can be like for a First Nations person..." This is the clearest example of how the majority of my participants went to great pains to make race, colonialism, its ongoing impacts on Aboriginal peoples clear to me.

This means that my data are replete with this type of information. Perhaps these same participants would have spoken differently about these issues with an Aboriginal researcher but perhaps they would not have spoken of them at all. This type of data may have gone unshared because there would have been no perceived need to teach the Aboriginal researcher about the facts of colonialism. These facts could go unsaid because they would make up the shared experience of the participant and researcher.

A similar dynamic existed around my assumed class position. Based on my attendance at a large post-secondary institution and my appearance in the interviews (well dressed with a car and expensive recording equipment) participants seemed to always assume I came from a middle-class position. Though I do come from a better-off background than many of the women they work with, it is a working-class position. I have not struggled through the level of poverty that my participants described but neither did their assumptions around my class position fit well with my experience. Regardless of my own unease with their assumptions this too led them to make very clear the difficulties that arise for people living in poverty.

Ultimately, these identity markers and the difference between myself and my participants led to the interview context being primarily one of teaching. In assuming my ignorance of the realities of both their work and the lives of the women they work with, my participants spent most of the interview clearly outlining the basics of these issues. They did not, with the exceptions of three Executive Directors, spend any time on theorizing their work. This led to the data being mainly descriptive. The interviews produced a wealth of descriptive data and this allowed me to analyze it for the mainly unarticulated assumptions and mentalities present.

Though my participants may have had the power in the interview context to supply and determine the data, the power reverted wholly to me in the subsequent analysis and writing

stages of the dissertation. I did give participants the option to review their transcripts and remove anything they felt may identify them. Only five chose to do so and only two of those made any changes. Both were the interviews that had not been audio recorded and the changes they made were minor additions rather than deletions. I have analyzed the data and written the dissertation in order to meet my own research goals. It is my hope, and belief, that my participants and others who do similar sorts of work will find the analysis I present here thought provoking and useful. I include some recommendations to practitioners in the conclusion of the dissertation to that end. I am left unsure, however, as to the direct and immediate value of the research for alternative justice practitioners. This project has inspired me as a researcher to include a participatory design element into my future research in order to allow participants a greater role in the process and to make the end products more useful for them.

Analysis method

My poststructural position distinguishes the analytic strategy used here from other types of discourse analysis. Bacchi (2005) distinguishes between two trajectories within discourse analysis research: “a social psychological focus on patterns of speech (discourse analysis), and a political theoretical focus on the ways in which issues are given a particular meaning within a specific social setting (analysis of discourses)” (199). My focus on power and inequality means that conversation and discourse analysis are not sufficient tools. Here I engage in an analysis of discourses. My primary task is to identify the ways in which gender is constituted discursively by participants, how that relies on larger discourses and how that impacts the discourse of governance used. In order to do so I use some discourse analysis techniques, but my main task

goes beyond the linguistic construction of the texts under study and examines the ways in which they draw on and reinforce larger discourses of gender and governance.

This task could be accomplished with Critical Discourse Analysis (CDA). CDA is the analysis of the dialectical relationship between discourse and other elements of social practices such as subjects, activities, and values (Fairclough 2003). This approach views discourse as a component of social practice. Fairclough (2003) identifies three ways that discourse works in social practice. First, discourse is an activity that is part of practice; in order to engage in certain practices you need to use language in certain ways. Second, practice is represented through discourse. Finally, identities are partly constituted through representations in discourse (Fairclough 2003). This is a critical perspective and focuses on analyzing “relationships of dominance, discrimination, power and control as manifested in language” (Wodak 2001, 1).

Though there is much similarity between this approach and my own, there is a fundamentally different ontological perspective between the poststructural position taken here and CDA. CDA focuses on power and its *reproduction* through discourse. As outlined above, a poststructural approach does not assume a reality that is *reproduced* in discourse; rather, it looks for the construction of power relations and identities through discourse. Those working in the CDA tradition resist what they see to be a reduction of social practice to discourse (Chouliaraki and Fairclough 1999). This is a considerable difference between the two approaches and it means that on a major theoretical point this project is not a CDA.

That being said, poststructuralist literature is generally not robust methodologically. It is not sufficient for students or researchers looking for strategies of how to analyze data. One exception is Judith Baxter (2003, 2008, 2010), who has offered both theoretical and methodological prescriptions for a Feminist Poststructural Discourse Analysis (FPDA). She

emphasizes what she calls the “anti-materialist tendency” of FPDA in contrasting it with CDA. Although she argues for FPDA as a distinct method she does acknowledge that it is complementary to CDA and can “be effective as a supplementary methodology” (Baxter 2008, 255). For this project I begin from a poststructural theoretical position and situate CDA as a supplementary methodology. I draw on several data analysis techniques from the CDA literature.

Data analysis for this project began with the general qualitative strategy of topic coding (Richards 2009). This involved reading the interviews, documents, and notes and allocating passages to codes with little to no interpretation. The data were divided first into two large codes, “describing the Criminalized Woman” and “informal justice.” Once the data were organized into these two categories another round of topic coding was conducted. The informal justice data was organized into five topic codes: services offered, values, objectives, relationship with the criminal justice system, and success. The Criminalized Woman data were coded into the general characteristics identified by my participants. This was a long list of codes, including being a mother, having addictions, being a repeat offender, being unskilled, nonviolent, among many others. This topic coding served several purposes. It allowed me to organize the data, become familiar with the interviews and documents and to begin building my analysis. For the data in each code I wrote descriptive paragraphs and memos with my early observations, links to literature that I was seeing, and links to other codes.

The next stage of analysis was analytical coding, which involves considering meanings in context and creating categories that express new ideas about the data (Richards 2009). This was done in both a deductive and inductive manner. One round of analytic coding was conducted inductively; I looked for categories and ideas that were emerging from the data itself. One example from the informal justice code is the division of “services offered” into four different

types of work: justice, social, advocacy, and culture. Within the Criminalized Woman data the topics codes were organized into four types of women that seemed apparent in the data: Medicalized, Risky, Feminist, and Aboriginal. A second round of analytic coding was then done using specific themes, ideas, and concepts from the literature. This meant for the criminalized women data that the four subjectivities were compared to those found in the literature and were modified slightly as a result into the Neoliberal Subject, the Medicalized Woman, and the Marginalized Woman. I also read these codes back in the context of the entirety of the data to examine a trend found by feminist research of the translation of structural issues into personal ones. The informal justice data were coded again using codes pulled from the governmentality literature such as action at a distance, formal-informal overlap, object of governance, and budget/accounting. Again at this stage memos were written about each analytic code, about the contents, links to other ideas and any questions I had or features of the literature that were absent from the data.

A number of discourse analysis techniques were utilized in order to do a close read of the interview and document texts. One example is the analysis of the data for its construction of criminalized women as agents or patients; as either actively choosing their actions or being acted upon (Wood and Kruger 2000). I did not look for overt statements to this effect; it was not a topic code. Instead, this involved looking at how the participants used specific verbs, the passive voice and modal auxiliary verbs (e.g., can, could, may, must) (Wood and Kruger 2000). The interviews were analyzed for the sources of knowledge they referenced (Jager 2001): did participants refer to their own experience, research, or theory? Did they refer to information from the formal system, or from “their community” of some sort? Throughout the analysis the data

were analyzed not only for what they contained but also what they were doing, what particular descriptions or stories accomplished within the text (Wood and Kruger 2000).

Throughout the analysis the process was an iterative one “of de-contextualization and re-contextualization” (Starks and Trinidad 2007). Topic codes pulled segments of data out and grouped them together. Analytic codes often consisted of several topic codes together. These were then read back into the data overall to examine how they worked with and fit with the rest of the data. An example of this process is my analysis of the constitution of the Criminalized Woman. The data were topic coded into codes such as “mother,” “Aboriginal,” “young,” “responsible.” The data were also organized into more conceptual codes such as “victim and offender” and “constrained by structure.” As mentioned above I then grouped these into the three categories of the Neoliberal Subject, the Medicalized Woman, and the Marginalized Woman. Once I saw that all three of these subjectivities were present I went back to the transcripts and documents and started analyzing them in their entirety. Examining the data back in its original context helped show that my participants were constructing the Criminalized Woman in all of these ways at various points of the interviews; it was not the case that some participants or programs constructed her in one way and others in another way. Looking at the data in their entirety also revealed how the different identities were interacting with each other. All of this was done in order to identify and analyze the ways in which the Criminalized Woman was constituted in the discourse and the ways in which her governance was understood.

Concluding Remarks

Much of this chapter has been written from notes contained in a journal I have kept over the course of my doctoral training. I began writing it as an audit trail for this research project. It

contains notes and reflection on literature, research design decisions, coding lists, analytic memos, category building, analysis, and writing. As an audit trail I originally intended it as a quality control tool, a window into the research process that I could offer to readers in order to increase transparency.

Reading the journal at this stage of the project, the primary aspect that stands out is the way it documents me, the researcher, as an effect of power. Through the journal I increasingly engage in the norms and practices and use the language of the academic sociologist. It is a record of my being disciplined into the Discipline. The Sociologist's self that has been constituted over the last five years has conflicted and sat uncomfortably with many other aspects of the self for me, not the least of which have been gendered and classed. It is the conflict between Sociologist and poststructuralist, however, which is most clearly evident throughout the journal. Having developed a commitment to accuracy, validity, and reliability (though in their qualitative form), to constructing knowledge and contributing to our understanding of the social world, I have struggled on a visceral level with the exhortations of poststructuralism, though intellectually they were stimulating and I fully agree with them. That struggle manifests itself in the difficulty I have had writing this chapter. This was, far and away, the hardest chapter for me to write and for me was the best example of how we are constituted as subjects and are not only the vehicles but also the effects of power. This idea is explored further, and in relation to the Criminalized Woman in Chapter 3. A significant product of this project for me has been not only the tracing of governance and constitution of the Criminalized Woman but also of myself as a scholar.

CHAPTER 2 ALTERNATIVE JUSTICE PROGRAMS

In this chapter I describe the alternative justice programs that are available for criminalized women in Winnipeg and highlight the seemingly contradictory presence of both informal and formal practices, goals, and relationships. Though the programs are alternative justice programs they offer surprisingly little alternative justice work; much of the justice work they do is formal. The bulk of their informal work, as I describe in this chapter, is better thought of as social, advocacy, and culture work. The programs are part of the informal/formal justice complex. They are neither spaces free from power nor mere extensions of the formal justice system. In many ways they embody the neoliberal characteristic of governing through community, at a distance. They also, however, bring their own mentalities and techniques to the governance of criminalized women as we will see in subsequent chapters and so are not straightforwardly neoliberal spaces of governance.

Governmentality is a perspective that assists in making sense of the co-presence of both formal and informal work and in understanding all of the work the programs do as governance. I outline this perspective and use it to argue that alternative justice programs are key sites of government at a distance and part of the informal-formal justice complex. As such, they are spaces of governance of criminalized women.

Governmentality

Governmentality theory starts from and builds on Foucault's work around power and governance. In *Discipline and Punish* Foucault (1977) argues that "we must cease for once and for all to describe the effects of power in negative terms: it 'excludes', it 'represses'" (194). Power is instead productive, producing ways of knowing and being. For Foucault power is not

something that is had or held by any one person or group; rather, it is something that is exercised. Power is all encompassing “not because it embraces everything, but because it comes from everywhere” (Foucault 1978, 93). It is a part of every relationship and it is productive of every relationship. Foucault’s power “comes from below”; that is, there is no ruler and ruled binary where power starts, it is dispersed. Foucault argues that we must cut off the King’s head when it comes to theorizing power and governance (Foucault 1991). He speaks specifically of networks of relations and studying power at its capillary points (Foucault 1991).

Foucault’s analytic of power is one of his most useful concepts and it is one which feminists have debated vigorously. Some argue that Foucault’s notion of power robs feminists of their ability to recognize women’s oppression because “by seeing power as everywhere and, at some level, as available to all it can encourage us to overlook women’s systematic subordination of other women, as well as systemic domination by men” (Ramazanoglu 1993, 10). According to some feminist theorists Foucault’s conception of power denies feminists the ability to say that men have power and women do not. Foucault’s (1978) recognition that power is exercised “in the interplay of nonegalitarian and mobile relations” (94) seems to allow feminists to examine the ways in which men and women interact in specific unequal relationships. But some feminists argue that he does not provide a way to link local instances of men’s power to a larger trend of male power (Ramazanoglu and Holland 1993).

Other feminist theorists argue that this reading of Foucault leaves out a key part of his conception of power. They argue that Foucault links those local nonegalitarian relationships with larger systems of oppression through the concept of domination. These feminists argue that domination refers to “a state of asymmetrical power relations that persists over time and may seem fixed” (McLaren 2002, 39). Local instances of men exercising power over women occur in

a patterned, sustained way and thus we can speak of men's general ability to exercise power over women. These states of domination though seemingly stable and unmoving are vulnerable to resistance and change as local power relations change (McLaren 2002). This idea of power and patterned power relations is entirely compatible with feminist theory's need to theorize women's oppression.

Foucault's idea of power as exercised and relational is not only compatible with feminist theory but can be a particularly useful way for feminists to view power. McNay (1992) outlines many of the benefits of a relational conception of power for feminist theory. The zero-sum idea of power wherein power is had by some and not by others often leads to analyses that frame women as helpless victims of patriarchy (McNay 1992). McNay (1992) argues that conceptualizing power as something men always have at the expense of women can lead to analyses that deny women any agency and "an insistence on women as passive victims of male oppression oversimplifies the complexities of women's subordination" (64). This complexity, the ways in which one can be both the vehicle and target of power, is captured well using Foucault's notion of power. Viewing power as relational and ever present opens space for seeing and theorizing women's agency (McNay 1992).¹⁴

Foucault's analytic of power assists in grappling with an issue feminists with varied theoretical commitments attend to: theorizing difference between women (McNay 1992). Seeing power as something men have and women do not "negates the massive differences of race and class [and many other aspects of difference such as sexuality and ability] that divide women in favour of an ideal category of common oppression" (McNay 1992, 6). Thinking of power relations in their multiplicity, rather than in a binary, can assist in avoiding generalizing about

¹⁴ Though McNay is critical of feminist theory on this point Foucault has also been criticized by feminists for denying agency in his theorizing of the subject. This will be addressed in the next chapter.

“women’s” oppression (Deveaux 1996; McNay 1992; Sawicki 1991). Using Foucault’s idea of power as relational can assist feminists in seeing women’s oppression and agency in all of their complexity.

This is the main weakness of other studies of alternative justice: their conceptualization of power. Informal justice, and the community in which it takes place, is portrayed as free from power in much of the restorative justice literature. Power is understood as only oppressive and a zero-sum proposal; the state and the formal institutions of the criminal justice system have power and, conversely, the community and our informal relationships are free from power. Walgrave (2002) is critical of this trend in restorative justice thinking, arguing that within the RJ literature “community is then advanced as the social environment of informal interactions based on spontaneous human understanding, as opposed to the formal institutionalized society (‘the government’ or ‘the state’) with its rules and rigid communication channels” (72). The extensive use of Chrisie’s (1977) premise that the state steals conflict from individuals and communities has meant much of the restorative justice literature sets up the state as an all-powerful thief and the community as an inherently positive space (see Elliott 2011).

A different, but related, tendency is evident in the social control and transcarceration literature. It too begins from the understanding of power as negative, repressive, and state centred but then argues that informal justice is always subject to this state power. This means that informal, community programs are always seen as replicating state processes or becoming “co-opted by and absorbed into the formal state apparatus” (Maidment 2006a, 127). Both of these approaches obscure the unique power relations present in informal justice. Conceptualizing power as relational, diffuse and productive allows one to study the different ways power is exercised in informal justice programs.

Governmentality theory follows Foucault's analytic of power. Analysts using this theory focus on the ways in which power is productive. In particular, there is a focus on how power creates subjectivities, spaces for thought and modes of acting (Garland 1997). Governmentality theory does not view power as something that is possessed by people or institutions. Instead power is understood to be dispersed throughout all relationships (Garland 1997) and governance is looked for at the capillary level of society.

With this theory of power at its base, governmentality theory is a theory of government. Government is any strategy or action that involves the "conduct of conduct" (Dean 1999). Governmentality is the contact point between the ways in which we are governed by others and the ways in which we govern ourselves. This involves a variety of power relations, as Macleod and Durrheim (2002) outline: "it concerns the self relating with the self, private inter-personal relations that involve some sort of control or guidance, relations with social institutions, and relations concerned with the exercise of political sovereignty"(45).

The conception of power as dispersed and of government as a broad strategy leads to an extended conception of governing authorities, which include "families, churches, experts, professionals, and all the various powers that engage in the conduct of conduct" (Garland 1997, 175). This wider group of authorities operate in different sites, with different technologies and mentalities (Rose, O'Malley and Valverde 2006). Analyses using a governmentality perspective identify the authorities that are involved in an act of governance, the sites of governance in which they exist, their objectives and their strategies of governance (Rose and Valverde 1998; Rose, O'Malley, and Valverde 2006).

The focus of governmentality studies is on political rationalities and technologies. Rationalities are ways of thinking that make the world knowable and imaginable in specific ways

(Rose and Miller 1992) while technologies are “the complex of mundane programmes, calculations, techniques, apparatuses, documents and procedures through which authorities seek to embody and give effect to governmental ambitions” (Rose and Miller 1992, 175). The equal focus in this theory on ideas (mentalities) and actions (technologies) puts it in contrast with other political theories that view government only as a set of principles or as ideology (Dean 1999). Governmentality theorists argue that the technologies of government are as important as the mentalities because the practices can limit and even change the mentalities. Government involves political rationalities and technologies that act in concert and follow from one another to guide the conduct of others and selves.

The aim of studies using this approach is to examine practices for “the ways in which their modes of exercising power depend on specific ways of thinking (rationalities) and specific ways of acting (technologies) as well as specific ways of ‘subjectifying’ individuals” (Garland 1997, 174). Here I focus on how the programs act, what it is they do, while the next chapter looks at the way they constitute the Criminalized Woman and the fourth chapter looks at the governing mentalities present in the data.

Governmentality and Neoliberalism

Neoliberalism is a concept which has been much used and debated. Brenner, Peck and Theodore (2010) call it “something of a rascal concept – promiscuously pervasive, yet inconsistently defined, empirically imprecise and frequently contested” (184). Larner (2000) argues there have been three main ways that neoliberalism has been analyzed: as a policy, ideology and governmentality. Similarly, Brenner, Peck and Theodore (2010) outline the ways in which neoliberalism has been conceptualized from a varieties of capitalism approach, a historical

materialist perspective and from a governmentality perspective. Wacquant (2009), in yet another analysis of the analyses of neoliberalism, argues that the literature is polarized between historical materialist and governmentality approaches.¹⁵ A primary distinction that all of these authors make is between neoliberalism as an economic project and as broader mode of governance. Here I begin by outlining the economic restructuring aspect of neoliberalism before focusing on the way in which I theorize neoliberalism, which is as a form of governance. Many of the broad themes found in the various analyses of neoliberalism do overlap and echo each other so I take some time when discussing the governmentality approach to specify what makes it unique.

Research that has understood neoliberalism as a policy, an ideology, and from a historical materialist perspective has focused mainly on welfare state restructuring (Larner 2000). In this vein neoliberalism is understood primarily to be “marked by a shift from Keynesian welfarism towards a political agenda favouring the relatively unfettered operation of markets” (Larner 2000, 6). Governments around the world, with particular credit generally going to Margaret Thatcher, Ronald Reagan and to a lesser extent Brian Mulroney, engaged in the “rolling back” of government activities and argued for the values of *laissez faire* and small government (Larner 2000). The focus with these analyses is on political-economic restructuring policies (see Harvey 2005).

Neoliberalism, understood from a governmentality perspective, is not simply an economic, or even political, project; instead, it is a mode of governance. Neoliberalism is way of thinking about and acting on the conduct of citizens. This perspective broadens the analysis from the state and the economy into all of the spaces in which we are governed, such as community, family, health, criminal justice and schools. Viewing neoliberalism from this perspective allows

¹⁵ See the Conclusion of the dissertation for a discussion on the usefulness of Wacquant’s conceptualization of neoliberalism and the potential for future research to build on my analysis here using his work.

the identification of the multiple mentalities, practices and subjectivities that are present in neoliberal governance. This allows us to look for the moments of failure and fracture within neoliberal projects. Larner (2000) argues that in contrast to other ways of conceptualizing neoliberalism, a governmentality approach “stresses the complexity, ambiguity and contingency of contemporary political formations to maximize possibilities for critical responses and interventions” (14). The ability not only to see complexity but also to build potential for critical responses is, I believe, a necessary feature of any analysis that aims to contribute to feminist research.

Despite emphasizing complexity and contingency governmentality scholars do argue that there are some general ways of thinking and acting that distinguish neoliberalism as a mode of governance. A key aspect of neoliberalism is its framing of and interaction with citizens only as individuals. Neoliberalism identifies individual causes and solutions to what welfare liberalism would have seen as social problems, seeking not “to govern through ‘society’, but through the regulated choices of individual citizens” (Rose 1996, 41). Alongside the valorization of the individual in neoliberal thought comes the fragmentation of society into micro communities. Where the social citizen was seen as interacting with and being a part of society in neoliberalism “the very notion of society collapses into particularized communities and differentially competitive regions and sectors” (Dean 1996, 213). Micro communities consist of families, schools, neighbourhoods or professional associations (Rose 1996).

Not only does the level of membership change from the broader society to the specific community, so too does the form of membership as “individuals are to fulfill their national obligations not through their relations of dependency and obligation to one another, but through seeking to *fulfill themselves* within a variety of micro-moral domains or ‘communities’” (Rose

1996, 57). This turning away from social obligations shifted activity from the state to families, schools, voluntary associations and other communities (Rose and Miller 1992). As a result, neoliberalism has shrunk the public sphere and seeks to “govern without governing society, that is to say, to govern through the regulated and accountable choices of autonomous agents” (Rose 1996, 61). Governmentality scholars argue that neoliberalism does not, though it may seem to, involve a rolling back of the state. Rather, there is a re-articulation of governance in which individuals and communities are given active roles in governance. This comes with a responsibility, as Burchell (1996) outlines: “the price for this involvement is that they must assume active responsibility for these activities, both for carrying them out and, of course, for their outcomes, and in doing so they are required to conduct themselves in accordance with the appropriate (or approved) model of action” (29).

Individuals, and the communities they belong to, are responsabilized to govern themselves appropriately. This responsabilization is an ongoing process whereby “the subject must first be shaped, guided and moulded into one capable of responsibility” (Dean 1999 165). This ability to mobilize individuals and to induce them to act in a way that is consistent with governing authorities’ aims without direct intervention is termed “government at a distance” by governmentality scholars and seen as a hallmark of neoliberal governance (Dean 2006; Garland 1997; Rose 1996; Rose and Miller 1992; Rose, O’Malley, and Valverde 2006).

These characteristics of neoliberal governance have been found in the governance of crime. Garland (1996) identifies government at a distance through a responsabilization strategy which involves “the central government seeking to act upon crime not in a direct fashion through state agencies (police, courts, prisons, social work, etc) but instead by acting indirectly, seeking to activate action on the part of non-state agencies and organizations” (452). Potential victims are

responsible for preventing their victimization and they along with their community are held responsible for crime as “community blaming marches hand in hand with victim blaming” (Crawford 1997, 267). Community centres, business owners, families, and individuals are all exhorted to do their part to prevent crime.

Informal-formal Justice Complex

Informal justice has been analyzed as an example of government at a distance and thus a site of neoliberal governance. Through alternative or community justice programs the community is given the task, and responsibility, to deal with crime. Singh (2012), for example, analyzes the community governance of domestic violence offenders in Toronto through Partner Abuse Response programs. These are run by community-based organizations yet fulfill criminal justice functions (Singh 2012). The counselling provided by these programs is court mandated and program staff receive extensive training in order to “essentially ‘see’ and perform like a criminal justice professional” (Singh 2012, 274). Staff must report any breaches of release orders their clients are under and their curriculum must align with criminal justice principles of offender accountability and victim safety (Singh 2012).

Pavlich (2005) uses governmentality to trace the ways in which restorative justice relies on the criminal justice system. Though the values, goals and processes of RJ may seem distinct Pavlich (2005) identifies the governmentalities present in RJ discourse. He argues that the ways in which restorative justice conceptualizes the object and subject of governance rely on formal justice system mentalities. Similarly Woolford and Ratner (2008) identify various ways in which different forms of informal justice contain dominant justice mentalities and governance strategies. This study draws inspiration from this framing of informal justice while seeking to add a feminist analysis which has heretofore been absent.

Governmentality has been used by Woolford and Ratner (2008) to construct the concept of the informal-formal justice complex: “the cultural, economic and political relations within the juridical field through which adversarial/punitive and conciliatory/restorative justice forms coexist and reinforce one another, despite their apparent competition” (32). This complex can only be understood when placed in the broader social and political context of neoliberalism. This concept puts limits on the optimistic calls for community alternatives by recognizing the ways informal justice practices are bound to, dependent on, and constitutive of, formal practices. This concept is also useful in that it acknowledges the overlap of the two types of justice without necessarily finding that the formal dominates the informal. We can recognize the influence of formal system discourse and practices on the informal and still “approach the question of whether or not these informal elements or ‘moments’ hold any potential as a space from which can be launched an internal critique that challenges the ways in which current legal practices tend to reflect the interests of dominant social actors” (Woolford and Ratner 2008, 4). The programs under study here are situated in this justice complex made up as they are of informal and formal elements.

It is with this understanding of power and government that I analyze alternative justice programs. There are a variety of community programs available for criminalized women in Winnipeg. This study examines six agencies offering justice programming to criminalized women. These agencies contain many informal elements. They are non-profit, community organizations. They are staffed by non-professionals; these are not lawyers or judges, they are lay people and to add to their informal character the organizations rely heavily on volunteers. The organizations do much of their own fundraising and receive support from such community funders as the United Way and Winnipeg Foundation. In some cases the agencies have an open

door policy and take self-referrals from anyone who needs assistance. These informal justice programs are not, however, spaces free of power and governance simply through their placement in the community. They are studied here as sites of governance.

Alternative Work

In what follows I outline the various types of work, or technologies, that the programs engage in. The agencies offer criminalized women an array of programs and services. A necessary and basic step in my analysis of these programs and services has been to organize the work they do into types. The agencies all engage in justice work, both informal and formal, social work,¹⁶ advocacy work, and culture work. These are my classifications; the programs do not use these labels nor do they discuss their work with any strong distinctions. Separating these types of work out from each other can assist in seeing what alternatives are offered by “alternative” justice.

Much of the work the agencies do is directly criminal justice related. There are three types of informal justice offered for criminalized women: restorative justice, educational or self-help programming aimed at responding to their offending, and reintegration services. Restorative justice is “a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs and obligations, in order to heal and put things as right as possible” (Zehr 2002, 37). Mediation Services, Onashowewin, and Restorative Resolutions all offer restorative justice programming. For Mediation Services all of their work with criminal offences is restorative justice as they facilitate victim-offender mediation sessions. Onashowewin offers victim-offender mediation as well, though the bulk of what they do focuses on working with the offender in a restorative way through a variety of

¹⁶ I use “social work” here in its broadest possible interpretation. In Chapter 4 I argue that the type of activities I call social work here are better thought of as care work.

workshops. Though overall Restorative Resolutions does not fit within the ambit of this project they do have one aspect that sometimes overlaps with the work the programs in this study do. The one potentially informal component of Restorative Resolutions is restorative justice. Probation officers at Restorative Resolution strive to attach some sort of restorative practice as a condition of an offender's probation. Officers contact victims and if the victim wants to participate they will arrange for Mediation Services to run a victim-offender mediation. In this way they act as a conduit from the formal to the informal. Onashewewin and Mediation Services engage in restorative justice practices and consciously work from a restorative justice perspective, focusing on principles such as involving victims and repairing relationships.

The second type of alternative justice work that the programs engage in is personal development work related to the offence and the offender's background. Educational programming is offered by Native Women's and Elizabeth Fry. The Eagle Women's Lodge mandates participation in either education or training for each woman that lives there. They offer high school credits and GED as well post-secondary credits through a partnership with the University of Winnipeg. Elizabeth Fry offers literacy programming and assists a teaching program in the provincial jail. Though low levels of formal education are noted by participants as a common aspect of the women that they serve, few offer programming to address this issue.

Employment skills and training are also offered by some of the agencies. Once again it is Eagle Women's Lodge that offers these services in the most robust way. As part of their Education, Training and Trades stream Eagle Women's has partnered with BUILD, a "social enterprise non-profit contractor and a training program for people who face barriers to employment" (BUILD 2014). The lodge also partners with SEED, an organization that provides "capacity building services that assist low-income individuals, groups, organizations and

economically distressed neighbourhoods to improve their social and economic vitality” (SEED, 2014). The Lodge has made education and training a key focus of the work they do. Veronica described the lodge, “It’s a full adult learning environment that we’re in the process of building right now actually. So that’s pretty exciting and that’s what Eagle Women’s Lodge will do.” Elizabeth Fry has computers at which women can work on their resumes or look for jobs. Though these are the only direct education or employment training offered by the programs many of the staff interviewed stated that exploring the education levels and employment situation of the women they work with is a regular component of the process.

Lastly, and most commonly, the agencies under study offer personal development courses. These include several different anger management courses offered by three of the agencies. Elizabeth Fry offers a program called Kicking Addictions as well as a shop lifting course called Stop Lifting. Onashowewin offers a workshop focused on learning about addiction and one on anger management. Salvation Army has an anger management program.

In addition, many of the programs offer their own unique personal development programming. Onashowewin’s process for women (and men) who participate is to set up each individual with a variety of workshops. They include one focused on shoplifting, a woman’s workshop and a man’s workshop, and one on healthy relationships. The combination of workshops given to an individual will depend on her offence and her needs, but there is one which all participants must complete. It is called Mino-Bimadiziwin and it focuses on “making positive and healthy decisions and life choices” (Program document).

Salvation Army runs a program entitled Positive Lifestyle Program which strives to “help people realistically face the consequences of their behaviour, begin to understand the relationship between the offence and emotional difficulties and learn to take responsibility for their actions”

(Program document). There are a variety of topics addressed through this weekly, two-hour group session such as stress management, self-esteem, and assertiveness. The Salvation Army also runs a three-day camp for women involved in the sex trade. The camp offers “educational, therapeutic and recreational components” (Program document) with the educational component comprising a workshop on the legal consequences for involvement with the trade, another on accessing community resources, and a third in which they learn about sex trade clients or what is referred to as “John-ology.”

TERF runs a classroom component to their program; formal credits are offered but they are focused on general life skills. The program offers a credit in family studies and foundations of healthy living. Mediation Services, because of its focus on discrete conflicts and providing resolution to the matter at hand does not do any in-house programming. As part of the mediation agreement, however, individuals may be required to attend anger management classes or counselling.

The third type of justice work done by some of the agencies is reintegration services. Native Women’s Transition Centre, through Eagle Women’s Lodge, houses and strives to reintegrate women coming out of provincial corrections, federal corrections and drug treatment court as well as women with care agreements with Child and Family Services. Women can receive temporary release to the Lodge to serve the remainder of their correctional sentence. Eagle Women’s allows women to exit jail or prison and provides them with housing, services and supervision.

Elizabeth Fry Society has a bail supervision program that helps prepare bail plans to the court for women who would not be able to secure bail otherwise. Once released to their care they assist the women in various ways to reintegrate into the community. They also have a Provincial

Reintegration Worker who works with women coming out the formal system with bail or after serving a period of incarceration in the provincial or federal systems and assists with their transition back to the community. Reintegration services often include things as basic as assisting the women in acquiring identification and family doctors in conjunction with the educational programming mentioned above.

Alongside the informal justice programming offered by the agencies is a variety of other types of work. The programs engage in activities that fit within a broad definition of social work. Much of what my participants described could be grouped under the Canadian Association of Social Workers' definition of social work as a profession "concerned with helping individuals, families, groups and communities to enhance their individual and collective well-being." Participants spoke about assisting criminalized women with finding housing and other basic necessities. The focus of much of their work is on meeting women's needs and providing for their overall well-being, as Julie described: "so looking again through a holistic model and how we help people to find themselves again and that balance." I will speak at length about this type of work in Chapter Four. For now, it is sufficient to note that although the agencies focus on *criminalized* women their work is not limited to justice services.

Most of my participants also spoke about the advocacy work they do. This advocacy work has two dimensions: personal advocacy for individual women and political advocacy for criminalized women as a group. Participants spoke about advocating for individual women within the justice system. Some would actively request a case for diversion, as Chris described, "We go to court on a weekly basis for first time charges. We listen to the dockets, go early, pay attention to people, try to notice anything out of the ordinary. We hang around and talk to people, ask them 'Is this your first appearance? What's going on? Do you have lawyers? Could it be

diverted?’ The problem is that young people, or older people for that matter, they don’t know the process.” Other participants echoed this concern that most of the women, and men, they work with do not understand how the justice system works, even as they are being processed by it: “My breath is always taken away that even though they might have been involved in the criminal justice system since youth and involved quite extensively they don’t understand the criminal justice system” (Emily).

Alongside this justice system advocacy many participants also described helping women navigate the child welfare system and the social assistance bureaucracy. This included taking them to appointments, writing recommendation letters, and assisting women in meeting the demands of these systems and challenging them when necessary. As Veronica explained in regards to Child and Family Services: “So we fought tooth and nail to have not one more child go into the system with attachment disorder because they took her away when they were a baby. So we won that one. So she’s going to be raising her little baby.” Participants also spoke about teaching women to be their own advocate alongside the direct assistance they provide.

The agencies also engage in broader group advocacy work. Elizabeth Fry’s mandate includes advocacy and it performs in particular a lot of legal advocacy. They engage in tours of confinement in provincial facilities in which Elizabeth Fry members report any breaches of policy or law to the Correctional Investigator. The organization also brings Charter challenges to court and makes frequent public statements about issues related to criminalized women. Many of the other organizations also advocate for criminalized women, and men, in general. For example, in 2013 a local theatre company wrote and produced a play titled “Jail Baby.” It was written in partnership with Elizabeth Fry Society and as a part of its performance each night a panel of speakers presented on different themes related to criminalized women. Representatives from

every agency under study here participated in that production. In 2014 Onashowewin and Elizabeth Fry hosted a public discussion led by the Executive Director of the Canadian Association of Elizabeth Fry Societies, Kim Pate, and Debbie Kilroy, the CEO of Sisters Inside, an Australian advocacy group for women in the criminal justice system. This discussion was held at Onashowewin's office and was highly critical of the way the criminal justice system oppresses women, particularly Aboriginal women. Onashowewin and Elizabeth Fry also take part in Prisoner Justice Day, another public advocacy event. My knowledge of this work the agencies undertake comes more from my interaction and observation of them outside of the research context than from my data, perhaps because participants did not think of it directly as work with women¹⁷.

Alongside justice, social, and advocacy work the programs also engage in what I term "culture work." Native Women's Transition Centre, Elizabeth Fry Manitoba and Onashowewin are all Aboriginal organizations. The other programs also, to varying degrees, engage Aboriginal culture in their broader work. For some programs this means being able to offer ceremonies to participants and staff:

You can smudge anywhere here. There are some pipe carriers on staff so that if you wanted a ceremony, this year we're trying to have regular sweats because [for] a lot of the women it's about the culture. (Emily)

We can hook up the women to Elders, and if they want to go to sweats, we can send them to sweats or we'll take them to sweats. Pipe ceremonies, our ED is a pipe carrier. We'll do drumming here every now and then. (Kate)

¹⁷ See the Conclusion for an extended discussion of this point.

So I invite them to talk about these things. See how they see it. Yeah. And sometimes we'll talk about the teepee and its meaning or we'll talk about the sweat lodge, how you offer tobacco. I'll talk about the four sacred medicines that were given to our people in order to cleanse ourselves. I'll talk about smudge, and why we smudge and then I'll offer the smudge to each person in that circle and let them know I don't force them, but I'm offering. (Andrea)

Some programs incorporate Aboriginal perspectives in their programming. TERF incorporates the medicine wheel into their general programming and Native Women's centres on the seven teachings. Onashowewin starts from culture for all of their programming, as Ariel stressed:

"Culture is the heartbeat of the program. It permeates the whole program, everything we do."

Teachings about Aboriginal culture, perspectives and history are a part of all of their workshops. None of my participants spoke about culture in a way that would suggest that they limit it to the "justice" aspects of Aboriginal culture. They should not be seen as just offering Aboriginal justice but instead as programs which incorporate culture and culture work into all of their programming.

Formal Work

Alongside the informal justice programming offered, the agencies also engage in highly formal, criminal justice work. Mediation Services, Onashowewin, and Salvation Army are all official diversionary programs. This means that either pre- or post-charge the Crown will refer cases out to one of these programs. There can be direct referrals made to a specific program, such as to Mediation Services when there is an identifiable victim, to Onashowewin when the offender is Aboriginal, and to Salvation Army for cases involving individuals charged as either the

purchaser or seller of sex. Alternatively, the Crown can make a general referral for diversion and the three programs triage every week to go through cases and split them up. No matter the referral source, once an agency has the file a case plan is constructed which looks different depending on which program develops the plan. If it is successfully completed, the file is sent back to the Crown with a recommendation for either a stay of proceedings or no charges being laid. The participant must take responsibility for the offence to be eligible to participate. In these cases the agencies fulfill the case processing function of the courts and corrections.

Native Women's Transition Centre and Elizabeth Fry do direct supervisory work. Eagle Women's Lodge is available only to "mandated women," who must come in with legal conditions be it from a parole order, probation order, drug treatment court order or Child and Family Services agreement. The Lodge is then responsible for the supervision of that order, there are curfew checks, women must sign in and out of the Lodge, and for their first 48 hours there they are on lock down. Room searches can be and are conducted. Any breaches of the order are reported by Lodge staff and may result in a warrant being issued for the woman's arrest. Elizabeth Fry does similar supervision of bail plans. Their bail workers write and supervise bail plans for women on remand. They construct the various conditions for each woman and engage in curfew checks, ensuring the women are keeping to their conditions and reporting any breaches.

Offering "Alternative" Justice in the Informal-Formal Complex

Despite the presence of formal justice system elements, the participants identified a variety of features that they felt distinguished their work from the criminal justice system. For most of the programs they insist on the flexibility of the process. The types of workshops they prescribe for participants, their interactions with victims, the type of programming offered, all of these things

can and should vary from case to case as Mike noted, “I mean it might look different for every client.” Andi emphasized “we really have to be flexible in what our approach is going to be, you know? Yeah, I think the key word is we have to be flexible.” That flexibility is built in to account for two main factors. The first is the offence type; for some programs different offences will trigger different workshops or programming. The second is the individual’s circumstances. Two participants explained this feature:

So we try to support them however it is we can. Either by maybe giving them a homework package or coming out to their house on a home visit. We try to schedule things so it’s easier for them, provide bus tickets, those sorts of thing. So we try to set out realistic, attainable goals for them (Andrea)

We also look at what the client’s strengths, interests and goals are and incorporate those gifts (Ariel)

This flexibility is contrasted to the formal system, where consistency and treating everyone the same are foundational principles, and seen as a key reason for success. As Andi noted they strive, “to help women find a way that fits them, you know. There’s no magic solution of what’s going to work for each woman. That just doesn’t exist. So yeah, it’s really finding what works for each woman.”

For the two programs working from an explicitly restorative justice basis relationship building is a stated objective. Onashowewin’s website proclaims “The objective of Onashowewin is to help restore, heal and transform relationships and the community.” Onashowewin has as part of their mandate: “work to repair damaged relationships between victim and offender.” Similarly Mediation Services promises “In all our work – community and

court-referred mediations and our training programs – we promote and use the principle of participation to help restore and build positive relationships.” This relationship is central for both of these programs. Both offer victim-offender mediation and see the healing, transforming or building of this relationship as key to what they do.

For those programs that do not work with victims, relationship building remains a priority. The relationship they speak about shifts and is primarily between themselves as staff and the women they serve. Establishing and building this relationship is a pivotal part of all of the programs. As Kate stated, “so much of the job is about relationship building.” Ariel explained that “the key thing first with any individual is developing a relationship.” My participants described the relationship in a variety of ways, from “a working relationship” (Kate), to a “connection” (Mike, Kirsten, Erika), a “role model” (Julie), to an “auntie” (Emily) or even “mother” (Kate).

The reasons for building a strong relationship with the women they serve varies. For some it is an end in itself, a way to humanize the process. The staff get to know the women and “some of them [women] just come by to get some shampoo and feminine hygiene products but it’s still ‘Hey, why don’t we have a cup of coffee. How’s it going? What have you been up to?’ I think that matters as opposed to being a number” (Sarah). Participants spoke about the importance of giving criminalized women “a chance to speak and be heard” (program document), one participant said “for me it’s giving people a voice” (Kirsten). There is a connection between staff and participants while “there isn’t that connection with the court program or with the court system” (Kirsten).

For some participants, relationship building is a necessary part of assisting the women. As Mike noted, “You can’t help somebody if you can’t connect with them. If they don’t want to

talk to you then you're not going to get very far." For some they need to build a relationship in order to fulfill other parts of the job, such as information collection: "So women will come in and we will go through our intake of which is broken up into different sections of someone's life...Usually that takes time. Just to get through that process because the key thing first with any individual is developing a relationship. So if you just sit with somebody you don't know and ask them all these personal questions – you have to get a sense from them" (Julie). In other cases, a relationship felt necessary for counselling purposes: "A lot of people don't expect to sit here and cry their hearts out but that's what happens because all of a sudden somebody's listening and really hearing what happened to them. They feel safe in order to be able to let that go" (Andrea). For others, building a relationship was an ongoing step towards having the women access the program and community resources: "The idea is to build relationships. We don't think we're going to get them off the street necessarily but it's a way to build a relationship with them." (Sarah).

In most cases the staff are the point of contact for the women and the criminal justice system and thus the relationship is a highly formal one. My participants, however, consistently spoke about the informal ways in which they provide support to women. They spoke about how they "provide ongoing support" (Ariel) and that their clients sometimes "just want more support" (Kate). The Salvation Army camp describes itself as offering "support through community resources" (program document). As is implied in the roles of auntie and mother the relationships sometimes go beyond the scope of the program or service being offered. Women may come to the staff to assist with aspects of their lives not officially covered by the program. Emily recounted, "This morning before you came in, a woman who I know is involved in the sex trade, she missed a court date and missed a PO appointment. So she wanted to see me. She was really

upset. The first thing she said was ‘I need a hug’. So I hugged her. And then I had to say to her ‘Well, you know what you need to do is to turn yourself in. The sooner, the better.’” Another participant described how the women she works with lean on her for support “Because even on the days they don’t have to report, once you build that rapport with them, if they’re having problems at home or they’re low on food or EIA, they’ll come and they’ll talk and they want somebody to help them work out the crisis with them” (Kate).

Participants articulated a variety of goals for the programs. The participants talked about healing, providing support, empowering women, teaching coping skills, advocating for the women and having them learn to be their own advocates. Alongside these alternative goals they also spoke to objectives that are shared by the formal system. Recidivism was mentioned by participants from every agency. They spoke to their desire to reduce recidivism: “in our mind we want to reduce recidivism for Aboriginal women” (Veronica), “this could be major [success], well for them, is not re-offending” (Kate). Program documentation claimed the ability of several programs to reduce re-offending. Salvation Army describes their Positive Lifestyle Program as a “tool designed to reduce recidivism” and Onashowewin states that “people entering the programs of Onashowewin are less likely to reoffend” (Program document).

While many characteristics may differentiate the programs from the formal system there are also a variety of features, such as the goal of reducing recidivism, that mirror the formal system. The three diversion programs qualify as new diversion rather than true diversion as participation in the programs means “screening plus programme (formal penetration is minimized by referral to programmes in the system or related to it)” (Cohen 1985, 51-52) rather than simply screening out of any justice process. In most cases the women participate in these programs because they are mandated by the formal system to do so as a condition of either

having the charges stayed or as a condition of bail, probation or parole. In this way the programs are an integral part of the formal system net. We also see, in all of the programs not just the diversionary ones, some programming that is similar to what criminalized women would undergo in the formal system, in particular addictions and anger management programming. The agencies and the programs they run in many cases complement (by dealing with first time offenders), assist (by taking on supervisory roles and support), and alleviate (by relieving court dockets and prison populations) the formal justice system. Through these programs community members, as staff and volunteers, take up the responsibility not only of contributing to criminalized women's rehabilitation but also of being criminal justice supervisors and processors.

The informal-formal justice complex fits with my participant's own understanding of what they do. They do not see themselves as informal; they feel connected to the formal system. Many pointed out the links between themselves and the formal system, be they funding or employment. My participants did not claim to be offering a new vision of justice or spaces free from the criminal justice system. They do, however, believe they are doing something different. They contrasted their work with the formal system and many were critical of the formal system. Staff have a strong sense that there is a value added to even those formal components of their programs due to the fact that they are separate. For example, staff are able to build relationships with women even when formally supervising them.

The bail supervision program offered by Elizabeth Fry shows the overlapping nature of both informal and formal practices and relationships. The program is run by a non-profit organization. The aim is to get women out of remand and allow them to wait for their trial in the community. The high rates of remanded prisoners are seen by some of the staff as a consequence

of a racist justice system. The bail workers construct a bail plan and submit it to the court. If the court grants bail, the work the bail supervisors do with the women is a mixture of informal supports and services, along with highly formal justice work. As Kate outlined:

Its basically more one-on-one with them, helping them navigate the system. Taking them to appointments, helping them get into programs they need to, either getting on to EIA or if they're having difficulties with EIA advocating for them, getting them into programs like treatment, counselling, doctor's appointments, you know we just make sure they take care of themselves. Going to court with them, right through, like, we attend court with them right throughout. Oh, and we also follow a breach protocol because we also do random curfew checks in the community just like the police.

Here the participant focused on the informal components of her work. She added almost as an afterthought the formal role she plays in supervising and reporting the women. That formal relationship enables the informal supports; without the supervisory relationship in place this participant would not be able to assist the women she works with in informal ways, as the women would be imprisoned. It is not the case, as described by Allspach (2010), that staff "often take surveillance and control functions, rather than (sic) a helping role such as assistance in finding housing or jobs" (719). Instead, the staff I interviewed see themselves as helping as they surveil. All of the programs contemporaneously perform informal and formal work; they are funded by the government and private fundraising efforts and they understand the work they do to be different from the justice system at the same time that it relies on that system. They are a clear part of the informal-formal justice complex.

As such, these programs engage in “government at a distance.” Garland (1999) identifies community programs such as these as key to the neoliberalization of crime control, “Instead of removing the individual into the near-total control of a custodial confinement, these community measures seek to insert regulatory devices into the offender’s natural habitat and daily routines, producing a light framework of supervision but leaving plenty of opportunity for the offender to practise self control” (25). The programs discussed here play a supervisory role in their official capacities but also in their informal relationship building. In both the formal and informal justice practices they provide a variety of areas where criminalized women can make responsible choices. The programs use neoliberal discourses and in many ways respond to women in prototypical neoliberal ways, as will be shown in the next two chapters. They cannot be seen as total alternatives to the criminal justice system. They should not, however, be seen as simply replicating the criminal justice system in a different site, as Maidment (2006) argues in her study of criminalized women. It is not that there has been “a co-opting of local organizational missions and principles to accommodate state-imposed policies and practices” (Maidment 2006, 123). Instead, the community programs sometimes align with the criminal justice system.

Governmentality scholars argue that a key characteristic of modern governance is the ways in which a variety of experts and authorities are enlisted to govern at a distance. This is not to argue, as Maidment (2006) does, that local organizations are co-opted. Instead, as Rose and Miller (1992) argue, “Political forces have sought to utilise, instrumentalise, and mobilize techniques and agents other than those of ‘the State’ in order to govern ‘at a distance’; other authorities have sought to govern economic, familial and social arrangements according to their own programmes and to mobilize political resources for their own ends” (181).

The programs under study here generally have social justice motivations and goals; their programme of governance is focused on assisting criminalized women as a social group. However, they mobilize criminal justice resources to do so, in the form of both funding and by taking part in the formal justice work. That allows the alternative justice means of achieving their goals to often align with neoliberal means of achieving its goals. Rose and Miller (1991) describe the types of networks which allow government at a distance. A key aspect of the network is that agents can translate the values of another agent into their own language, and use them according to their own goals. While agents may have distinct goals and norms they construct shared interests. The alignment of interests allows governance at a distance.

The primary way in which this is done in these programs is through the responsabilisation of the community. Though neoliberalism works through this responsabilisation the programs also have an interest in responding to criminalized women through the community. My participants are highly critical of the formal system and see the community as having a key role in protecting and providing for women. This analysis echoes that of Maclean (2013). In analyzing microfinance programs, the granting of small loans to primarily women in developing countries, Maclean argues that neoliberalism is more complex when examined in practice. Of particular relevance to my argument, she notes that “there is a potential alignment of indigenous demands for autonomy and neoliberal policies that have reduced the state and promoted decentralization” (Maclean 2013, 462). This is similar to the alignment here of alternative justice staff’s interest in shrinking the role of the justice system in criminalized women’s lives and the neoliberal responsabilization of the community.

We see this alignment of interest in governing through the community not only in the justice work that they do but also social and advocacy work. Though again, the goals differ, the

program staff in these two areas are concerned about providing for individual criminalized women. They do not think that it *should* be the community's responsibility to provide basic necessities but they are committed to alleviating the suffering of individual women and so they engage in social welfare provision. This, combined with the personal advocacy they engage in, contains an encouragement for women to learn to be their own advocates. Staff want women to be able to handle their marginalization on their own, for their own sake and so end up engaging in responsabilization of the individual as well as of the community.

The reason why “government at a distance” works through these programs is that the interests, in many cases, align. While it is true that neoliberal governance means constructing responsible, educated, employed individuals, a feminist response also see education and training as ways out of social marginalization. Haney (2010) argues that the therapeutic community she studied bracketed women's social marginality by *not* attending to educational and work focused programming. So it is not that the programs are doing things that are neoliberal or social justice oriented; many times they are doing both at the same time. The reason that their interests can be aligned with strategies of neoliberal governance is that these interests and strategies share common ground.

The formal system does not force its goals and strategies onto the informal; instead, it offers strategies that align well with the informal goals and allows space and latitude for those programs to fulfill their own goals. That space – and the fact that all of the agents in a network of governance like the justice complex bring with them their own goals, norms and practices – means that although dominant governance will be reproduced it will exist alongside other programmes of governance (Rose and Miller 1992). My analysis here, conceptualizing neoliberalism as a governmentality, allows me to situate informal, community programs

alongside neoliberalism and examine how “different formulations of neoliberalism emerge out of a multiplicity of political forces always in competition with one another, producing unintended outcomes and unexpected alignments” (Larner 2000, 16). This perspective on the ways in which community programs may both replicate and resist neoliberal goals allows us to give agency to the alternative justice participants while not over allocating agency to “neoliberalism” as an always co-opting or over determining force.

This finding assists in making sense of the trend noticed by many feminist scholars of “feminist complicity in, or ‘elective affinity with, neoliberalism” (Newman 2013, 202). Goodkind (2009) argues there is a “union” of feminism and neoliberalism in the “commercialized feminism” she identifies as operative in social programs for young women. She argues that “the individual change promoted by commercialized feminism is not only for the purpose of creating personal satisfaction but also is intended to create citizens who will regulate and govern themselves” (Goodkind, 2009: 400). Similarly, Allspach (2010) argues that criminalized women coming out of the criminal justice system remain in a web of social control of which community agencies are a part, due to neoliberal responsabilization. Using a governmentality perspective allows us to see how neoliberal and feminist or social justice projects align in a way that retains complexity and room for resistance.

Concluding Remarks

Looking at the programs through the lens of governmentality allows us to locate them in this complex and view them as governing authorities. Their status as non-profit organizations, as community-based agencies, does not nullify the authority they have over criminalized women. Neither though, does their status as governing authorities nullify the differences they have from the formal system. Governing authorities bring their own objectives, values and strategies to the

task of governance (Rose, O'Malley, and Valverde, 2006). We can examine the agencies and the programs they run as having a meaningful role in governing criminalized women without equating them with the criminal justice system. This allows us to see how they may both replicate formal system goals and strategies as well as challenge them through their own techniques and ideas.

Initial analysis of community programs for criminalized women confirms that we cannot view them as complete “alternatives” to the criminal justice system. They engage in formal system work and participate in the governance of criminalized women. With these programs “the state can retreat from some areas of justice provision, allowing informal justice providers and clients to spread the logic of rational governance” (Woolford and Ratner 2008, 24). However, this conclusion ignores a key facet of governmentality theory. For governmentality theorists governance is never a seamless, finished project. Governance is something which is always pursued but never accomplished. There are always competing rationalities and different governing authorities engaged in different strategies of governance. As multiple authorities are brought into the process of “government at a distance,” “each actor, each locale, is the point of intersection between forces, and hence a point of potential resistance to any one way of thinking and acting” (Rose and Miller 1992, 190). Though their interests may align, these programs have a variety of practices, tools and goals. This means there is always the potential for disrupting or at the very least complicating the dominant logics that are also present. I have argued here that the alternative justice programs studied can be situated in an informal-formal justice complex and be seen to reproduce the neoliberal strategy of responsabilizing community and governing at a distance. It is when we turn our attention to who they are governing, to how my participants constitute the Criminalized Woman, that we see dominant discourses being challenged.

CHAPTER 3 ALTERNATIVE SUBJECTIVITIES

The alternative programs studied here are firmly situated in the informal/formal justice complex and can be analyzed as examples of government at a distance. This makes them spaces in which dominant discourses and practices are reproduced. A close examination of the ways in which the programs construct the subject of governance, the Criminalized Woman, however, shows that these spaces are also spaces of resistance. There are a number of co-existing subjectivities present in the data but there is an overriding construction of the Criminalized Woman as the Marginalized Woman. This chapter begins by identifying the various ways the Criminalized Woman is constructed in dominant correctional discourse and then moves to describe the ways she is constructed by the alternative programs. I end by arguing that by constituting the Criminalized Woman as a Marginalized Woman the programs necessarily respond to her with services that cannot be considered to be simply criminal justice programs.

Foucault argues that subjects are constituted through discourse. There is no subject that exists a priori the exercise of discourse and power. This idea is illustrated in *The History of Sexuality* (Foucault 1978). Foucault (1978) discusses four subjects that were formed through eighteenth century discourses of sexuality: the hysterical woman, the masturbating child, the Malthusian couple, and the perverse adult. He argues that these were not subjects who existed and then had discourses of sexuality thrust upon them but rather that these subjects and their sexuality were produced through and in the discourses. An, if not *the*, intellectual task for Foucault is to examine “how the subject constituted itself, in one specific form or another, as a mad or healthy subject, as a delinquent or nondelinquent subject, through certain practices that were also games of truth, practices of power, and so on” (Foucault 1994, 290).

For Foucault, there is no stable subject that exists prior to the exercise of power. This means that the subject cannot be thought of as the originator of power; the subject is instead its effect. This idea, combined with Foucault's detailed analysis of the ability of disciplinary power to produce docile bodies, has led many feminists to conclude that a Foucauldian approach to the subject denied that subject any agency (Benhabib 1995; Harstock 1990). This criticism is roundly rejected by other feminists who use Foucault's work. They argue that the subject is constituted not simply by one disciplinary discourse but by many and that "subjectivity, like power, discourse and discipline, needs to be understood as multivalent and complexly constructed" (McLaren 2002, 60). So while subjects may be constituted as docile they are at the same time produced as sexual, able, and with agency. Butler (1995) argues that "to claim the subject is constituted is not to claim that it is determined" (46). The subject is continually re-constituted and in that process she participates in her re-constitution. Although the subject is an effect of power she is also its vehicle (Foucault, 1980). The problem of agency and its relationship to resistance is considered further in Chapter Five. Here I trace the subject that is constituted by justice discourses.

The Criminalized Woman does not exist and then have the justice complex respond to her; she is constituted in their response. The Criminalized Woman as a subject is an effect of justice discourse not simply its target. The most pertinent comparative context for this project is correctional discourse. In their analysis of how the Criminalized Woman is constructed in official correctional discourse, feminists have identified three key subjectivities: the Victimized Woman, the Psychologized Woman, and the Risky Subject.

The Criminalized Woman in Correctional Discourse

The Criminalized Woman has been constructed by feminist researchers and advocates as the Victimized Woman or the Woman in Trouble (Comack 1996; Snider 2003, 2006). This woman commits crime because of social oppression (Maidment 2006a; Maidment 2006b). She, generally, does not pose a risk to the community, instead the community harms her (Maidment 2006a; Maidment 2006b). The Criminalized Woman commits crime as a result of the violence that has been done to her (Comack 1996, Pollack 2000). This Woman has been reproduced in correctional discourse, though with some alterations. The Task Force on Federally Sentenced Women and the report it produced, *Creating Choices*, presented a feminist understanding of the Criminalized Woman noting that “Representatives of women's groups and others who share their beliefs, stress that such issues as poverty, racism, wife battering and sexual abuse are centrally linked to women's crime” (TFFSW 1990). This understanding is exemplified in the preface to the report: “By reducing inequities which limit choice, by preventing violence which breeds violence, our long-term goal will reduce the pain which contributes to behaviour which harms others” (TFFSW 1990). This conceptualization has since been translated by the Correctional Service of Canada and used in the construction of the risk subject (Hannah-Moffat 2001), as I will discuss below.

The Criminalized Woman is often constructed as the Psychologized Woman. Here, her offending behaviour is pathologized and the response to her is treatment (Kilty 2012; Maidment 2006a; Maidment 2006b; Pollack 2000). Historically and in contemporary justice discourse we see a reliance on psychological constructs to make sense of women's criminal behaviour. The use of gender specific disorders as criminal defences, such as Battered Woman Syndrome, postpartum depression, or psychosis takes women's behaviour, including their criminal

behaviour, as indicative of individual pathology and attributes it to psychological disorders (Comack and Brickey 2007). The primary response to this woman in the Canadian correctional context is to medicate her and provide some cognitive behavioural programming (Kilty 2012).¹⁸

This construction serves to differentiate the Criminalized Woman from the Criminalized Man and from other women. A psychological construction of women is often contrasted with a construction of men as rational offenders (McCorkel 2003). Female offenders are often seen as deviating from both legal and gender norms, “Administrators, staff and decision makers use psychological rather than structural explanations to account for women’s criminality and justify this by reporting, in great detail, inmates’ departures from appropriate gender displays.” (McCorkel 2003, 69). Overall this approach reifies the Criminalized Woman’s “criminal” status and constructs her as clearly different from Non-Criminalized Woman (Comack and Brickey 2007; Maidment 2006a; Maidment 2006b).

The final construction of the Criminalized Woman is as a Neoliberal Subject. The neoliberal subject of corrections is, or should be after correctional intervention, a prudent, self interested subject (Garland 1997). This subject must take responsibility for her actions, both past and future (Garland 1997). She is responsabilized through such self-governing strategies as empowerment (Hannah-Moffat 2000). Correctional understandings of empowerment focus on the subject’s ability to analyze her past behaviour and make good choices in the future. An empowered Criminalized Woman “is responsible for her own self-governance and for the minimization and management of her needs and of her risk to the public or herself” (Hannah-Moffat 2000, 32). This responsabilization is accomplished through programming such as anger management and addictions treatment.

¹⁸ See McCorkel 2013 for a different correctional response in the American context

The dominant construction of the Criminalized Woman in contemporary Canadian correctional discourse is an amalgamation and translation of the Woman in Trouble and the Psychologized Woman and incorporates neoliberal ideas around risk. She is, as Hannah-Moffat (2005) identifies her, the “transformative risk subject” who is “amenable to targeted therapeutic interventions” (31). In contrast to the static risk subject, this person has criminogenic needs which are intervenable (e.g., employment, substance abuse, and attitude) and when addressed will lower the risk of recidivism (Hannah-Moffat 2005). This woman is constructed by first translating her gender specific socio-economic oppression into gender specific psychological deficits (Pollack 2007). Her criminal offending is a result of an inability to reason and choose (Pollack 2005, 2007). The Criminalized Woman’s psychological inability to make good choices is then interpreted as an integral part of her riskiness (Maidment 2006a; Maidment 2006b). The aim is to “rehabilitate” this subject into someone who can make good choices, who can become “a prudent risk/needs manager, who is responsible and able to identify risky settings, access resources, and avert situations that may result in criminal behaviour” (Hannah-Moffat 2005, 41). Pollack (2007) uses the example of intimate partner violence and argues that “women’s experiences of abuse are reduced to intimacy issues, which, when linked with risk discourses, places them at risk of future violence” (166). This is a construction that individualizes the reasons for committing crime and pulls women out of their social context, locating both the problem and solution within the individual Criminalized Woman (Hannah-Moffat 2010; Maidment 2006a; Maidment 2006b; Pollack 2000).

Recalling the concept of the informal/formal justice complex, it should come as no surprise that these same subject positions have been found in alternative programs. Woolford and Ratner (2008) show the ways that informal programs are imbued with and reproduce formal

justice rationalities. Similarly, feminist scholars have begun to analyze community-based treatment programs for criminalized women and have found that the programs reproduce dominant correctional logics (Haney 2010). Moore (2011) argues, in her analysis of Drug Treatment Courts, that by including non-justice system personnel such as therapists and other treatment team members “the ways in which individuals can be monitored and, more importantly, their actions controlled, multiply exponentially” (265). Though they have not used the justice complex concept these authors have argued that “locating therapeutic penal treatment in the community does not guarantee that a program will meet women’s needs” (McKim 2008, 321) and that we must not assume community programs are more socially just (Haney 2010). Alternative justice programs in Winnipeg contain versions of these dominant constructions: the Criminalized Woman is the Neoliberal Subject, the Medicalized Woman, and the Marginalized Woman.

The Criminalized Woman in Alternative Justice Discourse

The first aspect of the Criminalized Woman to note in these programs is that she is indeed a woman. Gender matters. Some of the agencies work only with women. In those that work with both women and men distinctions are made. Onashewewin offers general programming for both women and men but then also includes a women’s workshop and a men’s workshop. Programs offered to the buyers and sellers of sex acknowledge the gendered nature of these groups. Overall, in the constructions of the Criminalized Woman there is a fundamental understanding that she is different from the Criminalized Man. The Criminalized Woman’s medicalization and her marginalization are understood to be uniquely female. She suffers from feminized mental health issues and her marginalization is unique to her being a woman. The exception to this is the

Neoliberal Subject. The focus on responsibility and choice and the individual, as I discuss below, are gender neutral.

The Risky/Neoliberal Subject

In contrast to the dominant risk logic of the formal criminal justice system there is virtually no mention of the “riskiness” of the Criminalized Woman in my data. Veronica acknowledged that women come in with a risk index but then quickly switched her focus to their safety: “We know they’re at risk and we know there’s all kinds of stuff, right? But safety is very different. Safety is her own personal safety: A. Safety of the people around her: B.” Similarly none of my participants use the language of criminogenic needs. There was no wholesale adoption of the risk/need language that permeates discussions of the Criminalized Woman in the formal system.

The Criminalized Woman is, in other ways, understood to be a Neoliberal Subject. The Criminalized Woman in the formal system is understood to be a rational individual who has made the (bad) choice to commit crime. Here too that understanding is present. The Criminalized Woman can make a variety of choices in her life, all of which are pertinent to her offending behaviour. She can choose to make her life better, choose better relationships, choose to try, and of course choose to commit crime. Her criminal behaviour is not the result of an innate deficiency or disease; nor is it the result of social oppression. It is simply the result of bad choices: “They don’t know how to step out of it. In order to make those changes and in order to make their life better” (Andrea). The decision to commit crime was not the focus of the staff with whom I spoke; instead their focus was forward looking.

The solution for the Criminalized Woman is simple, she must learn to make good choices. The ability to choose is understood to be a learned ability; she has learned to make bad choices from family and other relationships. This means she can learn to make better choices,

something the programs hope they can help her do: “It’s a better life. I really help them to form new habits. How to make good choices” (Andi). The desire to change, as well as the idea that committing crime is undesirable and unnecessary, is inherent in the discussion of change: “Because everybody wants to change their life, right?” (Kate).

In order to make better choices, to change her life, the Criminalized Woman must first take responsibility for her actions. This is a key neoliberal idea and it was present throughout my interviews. Criminalized women must take full responsibility to be eligible to participate in several of the programs, particularly the diversionary ones. The women do not escape responsabilization through diversion from the formal system. They must take full responsibility for their actions. Mike explained the requirement, which is the same for all of the diversion programs: “If they come in and they’re like ‘Yeah I was there but didn’t do it’ or ‘Someone else did it,’ if they’re not accepting responsibility for their part, for what they’ve been charged with, then we send it back.” For programs that work with women on bail or post-conviction there are different official assumptions and so there is no formal requirement of taking responsibility. Although there is no formal rule about taking responsibility, there is often a strong sense of the need to take responsibility. We see this emphasis on responsibility in Caitlin’s words, “She’s fully aware, you know, so you have some women who takes full responsibility of their actions and then the ones that are like ‘Well, that’s not my fault it’s just wrong time, wrong person wrong time.’ No, there’s no accidents, you know what I mean. That’s something they really have to realize. You put yourself in that position, you need to accept responsibility, move along.” Even where the participants did not speak directly to responsibility there is in their discussions of choice and change an assumption of responsibility. If we choose to act we must take

responsibility for those actions. The Criminalized Woman must take responsibility for her previous bad choices and take responsibility for moving forward in a good, legal way.

The precise choice that the women have made, the particular crime they have committed, is generally absent in my data. The Criminalized Woman did not simply commit a criminal act: instead, she is understood to live a criminal lifestyle. All of the things that make up a lifestyle are referred to here, it is behaviour but it is also attitude, relationships, habits, culture, values, beliefs, and routines. She has learned all of these things from the individuals she has relationships with but also the families and communities she comes from. As Andrea explained: “They learned what they’re doing by, you know, just the way of life that they are in. And they don’t know that there is another way of life.” The solution then is to, in the words of Julie, “re-socialize” the Criminalized Woman so that she will become a law-abiding member of the “mainstream” community.

The idea of crime as lifestyle reinforces the idea of choice and responsibility. All of the aspects of a lifestyle – attitude, beliefs, values, and behaviour – can be changed if the individual wants to change them. In almost every interview transcript that refers to crime as a lifestyle there is corresponding reference to the individual changing the lifestyle. For instance, a program document from Eagle Women’s Lodge stresses the Lodge’s goal “to provide them [criminalized women] with resources, opportunities and support to successfully change their lifestyles to the point where they will become pro-social members of the community.” Andi stressed at two different points in our interview “How to have a stable life. How to find new routines...I really help them to form new habits. How to make good choices.” The idea of lifestyle, though not discussed in the formal criminal justice discourse, is a neoliberal one. The idea that we are all free, autonomous, consumers who can pick up and put down any lifestyle we choose is a

dominant neoliberal idea. Rose (1999) details how decisions that used to be made based on tradition, obligation, social status or a sense of what is natural are increasingly framed as “lifestyle decisions made by autonomous individuals seeking to fulfill themselves and gain personal happiness” (86). Constructing her offending as a lifestyle choice accomplishes two conflicting things here. The most obvious purpose is, as discussed above, situating her offending as a lifestyle decision rather than a survival tactic or the manifestation of illness works to construct the Criminalized Woman as a Neoliberal Subject. However, Rose (1999) argues that the ideas of lifestyle and choice are not typically available to marginalized groups like criminalized women. He argues that marginalized groups are “excluded from the regime of choice” (89) and are instead responded to with a mix of strategies that include punitive techniques of governance. The second function of understanding her offending as a lifestyle choice, and indeed a function of the entire constitution of the Criminalized Woman as a Neoliberal Subject, is to normalize her.

The final manner in which the Criminalized Woman is constituted as a Neoliberal Subject is in her individualization. Much of what I have already discussed contains within it the inherent assumption that we are discussing the problems and abilities of an individual. Her ability to choose, her choice of a criminal lifestyle, and the responsibility she must take for that lifestyle all speak to an individualized understanding of the Criminalized Woman. The cause of crime is located in her individual bad choices, the solution in her learning to make better ones. Participants also emphasized individual responsibility. Mike talked about individual choice “So I think its personal choice too. What do you want to do? Take responsibility for yourself.” Caitlin talked about taking on a teaching role, stressing to women that “in order for you to appreciate things a little bit more you have to do it for yourself,” and observed that “one of their biggest

challenges is overcoming themselves and stepping outside of their boxes.” When asked what the main difference between her program and the formal justice system is Caitlin responded, “You can’t work on yourself when you’re in jail.” Here there is the assumption that it is the individual who needs work rather than the social conditions under which she lives. When staff describe the programs they offer there is often an inherent assumption of the Neoliberal Subject as the subject being targeted by the programs. However, when asked to describe the women that they work with the subject staff construct looks very different.

The Medicalized Woman

Though none of the staff I spoke to have a clinical background, nor do any of the programs specifically identify clinical goals or even hint at a clinical philosophy, there is a clear medicalization of the Criminalized Woman throughout the data. The Criminalized Woman is often a woman with poor mental health. Although HIV and physical disabilities are briefly mentioned, it is primarily her mental health that is the focus. But I hesitate to call her the Psychologized Woman here. There is very little identification of psychological disorders, and very little cognitive-behavioural programming; there is even some critique of it. The programs continue to provide medications for the women they work with but the data contain some criticism of the over medication of women. Though the Criminalized Woman is Medicalized, the buzz words and specific constructs of the psy-professions are generally absent from my data.

The participants spoke to the psychological health of criminalized women in a number of different ways. There is the expected understanding of the psychological causes of criminal behaviour. Participants sometimes framed the women’s offending in terms of pain, shame, or anger. They mentioned triggers, depression, and anxiety. One participant in particular

understands certain women's offending as rooted in the physiological and psychological effects of menopause. As Erika noted, "Mental health issues can be a huge challenge and often contribute to offending and the system doesn't have really good capacity for dealing with those." Similarly, Andi stated, "You can't do this job without addictions and mental health." Along with the recognition that the criminal justice system is ill equipped to deal with mental health issues, participants spoke to the difficulty their own programs have. The psychological problems of women were discussed as an impediment to the program work. Specifically, ADHD and FASD were frequently mentioned as being challenges in terms of working with women (and men) in the programs.

The Medicalized Woman is an addict. Sarah and Caitlin described the majority, and the vast majority, of the women they deal with as being addicted to some substance. There is a lack of identification of specific substances but several interviews and documents mention the role of addiction in the lives of criminalized women. Addiction is seen as a cause of crime. This is generally coupled with poverty as a cause as well, with frequent mention made of "crimes of addiction and poverty" (Veronica). This is contrasted with violent crimes. Addiction is also referred to as a symptom of victimization. In one specific reference, the program document states that addictions "reflect the symptoms of abuse and neglect." Much of the data on women involved in the sex trade speak to the pervasiveness of addiction, and Sarah talked about the inevitability of continuing addictions: "You know, is she going back on the street? Probably. Is she going back for another hit? Probably. Next time you see her she may be strung out on crack." Veronica made the observation that criminalized women either suffer from addictions or *have been told* that they suffer from addiction. One program's standardized intake form includes

questions about treatment, and overall addiction is treated unremarkably by many participants. This speaks to an overriding “common sense” of the Criminalized Woman as an addict.

Participants regularly stated that the Criminalized Woman suffers from trauma. Trauma is linked to a variety of causes and outcomes, including violence, complexity, limited life skills, disability, life situation, the family, sexual abuse, and being triggered. It is sometimes understood to be a cause of women’s offending behaviour. It is more commonly understood as a factor that must be accounted for when designing programming. Trauma is seen as something that is uniquely female.

Trauma is also understood as having a uniquely Aboriginal meaning above and beyond the mainstream understanding of trauma. For Aboriginal women, men and children the loss of family and community connections is discussed as a traumatizing loss by my participants. Mike described the impact of separating children from their families as incomprehensible: "You have this kid who was taken away from their family. Just from that very act alone, it’s just so unnatural. It just affects a human in such a profound way. I can’t even comprehend it. I myself was apprehended at a very young age so I understand how it is. I’m still trying to understand how much that affected me.” Several participants spoke of the need for healing from the harm of residential schools and other practices of colonization, including Andrea who said “the taking of the land and the displacement, you know, residential schools, the sixties scoop. We need to go back far enough so we can truly see ourselves and then come forward and know who we are and then take our individual lives and what has happened to us so we can heal that part.” Trauma is described as particularly rampant for Aboriginal women. This is attributed to the high levels of violence in Aboriginal women’s lives. This is an intergenerational, family and community issue.

The Medicalized Woman is, in a manner similar to the Neoliberal Woman, an individual. She is not, however, responsible in the same way. The Medicalized Woman is suffering from an illness or an injury. The injury, whatever form it takes, is seen as central and the crime more peripheral, perhaps even a symptom of the injury. If the woman's injury is healed the criminal behaviour will end.

The programs under study here, no matter the degree to which they constructed the Criminalized Woman as Medicalized, are not treatment programs. Elizabeth Fry offered an in-house program called Kicking Addictions; the rest referred women out to treatment programs. Thus the programs contained some of the understandings of the Medicalized Woman that have been noted in the literature, but they avoided many of the therapeutic strategies and tools that feminist scholars have found problematic for criminalized women, particularly behavioural modification, peer surveillance, and total erasure of social structure (Beck 2006). However, the literature has recognized neoliberal strategies of responsabilization and self-governance operating in treatment programs (Beck 2006; Haney 2010; McCorkel 2003), and those are also operating here.

The Marginalized Woman

Finally, the data also contain a Criminalized Woman similar to the Woman in Trouble. The Criminalized Woman in this data is very clearly a Marginalized Woman. A common critique of both formal system discourse (Hannah-Moffat 2001) and feminist discourse (see Crenshaw 1991; Hill-Collins 2000; Moraga and Anzaldua 1981) is that the concept of Woman is understood to be a homogenous category, most often inherently based on white, middle class standards. This is not the case in my data. The Criminalized Woman therein is understood to be

oppressed by a variety of social structures in complex ways. She is an Aboriginal woman, she is poor, she is marginalized through her gender and particularly her role as a mother, she is uneducated and she is the victim of violence. This is a wholly intersectional framing of her marginalization. All of these oppressions rely on and lead to one another.

The construction of this woman begins with the identification of her as an Aboriginal woman. The Criminalized Woman in the data is often, if not always, an Aboriginal woman. Participants mention that most of their clients are Aboriginal women, who are further specified by a couple of participants to be First Nations women. Along with that recognition is the identification of the multiple structural oppressions faced by Aboriginal women: she is not simply Aboriginal, facing racism and racist structures, surviving residential schools, though she is that, she is also an Aboriginal woman and is even more devalued as such and she is poor. For these programs, dealing with criminalized women and in particular those who do not have their own financial resources to deal with their criminalization, it is an overriding common sense that the Criminalized Woman is Aboriginal.

This identity was not simply noticed by participants; instead, independent of any questions on my part about race or social structure, the colonial experience and structures were discussed again and again. Colonization is seen as having tremendous impact on the lives of the women but particularly on families. The family unit is the level that is discussed most often, since colonization has caused intergenerational trauma, violence, and dysfunction in families, which has led to lack of identity and shame about identity in individuals. Dysfunctional families and communities are then identified as a source of criminal behaviour/lifestyle/choices. Participants also spoke to the lack of informal supports women have to help when they do get into trouble. They do not have someone they can call because of dysfunction or because their

family members are in prison as well. As Emily explained “Most of the women, particularly the Aboriginal women, come from fragmented families. So there isn’t even a nuclear family let alone the structure of the extended family to provide a safety net. So that’s something that we try to do.” My participants also spoke to their experience dealing with a racist criminal justice system. Chris spoke about the lack of resources put in to Aboriginal Justice Inquiry recommendations and flaws with Gladue¹⁹ reports in the province. Mike spoke about the hostile relationship between police and Aboriginal people. Emily put it most bluntly “The other thing, of course, is that justice here is racialized. That’s about racism.”

The Marginalized Woman is also a mother. She is an Aboriginal mother. As such she is understood to be a mother who does not have custody of her children and who was in Child and Family Services (CFS) care herself. This is not the result of her own bad choices as an Aboriginal mother; instead, social structure is repeatedly discussed. Residential schools, the sixties scoop, and contemporary child welfare services all come up time and time again in the data though I asked no specific questions about them. There is a recognition that though the Marginalized Woman has lost her children, it is due to structural racism rather than a failing on the part of her as an individual mother. Apprehension seems to be understood to happen because of her status as Aboriginal rather than her status as a criminalized woman. Her own childhood is also understood to have been marked by apprehension. As Kate noted “Because they didn’t get the parenting because the Scoop, the sixties scoops and children being placed into foster care,

¹⁹ In the case of *R v Gladue* the Supreme Court of Canada ruled that judges must consider all sentencing options other than incarceration, with special attention to the circumstances of Aboriginal defendants. Gladue reports are submitted in bail and sentencing hearings. They detail the community the accused comes from and the history of the individual with the goal of placing their behaviour in the social context of discrimination and colonization. This participant spoke to me of how Gladue reports were sometimes incomplete or contained incorrect information. As well they were being submitted with risk assessments attached to them. In his eyes this was completely contrary to the spirit of the reports.

house to house to house. Because I've heard stories of some kids, when they were children, being taken from, being placed in 40 to 60 homes in their lives and to me that's horrific. That's just not right. Not right." Participants discussed the intergenerational nature of CFS involvement and family dysfunction and it is linked to colonization and the oppression of Aboriginal people in Canada. Veronica told a story of one resident in order to illustrate the intergenerational impacts,

I think of this one mom, grandma actually. She's really the Don of this family, honestly. Her daughter-in-law, her kids have all resided [in jail]. So this is a woman, to give you an example. Most of her kids were in care. She led, her conflict with the law revolved around drugs and poverty, trafficking. Is waiting to be sentenced for like the last 3 years or so. And has her, so three of her daughters are deceased and all in a very short period of time. She has one grandchild she's cared for, one who she's fighting with CFS for. Her, you know, she has another baby that's just come into the picture through one of her other kids. The mother is her daughter, resides in the same facility, who basically was in youth corrections since she was a kid for double homicide. This is the complexity and the nature of what we're dealing with.

The Marginalized Woman is poor. She is not a member of the working class or the working poor; instead, she is constructed as the poorest of the poor. She is either receiving social assistance or living on the street. This is a strong common sense in the data, revealed both through the frequency with which participants spoke of her poverty and also through the offhanded way in which they mentioned it. Oftentimes mention of her poverty was brought up in answer to seemingly unrelated questions such as: "Can you describe the work your program does?" In response, participants spoke about how they are dealing with crimes of poverty, how

they look to the underlying issues such as poverty, that the women they deal with are “probably in EIA [Employment and Income Assistance]” (Veronica). Poverty is seen as a cause of crime. It is also seen as drastically influencing the Marginalized Woman’s interactions with the criminal justice system. She cannot get bail if she has no address to be released to and it is difficult to get to appointments with probation when EIA will not give her a bus pass.

The challenges listed by the participants also speak to the extreme nature of the poverty experienced by the Criminalized Woman. The participants constructed the Criminalized Woman as needing assistance with a variety of the most basic needs: shelter, food, identification, and transportation. When asked “what are the biggest challenges facing the women you work with?” we may expect a more neoliberal discourse to centre the woman’s own motivation and choice making, overcoming her inability to conduct herself properly, and her lack of taking responsibility. There is a small amount of this in the data. A medicalized construction would talk about addictions, medication, getting a proper diagnosis, and treatment. There is some of this present in the data. The most commonly cited challenge, however, is the most basic of needs. Participants consistently discussed the need to have housing. This need is never cited as a cause of crime. There is not the translation of the need into a risk factor, there is simply the recognition that she needs a place to live. She is not blamed for her inability to find a place to live. There is no mention of what her criminal record, or bad choices, or lack of responsibility has done to contribute to her homelessness. Instead, the focus is on the inadequacy of EIA in providing enough money and the general lack of affordable housing in the city. It is not because she is a criminal that she cannot find housing; it is because she is poor. Again, this is an intersectional understanding. The Criminalized Woman is not simply a poor person; she is a poor, Aboriginal, mother.

My participants' interviews also work to break down the binary of offender versus victim. This is a classic feminist argument about women offenders, that they are victims and offenders (Comack 2006). Participants spoke to it directly: "I would have to say victim offender, offender victim, probably both" (Veronica). They also spoke to it indirectly by referring to the Criminalized Woman's vulnerability. She is vulnerable to exploitation, vulnerable to falling back into her criminal lifestyle, to personal prisons, to violence, to death. The violence that the women face and the trauma that they have sustained are also highlighted. Women are victimized by intimate partners, dysfunctional families, and structural arrangements in the data. This is particularly true in regards to her identity as an Aboriginal woman. There is reference by participants to her becoming missing or murdered,²⁰ the systemic violence she faces, the intergenerational trauma, and simply the massive amounts of violence in her life.

Though this recognition of victimization is a strong component of the data I hesitate to call her the Victimized Woman or the Woman in Trouble. My participants focused less on her victimization and more on her marginalization. The Woman in Trouble is understood to commit crime because of her victimization (Comack and Brickey 2007). That construction makes a more direct link between her violent victimization and her offending than my participants did. It also locates her victimization in the interpersonal violence of spousal or family abuse, while my participants more frequently spoke to her structural position. As it was with the other conceptualizations of the Criminalized Woman, here too her specific criminal acts are rarely

²⁰ It has been estimated that somewhere between 500 (NWAC 2010) and over 1100 (RCMP 2014) Aboriginal women and girls have been killed or gone missing in the last thirty years. All of the provincial governments, along with national organizations such as Native Women's Association of Canada and the Assembly of First Nations, as well as international organizations, including Amnesty International and the UN Special Rapporteur on the Rights of Indigenous People, have called for a national inquiry into the issue.

spoken of; instead, her life, her overall placement in overlapping social structures, is the focus of the discussion.

Co-Existing Subjectivities

Throughout the interviews and the document material the Criminalized Woman is a Neoliberal Subject, a Medicalized Woman, and a Marginalized Woman. These co-exist. It is not the case that some interviews construct her in one way while others do so in a different way. Instead, there are some data in which the different conceptualizations are apparent at the same time. For instance Sarah identified the Criminalized Woman's chosen lifestyle, and thus responsibility, for having lost her kids but also medicalizes her through her addictions, and recognizes her social situation in her poverty: "How do you lose your children, because of your lifestyle or whatever, how do you get out of bed in the morning? How do you survive addictions? So these are, like, I would say the majority are addicted. So you're living in poverty, you're uneducated for the most part, and you're addicted." More commonly, at one point in the interview the criminalized woman may look one way and at another point she may look differently. This presentation must be complicated further. It is not simply that these identities can be separated out neatly and found untouched by the others. Rather, each subjectivity modifies and changes the others.

The risky Neoliberal Subject is undermined by both the Medicalized and Marginalized Woman. Her ability to choose both to commit crime and to change her life, an ability fundamental to the neoliberal construction, is nullified by both of the other constructions. The Medicalized Woman has very little agency. If her criminal behaviour is a result of an addiction or mental illness then she cannot possibly choose that behaviour. Addiction is seen as something requiring treatment, as something that stems from abuse and trauma, not simply as a bad choice

the woman has made. Though the Marginalized Woman may have more agency than the Medicalized Woman it is a similarly constrained agency. It is constrained by social structure. Chris spoke about residential schools and how “we’re still seeing it continue right at the ground level. The effects of what happened a long time ago, it effects them.” Social structure also constrains her choices of moving forward, as one program explained: “The agency residents are women who, victimized either in their interpersonal relationships or through systemic neglect, are left without resources to independently make the life changes they feel are necessary.” Throughout the data the Criminalized Woman is constructed to be a passive rather than an active participant in her offending behaviour. Participants spoke of her as someone who is “vulnerable” (Veronica; Julie), “floundering” (Caitlin), and “victimized” (Kirsten). The Criminalized Woman is often “lured back” or will “fall back into traps” (Veronica) and thus she “ended up being charged” (Andrea). Her criminal circumstance and life history were described as “tragedy” (Andi). Her crimes are not the well-thought-out actions of the rational individual; rather, they are “crimes of poverty and addiction” (Veronica).

The individualized nature of the neoliberal subject is also undermined by both the relational and structural foci of the Marginalized Woman. Two main types of relationships mentioned by participants are intimate partners and families. Women are in “in an abusive relationship” (Sarah) and “it's their partner who gets them into the situations” (Andrea) or “it's maybe from past relationships, being beaten down” (Caitlin). Oftentimes “you’re born in to a gang” (Andi), “sometimes family is the problem” (Emily). My participants spoke about how criminalized women have “experienced a lifetime of family dysfunction” (Veronica). There is a common sense running through the data that the Criminalized Woman does not have a healthy family and that she is in abusive relationships. One case that a participant offered as exceptional

stresses how close the woman and her mom were, how supportive the mom was. That this is presented as an exceptional case reinforces that the norm for criminalized women is bad relationships.

The aim for the programs is often to strengthen or build relationships. McKim (2008) finds in her study of a community treatment program that “the staff aimed to make Belinda an unencumbered, self managing individual through focusing on herself. They did not invoke Belinda’s responsibility to her son but viewed her desire to engage in active mothering as evidence of her disorder rather than a sign of responsibility” (310). In contrast, throughout my data there is encouragement of the criminalized woman's role as mother. Much of the time the participants talked about assisting the women in getting their children back. Caring for her children is seen as a way to reduce recidivism. Regaining custody is seen as a motivator for generally getting her life together. Motherhood, the ability to parent, is a skill or ability that can be learned and should be taught. The participants overall are very supportive of the women mothering their own children even when it is acknowledged that they may have to learn how to do so. CFS is identified as a cause of many problems. It is identified as problematic for individual women, as it removes children from women for very little reason and is a difficult bureaucracy to manage once children have been apprehended. Families are impacted emotionally by the removal of their members. CFS is also discussed by participants in the broader context of the removal of Aboriginal children from their communities and the loss of culture and identity that results.

Staff also spoke about the importance of their own relationship to the women with whom they worked. In contrast to Beck’s (2006) finding that staff did not want to take care of the

women, instead wanting women to take care of themselves, participants often spoke to their role in helping and caring for the women. Kate described the relationship as such:

I'm just going to say sometimes you have to play mother with the women. The women, and this may be deviating from your question, I've had some women wanting me to adopt them. And I say I can't because number one you're an adult, number two you're a client and it's a conflict. But because you build that relationship there are a few that call me "mom" but the thing is some of, sometimes you have to talk to them as a mother because they may not have gotten that, not by their fault, and I think that goes back to the colonization of the Aboriginal people.

Relationships, particularly parental ones, family ones, but also whole community ones, are seen as important, in contrast to the individualizing strategies of neoliberalism.

Even when the participants did individualize the Criminalized Woman, they then placed her into a structural context, as Julie did:

Really trying to get folks to be able to have that own self determination on their lives right? And how they make those decisions and that they have the right to make those decisions and make choices and that they have the right to information. They have the right to education. They have the right to, you know, social justices. Just ensure that they know all those things. Because most women who have been impoverished, or exploited, or oppressed usually don't have that information right? The information can be power in a lot of situations so.

Although this participant begins by talking about choice and individuals she moves to placing that choice within structural constraints, acknowledging that social structure impacts individuals' ability to know and choose.

The Medicalized Woman is, through her construction as ill or injured, necessarily pathologized. However, this is tempered throughout the data. There is an absence of the most obvious way of pathologizing her, the use of specific mental disorders. Although anxiety and depression are frequently mentioned, there is no use of specific psychological labels. Much of the data go beyond this to normalize her. She is rarely labelled an offender. Pollack (2006) argues that "The label of 'offender' operates within a criminal justice and correctional script and relies upon an Othering process that separates offenders (those Other women) from those writing about and working with them. Not only does this dualism stigmatize and create artificial boundaries and hierarchies, but it also reifies women's identity as permanently criminal or offending" (247). This tendency is resisted in my data. Participants consistently spoke to the various ways in which the Criminalized Woman is the same as themselves and other women. Rather than Othering the Criminalized Woman several staff made very clear statements that the women they work with could be them or that becoming criminalized could happen to anyone. Kate argued, "They're experiencing the same things as other people. Except, again, the charges. And society frowns upon people who have been charged. But anyone could be charged. Anybody could, people break the law, what is it, like, five times a day." Andi spoke to a similar sentiment as part of her motivation for doing this work, "I just, I don't know, I've seen so many people in my life where they could have gone down that path. They could have gone down because of really hard times and tragic moments and some of us have just been given the right people at the right time in our lives so that it didn't end up here."

Many of my participants challenged my framing of issues faced by criminalized women and pointed out that housing and addictions are challenges for all women. Sarah, for one, said, “I think just women overall, period. Right? Whether they’re in conflict with the law or not. If you’re looking at someone who’s living in poverty, single mom, whatever, these are the challenges. Housing, education, employment. Sometimes its addictions, sometimes it’s not, parental skills. All these different types of things. So, I mean, overall it’s a challenge for a lot of women, period.”

This works against medicalizing and pathologizing criminalized women and works to place them in the same social context as all women. While recognizing the issues criminalized women must deal with in relation to their criminalized status, participants were adamant that these women have much in common with other marginalized women. The Criminalized Woman’s identity as a woman or single mom or Aboriginal person is constructed as a more pertinent identity than her identity as criminalized.

Although the Medicalized Woman is individualized, the root of her psychological problems is consistently located in her marginalization. This is in direct contrast to the Medicalized Woman’s presence in official justice discourse where mental illness “diagnoses depoliticize and fail to adequately account for the socio-political, cultural and thus structural basis for the distress women experience” (Kilty 2012, 165). Here the Medicalized Woman’s psychological issues are consistently placed back into their structural context. Although Mike spoke of the Criminalized Woman as “wired a little differently,” it is directly because of colonization: “the First Nations population is wired differently from the time they were young and going back from residential schools to being taken away. When you get taken away as a kid your wiring gets shifted around and you’re going to be different. You get disconnected. You

have a society that wants nothing to do with you.” The Criminalized Woman’s trauma was labelled again and again as intergenerational, caused by colonization:

So what we’re dealing with is – and some are direct survivors of residential school because the last residential school closed in 1996 so women who are younger than me have gone to residential schools that are in their thirties. So some are direct survivors and then it’s the next generation. So their needs are about healing. And there just isn’t enough services. I mean, healing not just in terms of therapy to deal with traumas but healing is also about they’ve missed out as you can cite earlier about what I said even coping with conflict. That’s about healing. (Emily)

Social oppression is identified as a source of psychological distress as is the criminal justice response to the Criminalized Woman. Prison is identified as a source of their anxiety and depression, as Veronica observed: “And they have a lot of anxiety, particularly in young women who have been institutionalized for long periods of time. You can see it. You can see their level of dependence is quite high.” It is prison that is centred as the problematic factor, as something which induces trauma and anxiety and leads to the overmedication of women. Though the Criminalized Woman is understood through a medical framework, that framework is then looked at through the larger lens of marginalization. In many ways, participants translated the personal troubles of women into the political problems of society.

The Marginalized Woman is impacted by the other two subjectivities as well. She is individualized. If the personal is made political throughout the data the reverse is also true. The structural context is translated into psychological problems and the bad individual choices that result. This translation process has been repeatedly identified in the literature regarding the

formal justice system (Hannah-Moffat 2005; Kilty 2012; Pollack 2007). It takes place here as well through the presence of the Neoliberal Subject and the Medicalized Woman. The simple fact that these subjectivities co-exist with the Marginalized Woman individualizes the Criminalized Woman. The data also contain direct examples of the transformation of structural problems into personal ones. One program describes their clients' backgrounds thusly:

Many Aboriginal women who experienced incarceration are survivors of childhood sexual abuse, trauma and family violence. Many of them have had child welfare, justice and/or other system involvement and interventions at a very young age in their lives, resulting in being totally disconnected from positive family supports and/or extended family supports in their communities. Due to having experienced systemic and/or familial neglect and abuse, many Aboriginal women who have experienced incarceration also have a negative sense of self and identity. (Program document)

This excerpt begins by recognizing the victimization of the criminalized women and places it in the context of social system involvement and oppression but ends by discussing its impact on women's individual sense of self and identity. This process is not identical to the one that has been identified in correctional discourse and practice. Pollack (2007) argues that "When incorporated into correction logics and discourses, the victimization narrative becomes psychologized; that is, there tends to be a focus on the psychological and emotional impact of such experiences and how impaired thinking, decision making, and lack of emotional control lead women to commit crimes. The psyche of the criminalized women is the site at which reformation occurs" (160). The victimization narrative that Pollack speaks of is not present in my data; instead, there is a broader marginalization discourse. As such it is not the criminalized

woman's psyche that becomes the primary focus of reform, it is her life as a whole, particularly her education and skills.

Concluding Remarks

As participants described the women they work with and the work they do three distinct subjectivities became evident. In their discussions with me, and in the documents I analyzed, the programs constituted the Criminalized Woman as a Neoliberal Subject, the Medicalized Woman and the Marginalized Woman. These impact each other. Sometimes a translation of the Marginalized Woman's social oppression into personal defects is apparent, as has been identified in much of the literature on criminal justice discourse. But the reverse is also true. The recognition of social structure and disadvantage in the Marginalized Woman nullifies the responsibility and ability to choose that is given to the Neoliberal Subject. Though they co-exist and influence one another the Marginalized Woman is the predominant way that participants construct the Criminalized Woman.

In contrast with the findings of the extant literature on informal justice here we see the criminalized woman being constructed through a social justice lens. This type of understanding can help create the breaks in the informal/formal justice complex that Woolford and Ratner (2008) identify. The Marginalized Woman is a figure that challenges dominant constructions of criminalized women. Rather than reproduce neoliberal and criminal justice ideas of responsibility and self governance the programs construct the Criminalized Woman in a way that links her personal needs and actions to social structural oppression. This leads the programs to engage not only in criminal justice type work but also in social work, broadly understood, culture, and advocacy work. This more contextual understanding of the criminalized woman

means that it is not simply her criminal offending that is the object of governance or advocacy; instead, her whole life is at issue. The ways the staff thinks about that governance, in both dominant and resistant ways, is the focus of the next chapter.

CHAPTER 4 ALTERNATIVE MENTALITIES

A theme that has run throughout the analysis thus far, and continues in this chapter, is the presence of multiple components in the alternative justice programs. The agencies engage in both formal and informal work. They exist in a justice complex in which the programs do multiple types of work, not only justice but social, advocacy, and culture work. Through this work, the staff constitute the Criminalized Woman predominantly as the Marginalized Woman but also as the Neoliberal Subject and the Medicalized Woman. This chapter examines the mentalities present in the staff's discussion of their work and finds complexity here as well. Although due to their placement in the justice complex we would expect alternative programs to govern women in accordance with dominant neoliberal governing ideas and strategies, this expectation is tempered when we see how the Criminalized Woman is constructed as the Marginalized Woman by the programs. Our expectation is both borne out and challenged.

In this chapter, I argue that the specific ways that the programs respond to the criminalized women and the mentalities embedded in those responses reflect a tension between neoliberal and social justice approaches. When the justice practices that the programs use are examined, a strong neoliberal mentality of governance is clear. The formal justice practices and the informal personal development programs aim to rework the Criminalized Woman into a responsible Neoliberal Subject. This chapter begins by showing the presence of this mentality. The alternative mentality present in the programs can be drawn out of the various other types of work they do. When the social, advocacy, and culture work is the focus of analysis, an ethic of care becomes apparent. After demonstrating how this ethic manifested in my interviews, I then look at the impact of the simultaneous presence of a neoliberal mentality and an ethic of care. There are three consequences of the interaction between the two mentalities. I argue first that the

object of governance for each mentality is only slightly different from the other and that when both are present there is the tendency for that difference to collapse. Second, that an ethic of care can reinforce the neoliberal mentality. Third, that an ethic of care also has the potential to challenge neoliberal strategies by offering criminalized women resistant strategies of self-care.

Neoliberal Mentality

The justice work that is done by the agencies, the formal supervision and particularly the informal personal development programs, shows an approach to working with criminalized women that is grounded in neoliberal ideas. As discussed in the previous chapter, neoliberal governance involves the constitution of a new political subjectivity. Rose (1996) argues this is a new subject of government, one who can and should “maximize their quality of life through acts of choice, according their life a meaning and value to the extent that it can be rationalized as the outcome of choices made or choices to be made” (57). This rationality constructs the individual as “a rational, free, responsible, and prudent consumer who is capable of minimizing and managing risk” (Hannah-Moffat 2001, 164). Governing techniques focus on techniques of self-formation wherein that individual is constructed. The aim is to construct active subjects who make their own choices within the bounds that governmental power draws (Garland 1997). Individuals are constructed to actively manage their lives and make good choices; not committing crime becomes one such choice (Rose 2000).

Many of the programs offered by the agencies, particularly the informal and formal justice programs, are directed at constructing a self-governing subject. A key characteristic of neoliberalism is the enactment of governance through engaging individuals in an “array of programmes for their ethical reconstruction as active citizens” (Rose 1996, 60). We see this in

the variety of programs offered by the agencies, particularly those aimed at education, training, and personal development. The theme that runs through all of these programs is the idea of knowing and changing the self. The objective is to instil in the individual the ability to understand themselves, be self-aware and therefore be able to act appropriately or self-govern. These programs, like the restorative justice ones studied by Woolford and Ratner (2008), serve as “a potential vehicle for carrying governmentality into localities and responsabilising individuals, through the force of their own decisions, to remake themselves as peaceful and accepting community members” (80) – thus engaging in “government at a distance.”

Rose (1996) argues a key aspect of the neoliberal self is to be an expert of oneself. Individuals are expected “to adopt an educated and knowledgeable relation of self care in respect of their bodies, their minds, their forms of conduct” (59). The ability to know the self is often a stated aim of the programs or staff. For example, the Positive Lifestyle Program offered by the Salvation Army aims to enhance participants’ “self awareness and coping skills.” Andrea stressed that she helps her clients “know who they are and they can move forward from here.” Sarah described the work her program does as involving “a lot of self-reflection,” while Julie spoke about helping her clients to “find themselves again.” One participant outlined a workshop she runs on relationships, and explained: “I usually start with the most important relationship, which is the relationship with themselves. They need to know and understand, be comfortable in that relationship first in order to have other relationships.” Many of the programs share this participant’s sense that much of the work they do is about “looking at helping individuals to examine their behaviour” (Sarah).

A key aspect of the self that can be known and acted upon is self-esteem. Cruikshank (1996) argues, “self-esteem is a technology of citizenship and self-government for evaluating

and acting upon ourselves so that the police, the guards and the doctors do not have to” (234). Feminist scholars have documented the particular use of empowerment through self-esteem as a self-governance strategy for women in prisons (Bosworth 2007; Hannah-Moffat 2001), therapeutic communities based in prison (McCorkel 2003) and the community (Goodkind 2009; Haney 2010), as well as in prostitution policy (Harrington 2012). Many of the programs under study here speak to their desire to improve or build self-esteem in their clientele. The Salvation Army camp offers workshops that cover positive self-care and self-esteem. TERF program documents assert that its program works to “assist to stabilize living situations, promote healthy lifestyles and build confidence and self-esteem.” Native Women’s provides “continued support to develop and enhance practical living skills that serve to build confidence and self-esteem” (Program document). Onashowewin provides a workshop specifically for women that is “about building self-esteem, learning tools for making better choices, coping mechanisms” (Program document). The programs offer the Criminalized Woman the opportunity to know herself better and to build her self-esteem.

This knowledge is then put to use in changing their behaviour. As Onashowewin proclaims on their website “Every morning the sun rises offers the opportunity to change your life.” Mike described the work his program does around anger management:

I’m trying to think about a scenario about [someone who is] passive aggressive towards you and you can feel that energy when someone is trying to put that off. So how are you going to deal with that? We’ll give ABCD sort of answers. Do you do this? Do you do this? So it’s kind of, we try to like simulate them in terms of the options that they have that’s not just one way of doing things. Teach them how to explore in different ways of

dealing with anger even. When a situation gets too much... It's just hopefully giving them some sort of tools to work that shit out.

Here program participants are taught how to recognize situations in which they may react badly, they are given appropriate options for reacting and it is hoped when they leave they will be able to make the right choices. The PLP program develops service users' self-awareness and coping skills "to assist them in ensuring the offence will not occur again" (program document). Andi explained: "I make them deal with a lot of their shit. Yeah, so I make them deal with their crap. Because if you don't, how are you going to move forward?" Here individual women are encouraged to govern themselves through their freedom, their ability to be self-aware and make the right choices.

Throughout these data there is an underlying assumption of the ability of the individual to change, to find balance, to exercise self-determination within her current social situation. There is an assumption that the only obstacle to change is the individual herself. One participant explained to me that one of the theories the programs works from is the Stages of Change model (Prochaska, DiClemente, and Norcross 1992). Originating in research into alcoholism, this model identifies different points of readiness of individuals in reference to changing their behaviour. There are five stages in the model: at the pre-contemplative stage individuals do not identify a problem and so have no intention to change; at the contemplative stage individuals are aware of the problem and are thinking about both the problem and addressing it; the preparation stage involves no direct change but significant steps towards addressing the problem; at the action stage individuals change their behaviour; and maintenance involves sustained commitment over time to stopping the problematic behaviour (Prochaska, DiClement, and

Norcross 1992). Julie explained this theory to me using the example of someone who is addicted to cigarettes: at first they deny there is a problem, then they acknowledge some harm, and they move from thinking about maybe buying a patch to cutting down consumption, then to quitting, and staying away from cigarettes. She went on to explain, “We use that here with every issue that they’re facing. Then, so, they come in, we do a whole intake process, we look at different parts of their lives from justice, to housing, relationships, addictions. So all of those different areas, we’ll assess kind of where they’re at because they will be in different spots.” While this theory may have value when looking at addictions it is hard to see how changing the women’s encounters with justice, their housing needs or relationships could be remedied by simply recognizing the problem and having a will to change. Though I single out this example this assumption runs beneath much of the education, training, and personal development programming offered by the agencies.

Alongside the assumption that individuals can change is the sense that individuals must do this work themselves: “So they can leave behind the jail and all that BS and start something new they’ve been given because they’ve chosen to take it” (Caitlin). Participants were sometimes adamant about this aspect of the programs. Julie argued: “People have to figure it out for themselves and do the work for themselves.” Likewise, Caitlin noted: “It depends on the individual. Like, if the individual wants to work and this is really what they want to do, then they’ll do it.” The programs all see themselves as assisting the women but the individual must be willing to choose to change, to take advantage of the tools the programs provide. Sarah qualified her discussion of assistance to focus on the responsibility of the women: “In order to help people we need to help them with all of these types of things. Or give them the tools to help themselves.” The programming, be it educational, training or personal development, makes up a

large part of the toolbox that the agencies provide to women. There is considerable evidence here for the argument that neoliberal logics of the criminal justice system have been incorporated into alternative justice spaces (Allspach 2010). Particularly in their justice work, the Criminalized Woman is constituted as a Neoliberal Subject and staff respond to her with neoliberal self-governance inducing strategies.

One significant aspect of a neoliberal mentality, a strong economic rationality, is largely missing from these data. Garland (1999) identifies three features of the economic rationality he sees as a hallmark of contemporary responses to crime: “an analytic language of risks and rewards, rationality, choice, probability, targeting and the demand and supply of opportunities” (17), the increasing focus on objectives such as “compensation, cost control, harm reduction, economy, efficiency and effectiveness” (17) and the increasing use of fiscal practices such as budgeting and auditing extending into other types of decision making. Though my participants do give the Criminalized Woman the ability to choose and act rationally they do not frame her as a client, service user, or consumer. They did not discuss efficiency or cost/benefits. The ways in which staff members think about their work with criminalized women is therefore not wholly neoliberal. Indeed, much of their discourse evokes a different mentality: caring work.

Ethic of Care

When the agencies’ other types of work are analyzed a very different idea and approach to the governance of criminalized women is evident. In their social and advocacy work participants rely on an ethic of care. There is a large and diverse literature on a feminist ethic of care (Barnes 2006, 2012; Gilligan 1982; Sevenhuijsen 2004; Tronto 1993; see Fine 2007 and Hankivsky 2004 for overviews of the literature). It began with Carol Gilligan’s (1982) psychological work on

moral development. She recalls that in studying people's reactions to questions of morality, choice and conflict, "the women's voices sounded distinct" (1). Gilligan (1982) is highly critical of Lawrence Kohlberg's stages of moral development. Drawing on a variety of research projects with boys, girls, men, and women Gilligan argues that Kohlberg's model is premised on a male perspective. When this androcentric model is used to assess the moral development of girls and women they either score at a lower stage of development or fall entirely outside the parameters of moral response. In contrast to the abstract rights and rules that Kohlberg identifies as key to moral reasoning, Gilligan argues that women speak in a "different voice," one that emphasizes and reasons from relationships and responsibility. Gilligan (1982) outlines two moral theories. One is a male, justice-oriented theory which prioritizes separation, equality, and fairness. The other is a female, care-oriented theory which prioritizes attachment, equity, and need.

Though Gilligan begins her analysis by noting "the different voice I describe is characterized not by gender but theme" (2), her approach has been robustly criticized by feminists for essentialising "female" morality. Feminists have also been critical about the applicability of the care versus justice framework in a criminal justice context. Daly (1989) notes that this debate began with faulty terms, that there is an ethic of care present in the justice system and that aspirational calls for a system wholly based on care rather than justice have not been coherently articulated. My purpose here is not to contribute to these debates, nor to argue for the value of care over justice, but to trace this ethic as it appears in the alternative justice discourse in this study.

More recent work on a feminist ethic of care, what Hankivsky (2004) calls "second generation" theory, has worked to overcome Gilligan's weaknesses by positing an ethic of care not as a psychological theory of the difference between men and women but as a political theory

and commitment. The central work in this regard is Joan Tronto's 1993 book *Moral Boundaries: A Political Argument for an Ethic of Care*. Tronto argues that an ethic of care is both a moral framework and a political idea, "that the practice of care describes the qualities necessary for democratic citizens to live together well" (Tronto 1993, 162). Tronto defines care as "a species activity that includes everything that we do to maintain, continue and repair our 'world' so that we can live in it as well as possible" (103). She contrasts care with other types of human activity such as creativity, production, and the pursuit of pleasure and argues that "caring seems to involve taking the concerns and needs of others as the basis for action" (Tronto 1993, 105). Tronto outlines different phases and elements of care, many of which can be seen in participant's description of the work they do.

Tronto describes care as a practice, one that has four distinct, but related, phases: caring about, taking care of, care-giving, and care receiving. Caring about involves the recognition of a need that often necessitates the ability of the carer to take the standpoint of the one in need. My participants consistently in their construction of the criminalized woman strove to take her standpoint and recognize a variety of her needs. Andrea spoke of trying to understand and acknowledge the particulars of each person: "And so they come here and we try to work with them in order to help them and try to do things based on their understanding or their capabilities, you know?" Sarah spoke about having women share their own stories as a measure of success: "But for us, the success is really just, we have a closing sharing circle, hearing their stories. If they want to share them, then you know you've made that connection." The participants' source of knowledge about criminalized women is not academic research or government reports. It is not the women's assessments or files; it is the women themselves.

Participants' focus on the criminalized woman's need for care, rather than the criminal justice system's needs or their own agency needs, is evident throughout the interview data. Of particular interest here is that in response to my question "What is the biggest *challenge* the women you work with face?" almost all of my participants responded by identifying *needs* the women had. As was outlined in the previous chapter, the dominant needs recognized by my participants were those arising from the Criminalized Woman's social marginality. The overriding problem for the criminalized woman in my data is her marginalization. The agenda for the programs becomes twofold: first helping her cope with her marginalization by providing basic necessities and, second, helping her overcome it through training, education, and work

Tronto's (1993) second phase of caring is "taking care of" those recognized needs. This involves assuming responsibility for the care and determining how to deliver that care. My follow-up question to the biggest challenge for women was "Does your program assist with that?" In answering this question many participants showed the second phase of care, taking care of or assuming responsibility for providing care. Though the needs they identified were generally beyond their scope as community justice organizations they all took responsibility for helping meet those needs. Even when participants responded by saying that they were not meeting those needs it was not with a denial of responsibility but with a recognition that it was too a big a job for them to accomplish alone. Participants presented various reasons as to why that responsibility fell to them. For some it was simply because the need was present and not being cared for by anyone else: "Like, thankfully we have bus tickets funded in our program. Otherwise I don't know how this woman is going to get around" (Andi). Here the program cares for women's transportation needs because there is no other source of care. Another participant discussed healing work the program engages in – not in order to meet agency needs or criminal justice

needs, not because the program has an obligation under law or formal notion of justice but simply because the women's need is so great: "So we also look at being able to work with women on a level that helps to deal with the inter-generational trauma because violence is just so prominent in Aboriginal women's lives" (Veronica). "We do a lot because it's necessary" (Andi). Several participants spoke to the potential for anyone to become a criminalized person and in this recognition there is an inherent sense of responsibility; they provide care to criminalized women because their positions could be reversed. For the Salvation Army the responsibility lies in its spiritual foundations: "The Salvation Army is a church first and foremost. Because it is a church the founder wanted to reach all those people ["the prostitute, beggar, and robber" mentioned earlier in the in the interview]. How do you do that? You have to meet their physical needs and emotional needs before you can meet their spiritual needs" (Participant). For some the program holds responsibility because the women with whom they work lack the personal relationships that would usually be sources of care: "Then we put that together for them [package of goods for prison] because often like there's no moms, sisters and if there is a boyfriend or husband often times he's not in the picture at the time of sentencing" (Emily). Similarly: "It's my job to help them to find a routine that works for them that they can enforce in their life so they feel that comfort. Because some of these women aren't getting that comfort from their family. Sometimes family is the problem" (Andi).

These diverse notions of why they should be providing care are encapsulated in the ethic of care's concept of responsibility. Responsibility is contrasted, by Tronto (1993) and others who use her foundational work, with obligation. Obligation is seen as too formal and rule bound. Tronto (1993) argues that responsibility should be used instead and should be conceptualized broadly. Tronto's (1993) intent in using this concept is to allow for a wide range of responses, to

allow for and affirm a variety of sources for the responsibility to care for each other. This flexible and open notion of responsibility is useful for validating the various reasons why one may feel responsibility to care but its vague theorization also means that it can be easily incorporated into neoliberal ideas of responsibility, as I discuss in the latter half of the chapter.

Tronto's (1993) third phase of care is the activity of care giving: meeting the need for care that people have. Tronto (1993) argues that care-giving "involves physical work and almost always requires that care-givers come in contact with the objects of care" (107). Giving care to criminalized women makes up a substantial part of the programs' activities. Much of what participants talked about was the provision of general assistance to the women with whom they work. They described aspects of their programs not directly linked to criminal justice matters, formal or informal. All of the programs offer goods and services that are best described as care work. For the four programs that are specific to criminalized women – the Prostitution Diversion Program at Salvation Army, TERF, Eagle Women's Lodge, and the various programs at Elizabeth Fry – a large portion of what they do involves meeting the women's basic needs and addressing the social marginalization the women face. Onashewewin also engages in this type of work though to a slightly smaller degree. Mediation Services, because of its focus on discrete conflicts rather than criminalized women, involves very little of this sort of work.

Several participants cited Maslow's Hierarchy of Need (Maslow 1943). This is a psychological theory that organizes human need into five categories, wherein the lower needs must be satisfied before the higher levels can be. The needs are grouped into physical, safety, belonging, esteem, and actualization. Participants referenced the theory in a broad way, not going into too much detail nor even mentioning the high order needs of esteem and self-actualization, which we may have expected given the various self-governing strategies described

above. Instead, their focus was on the fact that if your very basic needs for food, shelter, and safety are not met then it will be very difficult to achieve anything else.

The programs meet these needs, or at least address them, with the provision of material goods. When asked what success looks like Sarah responded with the following: “They’re eating, eating food, you would not believe how much some of these women eat. But you know they haven’t had a decent meal in however long. That to us is success.” Eagle Women’s Lodge and Elizabeth Fry both provide housing for women exiting corrections. TERF and Salvation Army both recognize the urgent need for housing faced by the women and try to assist them in finding stable housing or give them a space at camp (PDP) or overnight events where they “provide vulnerable women with one night in which they are safe from the drugs and violence they face daily on the street” (Program document). Beyond the basic human need for housing, the programs recognize the need of criminalized women for safe housing and strive to provide it when they can. Eagle Women’s Lodge “provides Aboriginal women who have experienced homelessness and involvement with the criminal justice system with long-term, safe transitional housing” (Program document). Veronica stressed the importance of safety “Certainly in our program goals the first one would be safety. Safety is number one. If women aren’t safe nothing else matters.” Several of the programs give women basic personal items: clothing, blankets, towels, toothbrushes, soap, and underwear. Many assist women with transportation by providing bus tickets. Much of what the programs do involves providing their participants with material goods.

They also strive to meet women’s needs and provide care through nonmaterial support. Many participants listed “support” as one aspect of their programs: “And then they have the staff behind them helping them. You know, if I see someone who has the potential, that drive, I’m

going to try that much harder to help them succeed because that's part of their journey. Know what I mean? I know I've had a lot of help along the way and a lot of support" (Caitlin).

Likewise, a program pamphlet emphasizes: "Support in dealing with government processes, such as obtaining personal identification, economic assistance etc. Continued support to develop and enhance practical living skills that serve to build confidence and self-esteem" (Program Document). Another participant stated this more bluntly: "So we try to support them however [...] we can." (Andrea). They also recognized how some women lack supportive people in their lives: "There isn't the informal support within your family structure so that you can get a bus ticket or to go see your PO [probation officer] so you will not be breached. So what the women do is they will come here" (Emily). The participants discussed providing support in dealing with the criminal justice system but also, and predominantly, support in general. The frequency with which participants mentioned general support is clear evidence for an ethic of care. To support someone is to maintain or sustain them, much in the same way that Tronto defines care as activities that maintain, continue, and repair our world. Moreover, when they cannot meet a particular need of the women the programs will refer the women to other agencies.

These needs are not translated into risk factors and meeting them is not framed as a way of preventing crime. The provision of shelter, food, and clothing is instead discussed as an end in itself. This is in contrast to research such as Miller's (2014), in which a prison re-entry service provider "stated his program provided food, clothing, and shelter to 'take away excuses' and allow the real transformative work of prisoner reentry programming to take place" (323). Instead the goods and services are provided to women because they need them. We can see how fundamental this care work is in an example given by a participant. This participant described a

case in which a pregnant young woman had shoplifted and was being processed through their alternative program.

We talked about, like, “What’s going on in your life? How is work, school, what are your plans?” She was, like, “I’m going to be at home with my mom.” The mom has been a really great support, so it’s no problem, it’s fine. I was, like, “Ok, cool.” So that’s where she’ll be. So it’s all good. She was seven months pregnant, the following month she’d be eight months and I just thought what good are we to her at this point? What good is it going to be to set her up in workshops, bog her down with workshops and work, when she could be getting, using her time for other things like resting or just eating. I just thought to myself there’s a point where we help people and then there’s a point when we can hold them back and that was one of those instances where we’re not going to help her at all.

There was nothing more to do for this woman because she did not need any care work from the program staff. Her needs were being met and she was being supported by other people in her life.

In this example the woman does not need any more care *according to the care-giver*. Tronto’s (1993) fourth stage of care is care receiving. Those who receive care respond to that care. This is an element of the ethic that I cannot address directly as I did not speak to criminalized women.²¹ It is an important aspect of care to examine as those who give care may misinterpret needs and “even if the perception of a need is correct, how the care-givers choose to meet the needs can cause new problems” (Tronto 1993, 108). But there is a sense in my data that staff feel the care they are giving is well received. Some programs, such as the Salvation Army’s camp, solicit feedback from participants. Several staff from Onashewewin noted that they are

²¹ This limitation will be addressed further in the Conclusion.

getting people who come in after hearing about the program from friends or family who previously used their services. Staff from other agencies talked about women coming through the programs multiple times or dropping by the agency just to check in. This suggests a positive response from care-receivers, but it also shows an attentiveness on the part of staff to the responses of the women with whom they work. Care is both a type of work the programs engage in and a way that they frame all of the work that they do.

Present in the staff's understanding of their work are two governing mentalities; both a neoliberal mentality and an ethic of care. A neoliberal mentality is particularly evident in the justice work they do. There the Criminalized Woman is encouraged to know and act on herself in order to be a responsible, law abiding, citizen. This follows from the constitution of her, as outlined in the previous chapter, as a Neoliberal Subject. Simultaneously, in the other types of work and services the agencies engage in there is an ethic of care. There the Criminalized Woman's needs for support, material and non-material, are acknowledged and acted upon. The agencies respond to the Marginalized Woman they constitute with an ethic of care and a variety of different types of care work.

These two mentalities co-exist uneasily. They work on, and in doing so constitute, different subjects. They have different assumptions about the object and goals of governance. One mentality reflects dominant understandings of governance while the other seems to be in direct contrast to dominant ideas. They do not, however, exist in isolation from each other. Much like the subjectivities in the previous chapter the two mentalities here interact in different ways. While we can see how an ethic of care can align and support a neoliberal mentality, at the same time we can identify how an ethic of care presents a challenge to neoliberal themes.

Aligning an Ethic of Care with Neoliberal Mentality

One way that the two mentalities interact in my data is for an ethic of care to align with and support the neoliberal mentality. I examine this interaction in two main ways: a shift in the object of governance and the individualization of responsibility. Governmentality studies analyses strive to make obvious the various mentalities governing authorities bring to governance. One aspect of that effort is how authorities identify the object of governance. Pavlich (2005) differentiates the object of governance in restorative justice discourse and criminal justice discourse as harm for the former and crime for the latter. Outlining restorative justice discourse Pavlich (2005) argues “One detects here a rationale which posits repairing or healing harm as a guiding moral vector” (11). Here, it is neither harm nor crime which is the target of intervention.²² Participants did not discuss specific crimes that the women they work with committed. The only time criminal offences were referenced in the data was when a program was designed for specific crimes, such as the Prostitution Diversion Program or Stoplifting. Even in these instances the crime itself is discussed more as the entrance point of the Criminalized Woman to their agency, rather than the primary object of governance. Instead, in the interviews with alternative justice staff there are two other distinct objects of governance that can be identified.

The first object of governance detectable in the data is the Criminalized Woman’s life. Here it is not crime or harm that is prioritized; instead, the Criminalized Woman’s life is the object of governance. This object of governance flows from her constitution as the Marginalized Woman. If her marginalization is the central problem then it is also the object of governance.

²² There is one exception to this: Mediation Services. That agency focuses on harm and conflict. They use the most robust definition of restorative justice and thus fall very neatly into Pavlich’s framing of restorative justice mentalities.

The goal is to change every aspect of her life, including her lifestyle, criminal offending, budgeting skills, addictions, parenting skills, education, employment, recreation habits, and body. This focus is evident in Julie's discussion of one of the theories her programs work from – “looking at the individual but within the context of the different levels, so from a macro to a micro perspective right? Looking at the big picture issues that are going on for someone and then looking at the community and family and other systems” – and her definition of success – “if things are less harmful in their life...just those types of steps that people have done something in their lives that makes it easier for them or safer for them.” Eagle Women's Lodge takes referrals from four sources, one of which is not even a criminal justice source. They will house and support women who have interactions with Child and Family Services. While the referral source distinction was made there was nothing else in my conversations with Eagle Women staff that suggested that women coming from a CFS referral are treated any differently. In the Lodge and in the other programs crime is not the primary object of governance. There is instead a recognition that the Criminalized Woman is socially marginalized, rather than simply criminal or criminalized, so the focus becomes equipping her with what she needs to cope with and ultimately end that marginalization. This object of governance comes from the constitution of the Criminalized Woman as the Marginalized Woman and is activated primarily within the ethic of care discourse used by participants.

The second object of governance present in my data is the self. Here the woman's sense of self, her ability to act as an individual, is the focus. The goal of the programs is to recreate the woman's selfhood into one that is healthy and law abiding. The goal is to change the whole self. This echoes and reinforces dominant criminal justice discourses which centre the rational individual, the rational self. Feminist researchers have found this focus in a variety of criminal

justice sites. McCorkel (2013) points to this object of governance in her study of a drug treatment program for incarcerated women: “the source of the problem is the ‘disordered’ and ‘unruly’ self, and so this self becomes the object of control efforts” (120). Similarly Haney (2010) identifies this logic in a community, residential facility for mothers. Carlen (2002) demonstrates this focus in English criminal justice by highlighting a passage from The Government’s Strategy for Female Offenders: “The characteristics of women prisoners suggest that experiences such as poverty, abuse and drug addiction leads some to *believe* that their options are limited” (cited in Carlen 2002, 235). The problem identified in this quote, and more broadly in a neoliberal mentality, is not the experiences of marginalization but the belief system of the woman. Here we have an amalgamation of the Medicalized Woman and therapeutic discourse alongside the Neoliberal Subject and neoliberal discourse that Hannah-Moffat (2005) captures with her notion of the transformative risk subject. Participants did not, to any great degree, utilize the therapeutic aspects of this discourse. When the focus shifts from how they constitute the Criminalized Woman to how they respond to her, the Medicalized Woman fades away. They acknowledge her need for medical treatment and attention (especially in regards to addiction) but they leave that response primarily to others in the form of referrals to other organizations. They do discuss the need for the Criminalized Woman to know, work on, and ultimately change herself. When the programs focus on the Neoliberal Subject, using neoliberal governing mentalities, the object of governance shifts from the Criminalized Woman’s life to her self and the response focuses on making her a more responsible individual.

Though quite different in their conceptualization of the subject and in their assessments of success, the neoliberal mentality and ethic of care’s objects of governance are similar. The agencies respond to the Marginalized Woman by attempting to ameliorate her marginality, which

involves targeting multiple aspects of her life. They do so firstly by meeting her basic needs and secondly by trying to assist her in overcoming her marginalization. In much of their discussion with me, participants talked about enhancing the Criminalized Woman's abilities and habits in order to change her life. The object of governance remains the marginalized life circumstances and the focus is on helping the woman and facilitating her own ability to change those circumstances. In order to do so the programs enlist the woman herself in the project of addressing her marginalization. Sometimes, though, they spoke about changing the Criminalized Woman's self in order to change her abilities and habits. In the day-to-day functioning of their programs their structural analysis is sometimes translated into an individual one. The various programs they offer no longer target the women's marginalization; instead, they target the women themselves. With the neoliberal discourse of self-governance present alongside the programs' structural understanding the difference between a woman's life and her self collapses. With that difference gone the result is very similar governing strategies, ones that ultimately reinforce a neoliberal focus on responsible self-governance.

An ethic of care is also easily aligned with a neoliberal mentality through the concept of responsibility. For both approaches, responsibility is articulated as a key value. Tronto (1993) argues that a danger with the ethic of care is the risk of parochialism. How, she asks "are we to guarantee that people, who are enmeshed in their daily rounds of care-giving and care-receiving, will be able to disengage themselves from their own local concerns and to address broader needs and concerns for care?" (Tronto 1993, 142). This is a tendency within the ethic of care when it exists on its own, let alone when it is present, as it is in my interviews, alongside a neoliberal discourse. This danger is amplified when a neoliberal mentality, stressing individual and community responsibility, is present beside an ethic of care. An ethic of care's focus on

responsibility, combined with its emphasis on local and particular care giving and receiving, sits very comfortably with a neoliberal mentality of governance. It does not challenge the idea that individuals and communities are responsible for their own well-being. In such circumstances, an ethic of care risks being additive to or coopted by a neoliberal mentality; individuals and communities are responsible for caring for themselves and each other.

Challenging Neoliberal Mentalities with Care Mentalities

The ethic of care can also be understood to challenge neoliberal mentalities. By bringing in feminist theorizing built upon Foucault's notion of techniques of the self we can see the potential for care discourses to change the meaning of the practices that have so far been interpreted as neoliberal. Governmentality is the contact point between governance by others and governance of the self. This involves two different technologies: of domination and of the self (Foucault 1994). Much of Foucault's work, including the central work used by criminology, *Discipline and Punish*, and the main governmentality texts drawn on by criminology focus on technologies of power. In his later works Foucault shifts his focus slightly, observing that "perhaps I've insisted too much on the technology of domination and power. I am more and more interested in the interaction between oneself and others, and in the technologies of individual domination, in the mode of action that an individual exercises upon himself" (Foucault 1994, 225). Technologies of the self are practices "suggested or prescribed to individuals in order to determine their identity, maintain it, or transform it in terms of a certain number of ends" (Foucault 1994, 87). With technologies of the self, the work one does on one's self becomes central to the constitution and governance of the self as a subject. This work is relational; it is the governance of the self by the self but it is done in "articulation with relations with others" (Foucault 1994, 88). It is also

ongoing because work on the self is never a completed project. Moreover, work on the self is bound to and uses existing discourses, practices, and relations of power.

Governmentality theorists have conceptualized self-governing strategies using Foucault's work on techniques of the self, as I outline above, but they have only ever read those techniques as being aligned with and fulfilling a neoliberal or advanced liberal strategy of governance. Rose and others discuss the various ways individuals work on themselves to transform their identity and behaviour into neoliberal ones. Technologies of the self, as Foucault outlines them and feminist authors have interpreted them, are much more fluid than that (Vintges 2012). Though the techniques are always entwined with dominant mentalities they are never simply reflections of those mentalities. Foucault discusses them largely as points of resistance to relations of power. Through technologies of the self one can transform oneself in ways that are not normalizing, and one can work against dominant norms, subjectivities, and relations of power (Taylor 2004).

In his analysis of Greek ethics and techniques of the self, Foucault argues that a key half of a well-known maxim has been lost in modern techniques. While the Greeks were concerned with the task of "knowing thyself," it was a task fulfilled in order to "care for thyself" (Foucault 1994). Care, in Foucault's analysis, involves being attentive to and strengthening ones' potential and capacities (McWhorter 1999). Care of the self means knowing and transforming the self (McLaren 2002). It is a care that creates different subjectivities but which does so within power relations; "in this way, care of the self provides a way of using disciplinary practices in emancipatory ways" (O'Grady 2004, 110). The practices that constitute care of the self will look the same as the neoliberal self-governing strategies. There is no outside of power. We can only start from where we are, and that means technologies of the self will draw on or "are always in some way imbricated within or modulated by contemporary practices or existing (though not

necessarily dominant) patterns of behavior” (Lloyd 1996, 246). Due to the focus on care and the radically different subject that is the subject to be known the governing practices engaged in by the programs under study here are something more than neoliberal governing strategies.

Techniques of the self which are neoliberal and critical practices of self-care each focus on knowing the self but, as mentioned above, do so for varying purposes. Throughout my data there are mentions of two reasons why one should engage in self-reflection. The first is the neoliberal responsabilizing imperative: “know thyself so as to not commit crime.” The second is in order to increase your wellbeing: “know thyself so as to care for thyself.” One participant identified capacity building as a central tenet of the program: “I think that’s what a big feature that we provide is that they actually see the potential that they have that they didn’t realize. It’s unrealized potential. We try to draw that out of them” (Caitlin). That potential is then directed towards what the women themselves want, as Caitlin continued: “We’re going to be building the future, you know, in terms of having our women go out there and know exactly what it is that they want. Be strong and go out and ask for what they want properly and get it.” Many of the participant’s answers to my questions “what is success for the program?” speak to the value they place on care of the women and broadening the possibilities for that woman. “Each person, whatever their, I see success in a lot of women. Even if it’s a small thing. And it’s just that baby step forward to growth. Because it could be a short time later that they’re going to grow again, take another step forward.” (Kate). The growth or transformation facilitated by the programs is framed as useful for the individual woman’s own goals rather than simply for reducing recidivism or producing neoliberal subjects.

Heyes’s (2007) study of weight loss programs exemplifies how practices can be practices of discipline and practices of self-care. Heyes (2007) presents and largely agrees with feminist

analyses of dieting that critique the practice as a disciplinary one, a practice which constructs women as docile bodies and limits their options. She points, however, to the generative aspects of dieting as well. Women engage in goal setting, feel accomplishment, and are able to do things, some physical some emotional, that they were not able to before losing weight. Ultimately, Heyes (2007) finds that these capacities are turned to be of use only in the process of weight loss and the project of normative femininity by weight loss programs, “only losing weight, they would have us believe, can lead to true self-knowledge, self-development, self-mastery, and self-care” (86). But, crucially, they do not have to. She argues that women in the programs often had a critical awareness that led them to reject the all-encompassing disciplinary project of the specific weight loss program, Weight Watchers, and this awareness allowed “the possibility of uncoupling new capacities from docility, and of recruiting those capacities to care of the self” (Heyes 2007, 87). Heyes (2007) cites a number of capacities encouraged through her own participation in Weight Watchers, including sharing with groups of women, attentiveness to her own behaviours and patterns, and learning how to bring together communities of women for a common purpose. She argues that these could all be put to purposes that resist dominant practices and discourses. Though the contexts are significantly different, I want to argue here that a similar possibility is present in the alternative justice programs. The capacities generated by the programs are useful not only in the construction of the Neoliberal Subject but also can be put to use by the marginalized as practices of care. The program staff members in many ways encourage such usage.

One particular capacity that the programs should strive to develop for the women they work with is the ability to link their individual struggles to their social context. Program staff do so in their own constitution of the Criminalized Woman, as discussed in the previous chapter, but

they also need to share that analysis with the criminalized women themselves. This is done in some programs at present. The strongest presence of this type of sharing and teaching of a critical perspective is found in the Aboriginal programs.²³ Aboriginal staff not only constitute the Criminalized Woman as the Marginalized Woman they overtly include the sharing of that analysis with program participants in their programs. A strong critical consciousness is a key component of mobilizing neoliberal practices as practices of care and the programs need to ensure they are developing this capacity in the women with whom they work.

The strong presence of the discourse of care changes how the justice practices engaged in by participants can be analyzed. In many respects, the personal development programs discussed above seem like they employ quintessential neoliberal self-governance strategies. When they are read contextually, however, beside the construction of the Criminalized Woman as marginalized and alongside the ethic of care they look different. Providing education, job training, and programming that assists in building self-esteem can also be interpreted as meeting the self-defined needs of criminalized women.

Multiple studies working with criminalized women in the post-release context identify education, training, and support services as sorely needed (Allspach 2010; Baldry 2013; Kilroy et al 2013). A strength of Maidment's (2006) research is in the centrality she gives to the voices of criminalized women. The women in her study all speak to the pressing need for safe, affordable housing (Maidment, 2006). Beyond the simple need for a place to live, Maidment also notes that "managing to secure decent accommodations can often mean the difference between staying out [of jail] during that first few months of release and going back inside" (Maidment 2006a, 104). She stresses the need for culturally specific programming for Aboriginal women

²³ I elaborate on this presence in my discussion of the culture work done by the programs later on in this chapter.

and notes almost a total lack of such programming in her study. Maidment also found a lack of gender specific programming and concludes that “local supports to address the systemic issues facing criminalized women are notably absent” (Maidment, 2006). It is with this focus that her work and mine are congruent. My findings, however, paint a very different picture of the services available for criminalized women. The agencies in Winnipeg are striving to meet many of the needs that the women in her study and Maidment herself identify.

Even when there are programs that are striving to meet these care needs women are often not familiar with the community supports that exist (Pollack 2009). The extensive referral work that participants engage in assists in this regard. Criminalized women in Pollack’s study (2009) spoke to a general lack of information about and unease in navigating criminal justice, welfare, and other systems. This was a constant concern mentioned by participants. Much of the advocacy work they do involves explaining various official process and assisting women with various bureaucracies. Emily described assistance she has given with both Child and Family Service and Employment and Income Assistance: “So often times we assist women in getting lawyered up, for lack of a better word, so that they can get stuff before the court, to know what’s going on... There are some women in the community that come in and talk to me because I used to work in child welfare. So I’ll assist them... So what we try to do is get the EIA appointment for them when they’re released. If they see us in jail we’ll do that linkage. We’ll make that appointment. So when they get out they have their appointment, so they don’t have to wait.” Again, analyzed out of context both of these functions, referral services and assisting in official process, could be interpreted as responsabilizing the community who in turn responsabilize the women to be active individuals who take control of their own processing. However, because the staff understand the Criminalized Woman to be marginalized and respond with notions of

support and care, these strategies take on a different meaning. They are meeting women's needs, providing them with support and empowering women to know and exercise their rights.

Initially, the programs' emphasis on work and training stood as an exemplar of a neoliberal strategy. Even this focus, however, can change when put in the larger discursive context of the interviews. Haney (2010) analyzes "work" as it is conceptualized in two women's prisons, one in Hungary and the other in the United States. The Hungarian prison centres wage labour in its programming, where work is seen as a right, responsibility, and way of building collectivity. Work in the American prison is not wage labour; instead, it is the psychological process of working the program. In comparing the two prisons, Haney (2010) argues that work acts as a governing strategy in both cases but that in Hungary it guides women towards social inclusion and collective goods while in California it turned women away from the social to the personal work of the psyche. She concludes that "to the extent that prison labor leads to an awareness of women's social contributions, it might actually serve as an alternative to, as opposed to a reflection of, dominant forms of social exclusion" (94). Young (1994) argues that meaningful work is a key element for programs that aim to go beyond disciplining women to empowering them. The personal development programs offered by the agencies under study here can also be interpreted as offering something more than just the ability to become an active, responsible citizen.

There is emphasis in the governmentality literature on the use of empowerment in neoliberal governance (Cruikshank 1999). But it still has its social justice, feminist meaning as well: "the development of a sense of collective influence over the social conditions of one's life" (Young 1994, 48). It is difficult to know to what extent this is actually accomplished on the basis of the data I gathered. I cannot say that the criminalized women that go through these programs

emerge with a sense of their commonalities as a group and the impact of and their influence on the social conditions of their lives. In order to do so interviews would have to be done with criminalized women.²⁴ But there is certainly the potential for empowerment because of the staff's construction of the Criminalized Woman as a socially situated, constrained subject. The mobilizing, public advocacy work that most of the agencies examined here participate in (as outlined in Chapter 2) contributes to this potential. The collective, public advocacy work the agencies do sometimes with each other and often with other social service agencies both models to and involves criminalized women in making changes to social conditions.

The inclusion of women who have successfully completed the program or who have lived experience of criminalization also contributes to the ability of the program to empower women. Pollack (2009) argues, “the establishment of peer networks, as recommended by many of my participants in this study, carries the potential to disrupt governing technologies and to reorient exclusionary trajectories. By centering the knowledge and subjectivities of criminalized women, peer networks (organizations, supports, and advocates) carry the potential to redefine spaces of community for women leaving prison” (Pollack 2009, 93). Several of the agencies use peer support workers. Eagle Women's Lodge have peer mentors and both TERF and Salvation Army involve women with lived experience of criminalization. The programs generally and importantly consistently centre the knowledge and subjectivity of the marginalized woman. They focus on the needs of women, drawn from the experiences of the women with whom they work. The extent to which these programs redefine spaces of community will be grappled with in the next chapter. Here I want to argue that by focusing on the Marginalized Woman, care and

²⁴ See the Conclusion for a fuller discussion of future research that could be done with criminalized women.

support redefines the work the programs do away from neoliberal governing strategies and toward strategies of care for the self.

This redefinition takes place when these strategies are coupled with an ethic of care. An ethic of care centres the Criminalized Woman's needs. It validates and strives to meet those needs, while recognizing the social context in which they arise. An ethic of care is political; part of the recognition of needs is the determination of who should be responsible for filling those needs (Tronto 1993). This involves a critical awareness of social context and relationships. Tronto (1993) argues that "care is a way of framing political issues that makes their impact, and concern with human lives, direct and immediate" (177). So long as this framing is explicitly articulated alongside the caring practice, thus allowing criminalized women to develop their own critical attentiveness, an ethic of care transforms strategies of personal development into techniques of care for the self.

The subject that is constituted by participants and held out to the Criminalized Woman to know and become is varied. She is connected to and marginalized by social structure. It is a self that is not over-determined by her criminalized status. The Marginalized Woman, and the work she can do on herself, does not revolve around her criminalized behaviour. Instead the justice programs work, with the Criminalized Woman, to develop a number of capacities. Those capacities then are understood to be strategies of coping in oppressive social structures. They are understood differently and they are put in service of different goals beyond the narrow neoliberal goals of responsabilization and reducing recidivism.

The technologies of the self broaden into techniques that are focused on a variety of goals. Sometimes the goal is to provide material and basic support as I outlined above. Other times it is to assist in the building and sustaining of relationships. As Veronica discussed, "so she

[a resident] had her baby. The baby is in CFS care but with her. Residing with her, with us – again, 24/7 staff – which I’m glad to see not another child going to CFS as an infant and have a family screwed up for another 19 years.” Other times the goal is just play, as Sarah talked about: “They can still laugh and smile and, you know, we take them horseback riding and whatever and they’re giggly eight-year-old girls. We paint their nails and it’s like a pyjama party.” The staff offer strategies of working on the self to women not only to induce responsabilization but also to allow criminalized women, the Marginalized Woman, to survive and to potentially thrive.

Although Caitlin is discussing the mandatory training or trades aspect of the program, a good example of the responsabilization of women into good neoliberal subjects, her rationale for it speaks to something more: “For me, personally, I would just like them to take something. You know, whatever it is, if it’s the friendship, if it’s the fellowship, if it’s the cook, the going out, you know, and meeting new people, going on adventures, doing all these things. I want them, because I have, I just want everybody to be happy. You know what I mean? I want everybody to go out there and enjoy the word because we’re only given one life.” The Criminalized Woman is not simply the Neoliberal Subject and thus the strategies cannot simply be ones of neoliberal governance.

This is especially true in yet another type of work the programs engage in, what I have labelled “culture work.”²⁵ Three of the agencies are Aboriginal organizations and all (except for Mediation Services) integrate Aboriginal traditions, teaching, and ceremony into their programming. As a non-Aboriginal woman I do not have an Aboriginal worldview and may be

²⁵ I call this culture work because of participant’s insistence on the primacy and importance of culture, practicing and teaching the culture. I do not mean to suggest, however, that this is not also a type of work that is political, material, and embodied. In fact, I hope, in the following examples, to highlight the ways that participants use this work to make links with the women they work with from their individual lives to the political, colonial context of Canada.

reading the themes of the culture work wrong. Though my participants outlined the challenges Aboriginal people face in a colonial world they did not – nor did I ask them to – explain Aboriginal worldviews. I present some of the differences in their mentalities and strategies here hesitantly. Their presence is vital to show, however, as it demonstrates that these spaces are not saturated by neoliberal mentalities to the exclusion of anything else.

Through the culture work done by the agencies the Criminalized Woman is offered a new “Way of Being.” This is the specific name given to one of Onashewewin’s workshops that focuses on cultural teaching and ceremony but it stands as an excellent descriptor of much of the work done by the agencies. Held out to the Criminalized Woman, through teachings, history, and practices, is a way to know herself in a broad, historic, and cultural context. Ariel stressed the importance when she states “Culture is the heartbeat of the program. Everybody is always learning.” As Andrea explained:

It helps them to see that they can make changes in their lives by recognizing how they came to be where they are, Okay. You need to look back in order to do that. Now we like to do that culturally based because we need to look back far enough to who our people are. We need to take their values and bring them to our present time. In order to truly value ourselves or to know our identity in order to know what we’re about. And, you know, because we’ve been in poverty, we’ve been dislocated from our homes, our land, from all of these things over the past 500 years, that’s why we need to go back far enough to find out our true identity, which makes us stronger, without all of these things that were put upon us.

The focus remains on knowing the self. The same participant highlighted this point with her rhetorical question to me: “Without understanding themselves or knowing who they are how can they make changes?” It is, however, a radically different self that is known.

Although most of the agencies made some reference to taking a holistic look at the woman’s life, the Aboriginal agencies made many, specific references to balance. They approach the work they do with criminalized women as focused on creating balance: “You have to have balance in mental, physical, and emotional as well” (Emily); “Well I think it’s more restoring balance in somebody’s life at the end of the day. I wouldn’t even say making the wrongs right. I wouldn’t say that, just even if it’s just a small step just restoring some kind of balance in this person’s life” (Mike). That balance is discussed as being sought for the wellbeing of the woman; her equilibrium for her sake.

Concluding Remarks

This chapter has examined the ways that alternative justice staff think about the work they do with criminalized women. I have drawn from both their descriptions of their work and their reflections on that to work to identify two mentalities of governance. There is a neoliberal mentality present, much of the programming offered by the agencies – in particular the personal development programming – is aimed at encouraging criminalized women to be responsible, self-governing citizens. Alongside this there is also an ethic of care. Much of what the program staff do is care work, identifying and meeting the needs of criminalized women. These two mentalities interact in ways that both strengthen and challenge neoliberal discourses.

The practices engaged in by the programs are always governing practices. They are employed to order the conduct of criminalized women. But they are practices that can reinforce domination or support the construction of a resistant self. They can be read as governing women

in a way that is consistent with neoliberal governance and in a way that is consistent with an ethic of care. Veronica described the struggles her staff have had: “We struggled with the whole feminist philosophy of helping and empowering women versus implementing an oppressive judicial system.” For this agency and the others in this study, it is not a matter of helping *versus* controlling; it is both, even within the same practices engaged in by the programs. The implications of this issue in terms of what these two modes of governance mean for resistance and justice by and for criminalized women, and how we may be able to strengthen the resistant potential, will be laid out in the next chapter.

The fact remains that even if the alternative justice offered is providing criminalized women with care and techniques of self-care, it is done so coercively. Women participate in these programs because they are mandated to do so by the criminal justice system. This means that notwithstanding the aims, mentalities, and ethic of the programs, this work is also done in order to reduce crime. Thus far I have tried to show the contradictory nature of the alternative justice programs in Winnipeg. They engage in both formal and informal work, constitute the criminalized woman as marginalized and neoliberal and respond to her with strategies that are, at once, both neoliberal technologies and techniques of self-care. In the next chapter I consider what this contradictory picture means for the programs’ potential as spaces of resistance to the dominant criminal justice discourse.

CHAPTER 5 RESISTANCE IN ALTERNATIVE JUSTICE

Thus far, I have argued that there are competing practices, subjectivities, and discourses present in the alternative justice programs. In Chapter Two I argued that these programs responsabilize both communities and individuals and thus do enable neoliberal government at a distance. By using a governmentality framework, however, we are alerted to the potential unevenness of governance. That potential is borne out in Chapter Three, where I examined the ways in which the program staff members constitute the Criminalized Woman. She is, at once, a Neoliberal Subject, a Medicalized Woman, and a Marginalized Woman. In Chapter Four I showed that the programs respond to the Criminalized Woman with what seem to be straightforward neoliberal governance strategies; however, their discourse is also infused with an ethic of care. This ethic shows the same strategies in a new light and allows them to be interpreted as techniques of care of the self. In this chapter I argue that the overlapping discourses and subjectivities means that the alternative justice programs studied here have the potential to be spaces of resistance to dominant, neoliberal governing strategies. The possibility of resistance is fostered, and constrained, by their placement in the informal/formal justice complex.

Governmentality is the contact point between techniques of power and domination of others over individuals and technologies of the self through which the self acts on itself. The governmentality literature has mainly looked at those technologies that operate in tandem “with state practices fitting seamlessly with practices of self-creation” (Bevir 2010, 425). But what happens when they look different? What happens when neoliberal mentalities are present beside social justice ones and when neoliberal technologies of the self can also be deployed as techniques of care for the self? This suggests that there is space here for resistance to neoliberal

governance of criminalized women. There is the potential for both program staff and criminalized women themselves to resist. This resistance, however, is local, fragile, and constrained. It is a struggle for the staff, it is a fragile resistance, and it can slide easily back into dominant governing mentalities. There is no guarantee either that criminalized women will resist. They may take up the techniques of the self as care of the self and resist – but they may not.

There is a tendency in academic literature to see and theorize neoliberalism everywhere. Demands were made, and much research done, to show actually existing neoliberalism. Though these analyses offered more complex and contingent pictures of neoliberalism in practice they still left resistance as a marginal part of the analysis (Leitner et al. 2007). Here, I try to offer an analysis of actually existing resistance. To do so I look at three main issues: the ability of Foucauldian feminism to discuss, define, and achieve resistance. This chapter begins by arguing that the governmentality literature is an insufficient resource for feminist work on governance, especially when thinking about resistance. I argue that like Foucault, it lacks the normative grounding that feminist research needs. Feminists have found ways to incorporate normative judgement into Foucault's work, and I outline the ways in which they have done so to articulate more clearly my own approach. I then provide a Foucauldian feminist definition of resistance. The bulk of the chapter looks at the multiple ways that resistance is present in the alternative justice programs I studied. I end by examining the ways in which the programs' presence in the informal-formal justice complex impacts resistance.

Can/Should We Resist?

In order to theorize resistance to the neoliberal framing of and response to the Criminalized Woman it is necessary to go beyond the governmentality literature. While this literature has amassed a detailed body of work tracing the emergence and spread of neoliberal governance it

has had very little to say about resistance to that governance. Balfour (2006) criticizes this literature for not offering clear, pragmatic solutions to neoliberal governance. This lack of answers makes governmentality, and poststructural approaches more generally, an untenable and even dangerous theory for feminism, according to Balfour. I concur with Balfour's assessment that governmentality scholars have not offered solutions; indeed, I would go further to argue that they have not offered even theoretical ways of seeing resistance when it exists. This is a criticism with which Rose, O'Malley, and Valverde (2006) take issue. They argue that governmentality studies are "full of accounts of conflicts and struggles...rival programs and strategies" (100). Their choice of language here, along with their distinction of governmentality as "critical, but not critique" (101) speaks to the main issue governmentality has in relation to resistance: the absence of normative judgements.

This is a critique that feminists have made of Foucault's work in general. Feminists are highly critical of what they see as a complete lack of normative assumptions in Foucault's work (McNay 1992). The most generous analysis identifies Foucault as "normatively confused" (Fraser 1989, 31). Foucault (1991) openly refuses to posit any ideas around "what is to be done" (84). In Foucault's work, "the task of the theorist is not to correct an erroneous discourse" (Ransom 1993, 131). While providing detailed descriptions of discourse and subject formation, Foucault "refrains from problematizing the normative validity of power/knowledge regimes" (Fraser 1989, 21). This is highly problematic for feminist theory.

Foucault's lack of normative framework is a problem for feminist theory because "feminists *do* need to make normative judgements and to offer emancipatory alternatives" (Fraser 1995, 71, emphasis in original). The foundation of feminist theory is that women are oppressed *and* that oppression should end. While being constantly attentive to difference and to

the particularities of oppression, feminists do start from the general argument that women's exclusion and oppression still exist, making feminism a value laden framework in so far as it argues that this oppression is wrong. Feminist theory rests on the positive value of the emancipation of women, "but if we pay heed only to Foucault's reminders of the co-opting and disciplining role of discourse it is not clear how we can state, let alone aspire to emancipatory aims" (Soper 1993, 47). Some feminists argue that Foucault, in his lack of normative judgements, has nothing to offer a feminist future (Grimshaw 1993).

Those feminists who believe Foucault's work can be embraced unmodified have rebutted this criticism. They argue that Foucault's commitment to scepticism and critique, his questioning of norms, discourses, and the present are all enough to allow for the type of social change that feminist theory is about (Taylor and Vintges 2004). McLaren (2002) argues that Foucault's "scepticism about norms is a form of critical engagement with social and political issues" (35). In particular, these theorists turn to Foucault's late work and argue that the ethic of the self that he proposes allows for politics as a personal ethos (see various contributors to Taylor and Vintages 2004).

While I concur with those critical of Foucault that we need a normative foundation in order to do feminist work, I follow Foucauldian feminists in how we do so. While Foucault and those who use his work point to the dominant and harmful uses of principles such as justice and freedom, they do not see these principles as inherently oppressive (Sawicki 1991). Sawicki (1991) argues that in the absence of alternative standards of critique, we must utilize the ones that are available in our present context: "In other words appeals to rights, liberties, and justice (and struggles over how to interpret these principles) are not denied to us. These are the only sorts of appeals that make sense to us right now" (100-101). We can appeal to the normative

criteria available to us, while recognizing that they are specific to this social moment. She acknowledges that this was not a tactic Foucault utilized but argues that there is nothing in his approach that stops feminists from doing so. This is a similar argument to the one made by Fraser, though Fraser does so as part of a more critical reading of Foucault. She too argues that “there is no getting around the fact that our current standards are the only ones we currently have” (1989, 64). Foucault’s unwillingness to appeal, explicitly, to these standards is where he becomes limited as a source for conceptualizing resistance.

In this project I have approached the neoliberal governance of criminalized women as something that contributes to the unjust, social oppression of women. I do so, however, while attempting to remain vigilant to my own, feminist-based power and strategies for thinking about women’s oppression. I want to make the Foucauldian-inspired point here that the constant interrogation of any normative judgement is necessary. Feminism has a long history of being called out for standing on shaky ground. But we also need some ground if we are trying to take a stand. We must use the normative standards we have while we simultaneously do not rely on them as infallible.

What is Resistance?

When speaking directly of resistance, Foucault has little to say beyond a cursory description of resistance as co-constitutive of power. Thus, like power, resistance must be seen as local and transitory and it is never “in a position of exteriority in relation to power” (Foucault 1978, 95). In concordance with his general approach to theory, we can appreciate that for Foucault resistance will be not be a grand, totalizing end point. Even those feminist theorists who argue for the use of Foucault for feminism note that his theorizing of resistance is underdeveloped (Bartky 1988; Haber 1996; Sawicki 1991). This is in keeping with Foucault’s general hesitancy to be

prescriptive, to offer solutions. His greatest contribution to thinking about resistance is by illustrating through his work the ways in which philosophers, scholars, and thinkers generally resist. In order to expand the potential for resistance to individuals, groups, and movements, the work of Foucauldian feminists – and those who critique this approach – is essential.

Feminists have drawn not only on Foucault's few remarks about resistance, but also on various parts of his oeuvre – such as his genealogical approach (Sawicki 1996), his approach to philosophy as lived critique (Heyes 2007; McWhorter 1999) and, as I discuss in detail below, his techniques of the self – to construct a theory of resistance that can be put to work in a feminist framework. This is, perhaps, the most contentious part of Foucault's thought for feminists. Whether or not one can, both as an individual or as a group, resist is debated in feminist readings of Foucault.

Many feminist scholars argue that resistance is not possible in a Foucauldian framework due to its conception of power (Harstock 1990). If power is everywhere, they argue, resistance cannot take place. If there is no outside of power from which to resist there can be no resistance. Foucauldian feminists rebut this argument by focusing on Foucault's claim that resistance is constitutive of power (Macleod and Durrheim 2002). The potential for resistance is omnipresent and the exercise of it is central to power relations. Without resistance, power would cease to exist (Foucault 1978). Freedom, however small or constrained, is a necessary pre-requisite to power relations (Foucault, 1994).

Foucault's unwillingness to see potential in a mass revolution is another point of contention for feminist scholars. They argue that his position, and that of those who use his work, is nihilist. If there can be no overthrow of power, no end to power relations, then there is point in struggling against power relations at all. Foucauldian feminists also argue vigorously

against this claim. First, they contend that there can be co-ordinated resistance. Mass resistance can be conceptualized in a manner similar to that discussed for power. Though there is no overarching source or wielder of power, power relations can be patterned. Correspondingly, while there is no “locus of great Refusal...it is doubtless the strategic codification of these points of resistance that makes a revolution possible” (Foucault 1978, 96). Local instances of resistance can become patterned; they can spread and they can cause cracks in the dominant discourses. Second, the lack of guarantee, the lack of complete revolution, should not be enough to stop us from recognizing and struggling against unjust power relations now.

Feminists also point to Foucault’s theory of the subject as prohibiting resistance. If there is no subject, they argue, there is no agency. If we are only ever the effects of power how can we ever resist that power? They argue that Foucault’s account of the subjugated subject negates any possibility of resistance. However, as I discussed in Chapter 3, the way in which Foucault theorizes subjectivity does not preclude agency. The subject is constituted not simply by one disciplinary discourse but by many, and “subjectivity, like power, discourse and discipline, needs to be understood as multivalent and complexly constructed” (McLaren 2002, 60). So while subjects may be constituted as docile, they are at the same time produced as sexual, able, and with agency (Sawicki 1991). Subjects are constituted with the potential for resistance because “to be constituted by language is to be produced within a given network of power/discourse which is open to resignification, redeployment [and] subversive citation from within” (Butler 1995, 135). The power and discourse that make up the subject are complex; they are also contestable. Individuals are not only the effects of power, in Foucault’s relational conception of power, they are also its vehicles (McLaren 2002; Sawicki 1991). Sawicki (1991) argues this is a position that is highly similar to feminism’s own recognition of women as both victims and agents – as

subjects of patriarchy and agents who oppose it – and that the recognition of and tension between these positions can inspire resistance.

Resistance, in a Foucauldian feminists approach, is refusal. A refusal of what we are and how we know and are known now. It is an opening of possibility and “of transforming political relations through the production of new discourses and so new forms of power and new forms of the self” (Ramazanoglu 1993, 24). Resistance is the identification and refusal of the ways dominant discourses have constituted and responded to us as subjects (Sawicki 1991). While this is the general way that the Foucauldian approach to resistance is conceptualized, Lloyd goes further and incorporates Foucault’s writing on technologies of the self to argue that resistance is a “two course strategy” (1996, 243). The first is in the refusal to be what we are, the second is in the creation of new subjectivities and new ways of being and acting. This is the work that is done by techniques of the self (Lloyd 1996).

The ways that neoliberalism knows the Criminalized Woman and the ways that neoliberal practices respond to her need to be refused and new possibilities need to be expanded. The constitution of the Criminalized Woman as a Neoliberal Subject and the corresponding response individualizes and responsabilizes her. This is a problem since criminalized women’s offending behaviour can only be understood by examining the ways in which their lives and behaviour are structured and constrained by gender, race, and class. Holding them personally responsible for actions taken while constrained in these ways perpetuates the oppression of women as a group. The neoliberal discourses and strategies of governance need to be resisted.

Resistance in Alternative Justice Programs

Resistance is the offering of subject positions and mentalities that differ from dominant constructions in discourse. The discourse used by the participants in this study contains alternate

versions of the Criminalized Woman from the criminal justice system. This makes the programs themselves spaces of resistance. The alternative constitution of the Criminalized Woman allows resistance in two ways. The first way in which resistance is present is in the multiplication of subjectivities. The criminalized women in these programs interact with three different versions of the Criminalized Woman. Resistance is possible through the “refusal and adoption of forms of subjectivity” (Oksala 2005, 167). The programs here increase the possibilities for subjectivity. They hold out a greater number of possible subjects which criminalized women can take up or not. In these programs, there are several forms available for women to adopt or refuse. This may allow them to take on one which they feel is most useful to them. They can strategically play to certain aspects of the Medicalized Woman or the Neoliberal Woman in order to meet their own objectives.

The simple presence of multiple forms of subjectivity is a resistant act. It splinters the Criminalized Woman into different women; it creates room for agency and for difference. As a way of practicing freedom, McWhorter (1999) argues we need “disciplinary practices that we might engage in carefully, deliberately, but with modifications that militate against standardized outcomes” (181). That potential lies in alternative justice. Criminalized women are, in alternative programs, offered some movement in terms of identity, in contrast to the formal system wherein they are constituted, understood, and responded to as neoliberal subjects.

Beyond the multiplicity of identity that these programs allow there are features of the Marginalized Woman and Medicalized Woman that directly refuse some of the more problematic aspects of the Neoliberal Subject. They work as “forms of the subject that are capable of functioning as resistance to the normalizing power” (Oskala 2005, 190).

Understanding the Medicalized Woman to act based on her illnesses rather than through simple

free choice counters neoliberal ideas of individual responsibility. Making demands for medical facilities, doctors, and treatment centres removes the Criminalized Woman from the criminal justice arena entirely. Through the discourse of the Marginalized Woman the trope of individual responsibility is even further refused. The Marginalized Woman is wholly placed within her social context, directly resisting the de-contextualization and individualization of neoliberal governance. In both of these constructions the gender neutrality of the Neoliberal Subject is challenged. Her experiences and identity as a woman are affirmed. These experiences and this identity are then placed back into a social context.

The Aboriginal identity present in the programs is also a key source of resistance. The presence of the Marginalized Woman as Aboriginal allows the programs to resist the neoliberal tendency to deny group identity and affiliation. It strongly positions the Criminalized Woman not as an individual but as a member of a collective. This identity is not only present in the discourse used by participants, it is actively worked on by many of the programs. The culture work done by the programs, and the Aboriginal perspectives incorporated into the other types of work, strive to build and pass on a strong Aboriginal identity for women. This directly refuses the dominant discourses of settler colonialism that deny and attempt to remove this identity. This form of resistance, resistance through the building and living of Aboriginal identity, is one which Aboriginal peoples have deployed throughout the history of colonialism. These programs, where they consciously work to share Aboriginal teachings, history, and culture, can be seen as enacting resistance by, in Alfred and Corntassel's terms, being Indigenous (Alfred and Corntassel 2005). Several of the programs are engaged in "thinking, speaking and acting with the conscious intent of regenerating one's indigeneity" (Alfred and Corntassel 2005, 614) and in sharing and strengthening that indigeneity with the criminalized women with whom they work.

Resistance here is found not simply in the offering of multiple subjectivities but in the particular Aboriginal identity offered to criminalized women.

There are, of course, limits on the degree to which the programs offer a more fluid notion of identity to the criminalized woman. This is not a space of free-wheeling identity formation, as no space can be. One limitation is that in constructing identities they are drawing on socially bound understandings. Because of this, there may well be aspects of the alternatives offered by the programs which are dominating in their own right. As Heyes (2007) states, “resistance to these constraints, therefore, cannot simply invoke alternative substantive accounts of the kinds of subjects we would be better off being, since these accounts will have their own apparatus of normalization” (118). The linking of Woman to motherhood, with the Marginalized Woman, and what it means to be a good mother could reproduce the patriarchal limiting of women to the role of mother and reinforce neoliberal ideas of the responsible mother. The tying of women to their bodies in their medicalization has the same danger. In explaining women’s behaviour in direct reference to their medical conditions and psychological health, there is a risk that the Criminalized Woman will be wholly reduced to her body, a reduction against which feminist criminologists and feminists generally have fought. These dangers stand more a chance of being realized to the degree staff members hold strict ideas around identity. Are there rigid boundaries on the various identities held out to criminalized women? Can a woman be the wrong kind of Marginalized Woman or Medicalized Woman or Aboriginal Woman? How do staff members respond to women who do not fit these categories? Finally, to what degree do staff and the program problematize the general identity of Woman?

It is important to remember here that I am not identifying the Marginalized Woman as who the criminalized woman “really” is; this is, rather, a feminist discursive construction often

engaged by service providers. There are dangers with substituting a neoliberal subject with a feminist one. Feminism has, in various ways throughout its history as a discipline and movement, constrained women with how it constructs Woman. McWhorter (1999, 2004) traces the initial creativity and sense of possibility she felt with woman-affirming practices, practices which questioned and refused patriarchal norms. She argues, however, that these practices coalesced into the discovery of a Feminist subject and that this tended towards “a way of experiencing selfhood (and the world) that places stability over becoming and change, into a way of thinking that places knowledge over openness toward otherness and difference, toward that which eludes categorization” (McWhorter 2004, 152). The programs here, with their intersectional approach and their belief that each woman must be responded to based on her life and needs, mitigate against some of these dangers but nevertheless they remain. They remain, especially, if these identities are held out as end points; as something that, once taken up, can be put out of mind rather than treated as forms of identity produced and reproduced through an ongoing process.

There are resistant aspects of the discourse of care used by participants. A focus on care means that the participants broadened the identified needs of the Criminalized Woman well beyond the scope that neoliberal strategies allow. Diamond and Quinby (1988) argue that “whereas today bodies, skills, and pleasures are on the whole linguistically sexuated and scientized, discourses of caring and nurturance have the potential to challenge disciplinary power’s claim to control” (1988, 203). Again, and slightly against Diamond and Quinby, there is nothing inherently challenging about a discourse of care. An ethic of care is not inherently good and problem free. For example, the mother-child relationship is often offered as the paradigmatic care relationship (Fine 2007; Gilligan 1982; Hankivsky 2004; Tronto 1993). Tronto (1993),

however, also outlines a number of dangers of care, including an attitude of paternalism/maternalism on the part of the caregiver. Those working from a feminist ethic of care warn of assumptions about care that reside in this relationship; namely, that it is something done only by women, in private, for no money and solely for love. Several of the participants reference the mother-child relationship when describing their work with criminalized women. By invoking the maternal relationship as the paradigmatic relationship of care and thereby feminizing care, they risk depoliticizing women's relationships and work. It is thus important to note that the ethic of care is a discourse that can be resistant to neoliberal values, and generally is in my data, but can also support them.

The programs subvert neoliberal values through their different constructions of the Criminalized Woman. Resistance is also possible for the individual criminalized women who participate in the programs. For them, the techniques of self-care have the potential to move beyond allowing resistance through refusal to providing transformative practices. Techniques of the self have been interpreted by feminists as a way of practicing freedom. Freedom is not, in this framework, an endpoint. We cannot remove ourselves wholly from power to some place or state of being that is free. Instead, freedom is something that can be practiced. Freedom is practiced in the second part of resistance identified above by Lloyd, the opening of space for new ways of being (Lloyd, 1996; McLaren 2004; McWhorter 2004). The techniques of the self discussed in this and the previous chapter are a way of doing so. They are "practices of freedom, that is, they create new non-normalizing modes of existence and relationships" (McLaren 2004, 230). These practices are oriented towards self-transformation, resisting dominant forms of the self, and striving towards new possibilities (McLaren 2002). Women are able to act as agents of resistance as they come to understand and work on themselves in different ways. So long as the

agencies here incorporate this identity work into their programs, criminalized women could engage in practicing freedom through “collective and individual ‘work on the limits’ of one’s culture, inventing new subjectivities and self-techniques by critically re-working the present ones” (Vintges 2012, 7). It is, in part, through these techniques of self-care that a critical subject is constituted who then is better able to resist the normalizing, responsabilizing mentality of neoliberalism. Foucauldian feminists have used this understanding of freedom and techniques of the self as a way to practice freedom in order to provide one potential strategy for action, an aspect of their critique that others have argued was lacking.

While Foucauldian feminists uphold practices of the self as the way to resist normalizing power relations, other feminists are highly critical. In an argument similar to the one that sees no room for agency in Foucault’s theory of the subject, Allen argues that the subject cannot resist when it is subjected. She asks “how can selves who have been constituted by disciplinary and normalizing relations of power start from where they are and yet still take up a self-constituting relation to themselves that is empowering and transformative?” (Allen 2004, 251). Allen (2004) continues her criticism by asking how we can tell the difference between self-governance which is normalizing and that which is resistant if they are the same practices? Grimshaw (1993) is similarly critical of Foucault, arguing that in his later works, Foucault finds freedom in the practices which he has spent most of the work describing as constraining, normalizing, and dominating. She goes on to argue that Foucault does not sufficiently explain this change “and it leads him to evade the crucial question of *when* forms of self-discipline or self-surveillance can with any justification be seen as exercises of autonomy or self-creation, or when they should be seen, rather, as forms of discipline to which the self is subjected, and by which autonomy is constrained” (Grimshaw 1993, 66).

The answer is that theoretically there may be no distinction between practices which are disciplinary or resistant. Those practices must be empirically examined. The key factor that will differentiate them, though, is critical reflection: the ability, and exercise of that ability, of the subject to reflect, to think, to critically deconstruct practices and their limits. In order to be acts of resistance, in order to be practices of freedom, these technologies require critical reflection as “the subject constituted by the power/knowledge network is now capable of turning back on itself: of critically studying the processes of its own constitution, but also subverting them and effecting changes in them” (Oksala 2005, 165). McLaren (2002) makes this point in her examination of autobiography as a practice of the self. She argues that autobiography can be a technology of the self that leads to transformation and works as a practice of freedom. Autobiography can also operate as a technology of domination; it “can be either an exercise in subjection, if it produces the required truth about oneself, or it can be a process of subjectification, if one critically examines how one came to be as one is with reference to normalizing discourses” (McLaren 2002, 152).

In order for the techniques of the self in the justice programs to be resistant rather than neoliberal, staff members would have to encourage and hold out opportunity for criminalized women to engage in this process of critical examination. It is difficult to say with any certainty whether this is taking place in the alternative justice programs I studied. Due to the nature of the data, the fact that I am analyzing only staff members’ discourses about the work they do and not observations of their work or discourses from the criminalized women, I cannot reach any firm conclusions. However, the potential for this seems greatest in the activities that the programs and staff engage in that go beyond their justice work. The activist work staff members perform frames the work they do with criminalized women and makes the strongest connections between

individual women and their social context. This gives a different meaning to the practices they hold out for women. There is the strongest evidence for the encouragement of critical reflection on the part of criminalized women in the culture work done by the programs. In the teaching of history and tradition and practice of culture there is a real sense in the data that staff overtly encourage women to critically think about themselves in relation to their Aboriginal culture and the colonial context in which they live.

Feminists have offered two particular practices through which this type of critical reflection and resistant practice of the self could be fostered. Both could be incorporated relatively easily into the types of work that the alternative justice programs do. The first practice is the classic feminist model of consciousness raising. In consciousness raising, group members reflect on their own experiences and link them to larger social conditions and discourses. In these spaces, modes of subjectivity and the truths that build them can be critiqued. The goal of consciousness raising as a resistant practice of the self “would not be to tell us who we are, but rather to free us from certain ways of understanding ourselves” (Sawicki 1991, 44). The alternative justice programs have a variety of programs that include group aspects. It may be that consciousness raising is included within some of them, but that this was not noted in program documents or interviews. If not, adding this component in a way in which women are able to practice and reflect on a variety of types of selves could increase the potential for resistance.

The second practice highlighted by feminists is self-writing, as mentioned above in the form of autobiography. There are two projects in my data that, while not directly self-writing, could fulfill the same purpose. A participant from Eagle Women’s Lodge outlined one goal she had when she arrived at the lodge: “My vision was to do the teaching and take them out on outings and have them collaging their stay here. Taking pictures, you know, so they can

remember the journey that they had. It's all part and parcel We all meet for a reason. We're all put in each other's place for a reason. It's all teaching." While collage making may not fulfill the requirements of critical reflection if it only serves as a vehicle for remembering, it may fulfill them very well if women were also encouraged to reflect on their journey as they collaged. This process could be tremendously useful in encouraging resistant techniques of self if women were given ample license as to what they put together in their collage and were given space and assistance in critically thinking about their journey.

The second project that takes this practice of self-writing and modifies it slightly is a mannequin project done by the Salvation Army. Participants in multiple programs are given white plastic mannequins and asked what dignity means to them. They then use various artistic mediums to build a subject of dignity. Here we potentially have a very graphic representation of critical practices of the self.

Self-writing, as a practice, has both the potential to allow for critical reflection and the potential to encourage women to know the self in order to neoliberalize it. With this practice, as with all of the ones I have looked at here, there is nothing inherently resistant or dominant about self-writing. The alternative justice programs could incorporate self-writing into their programs. By encouraging criminalized women to think through and record who they are, how they have come to be where they are, who they want to be, and how to get there, staff could very well open space for the women to develop a critical awareness of self and engage in personal development practices that are practices of self-care. Restorative Resolutions requires its clients to engage in a similar process. The first thing that an offender does on entering the Restorative Resolutions probation process is to fill in a biography. They provide a host of biographical details. Participants are encouraged to sit and reflect on important relationships in their lives, addictions,

spending habits, and leisure activities. Nevertheless, participants are given a template. This is not a free writing process; instead, they are focused to write about pre-determined criminogenic risk factors. Restorative Resolutions staff assist in the writing by defining areas for the participant, pushing them to reveal more, and questioning them on aspects of the biography staff members suspect to be disingenuous. This information is then used by staff to construct the pre-sentence report and the conditions of probation. In this self-writing we see a clear example not of a practice of freedom but a practice of neoliberal self-governance. The particular types of knowledge that are solicited by the template at Restorative Resolutions are based in neoliberal ideas around risk. This knowledge is generated in the service of neoliberal self-governance. The goal is not to refuse dominant ways of being or inspire new subjectivities or capacities for the individual. The goal is to make a plan, set within the narrow parameters allowed by neoliberal crime strategies that will reduce the risk of that individual committing another crime.

The focus on the subject and the self has been criticized by some as too individual a solution for feminism (see for eg. Grimshaw 1993). Sawicki (1996) argues, however, that these practices seem individualistic – not because they must remain there but because they focus on the individual level of struggle. Similarly O’Grady argues that “care for the self provides a way of resisting and transforming the intra-subjective effects of given identities and the self-policing technologies that support and maintain them. Again, in this light greater care for the self can be seen as constituting political activity at the ‘microphysical’ level” (O’Grady 2004, 111). This is not to deny the need for change at the macro level of broader discourses and social relationships. Although these practices start from the level of individual struggle they can be used as political practices. They are a powerful way to do the work that feminism has always done of linking the personal to the political. Reflecting on the constitution of subjects and selves necessarily

involves critiquing the social context in which they develop (McLaren 2002). This is one strategy of resistance and it is one that can be coupled with collective strategies (McNay 1992). Indeed for many this is a necessary pre-condition to engaging in collective practices of resistance. The ability to reflect on and place ourselves in a critical framework then inspires us to join others in making social change. These aspects of the practices looked at here allow resistance to move from something individual to something that is broad-based, something that could change the relations within the justice complex.

That practices of self-care can be social practices, not simply individual ones, is not something that can be assumed about them; it must be shown. McNay (1992) argues that a key task for feminists is to show “how a politics of self-actualization need not lapse inevitably into introversion but may contribute to wider forms of progressive social change” (197). For criminalized women, however, many of them will need to address their own individual marginalization before they can even think about contributing to a social movement focused on ending social oppression. Practices of self-care and the building of a critically aware self will assist them in both of those endeavours. Though, again, difficult to assess from these data, it could be that the programs in offering practices of self-care and a multitude of subject positions assist the women and link the women’s self-understanding and practices to collective action. The example earlier of consciousness raising would assist in this regard, helping the practices of self-care become practices for criminalized women as a group. That is not to say that these different subjects, mentalities, and practices should not be interrogated; they should. They are not inherently better, but I think resistance is fostered by their presence in so far as they contest the neoliberal aspects of the programs. I am not arguing here that the Marginalized Woman is the real criminalized woman or that an ethic of care is the proper and only response to her. These

constructions contain their own limits, their own constraints on possibility. Nonetheless, from a feminist standpoint, their presence in the justice programs is positive.

Practices of care of the self and subjectifying discourses must be interrogated empirically; “evaluating the political status of [these] practices should be a matter of historical and social investigation and not a priori theoretical pronouncement” (Sawicki 1991 43). The subjectivities and the capacities generated by the programs here do have resistant features but it is only in the close examination of the discourse that this can be known. Lloyd (1996) argues that it is not “the activity of self-fashioning in itself that is crucial. It is the way in which that self-fashioning, *when allied to critique*, can produce sites of contestation over the meanings and contours of identity, and over the ways in which certain practices are mobilized” (Lloyd 1996, 250 emphasis in original). Although Lloyd is referring to feminist analysis and a general feminist politics here this is precisely what I want to argue the programs are providing: practices of the self which are allied with critical reflections on the dominant criminal justice identities, norms, and practices. In doing so they are offering criminalized women space in which their capacities can be built and different possibilities are created. The programs act as spaces of contestation and creation for criminalized women against and beyond what neoliberal governance allows.

Despite feminists’ attempts to link these practices of critical care of the self to larger patterns of resistance, there remains no clearly defined strategies for doing so. This is particularly true when the analysis moves, as I do in this dissertation, beyond how we should work on ourselves to how we are with each other. As a personal ethos for the feminist philosopher, a critical care of the self seems like a good resistance strategy. How it becomes so for feminism as a *social* movement is less clear. This is a weakness of a Foucauldian approach that even those using it acknowledge. Heyes (2007) points to this lacuna in Foucauldian theorizing and argues

that more work needs to be done to explain how care of the self “can be a set of practices that includes an understanding of responsibility and ethical commitment to embodied others” (133).

In an extended analysis of the idea of freedom in Foucault’s work, Oksala (2005) is critical of the lack of a relational aspect to techniques of the self. She argues that “the most fundamental ethical question does not concern my relationship to myself, but to the other,” and this means reversing the way in which Foucault thinks about the ethical practices of the self.

In order to overcome this weakness in Foucault’s thought and more clearly see how the practices of the self could lead to social change I want to continue to draw on two bodies of feminist theory: Foucauldian feminism and a feminist ethic of care. McWhorter (2013) and Sawicki (2013) are two feminists that have found much value in Foucault’s idea of care of the self. Both refute the notion that these are individualistic practices. McWhorter argues that because Foucault’s notion of the subject is relational, so too are the practices of that subject. She (2013) insists that “a self comes to and continues to be in a network of social and political relations; selves do not exist without others. Caring for oneself involves caring for both known and unknown others in personal, communal, and civic relationships” (72). There is a case to be made, then, that there is nothing in the practice of the care of the self that stops it from being a collective practice. But in order to strengthen that claim, in order to move it from allowing to demanding collective resistance, I draw on feminist ethic of care theorists and their incorporation of responsibility into the notion of care.

Responsibility has been discussed throughout this analysis as a key neoliberal concept. The responsibility for preventing crime and for governing criminalized women is placed upon the community. The responsibility for making good choices, for engaging in proper conduct is activated in the individual. Neoliberalism, as a mode of governance, works to govern at a

distance by encouraging others to take responsibility for governance. Responsibility is also the key concept that allows resistance to neoliberalism, if it is conceptualized, as Heyes (2007) does above, as responsibility *to* others. Rather than examine what we are being encouraged to take responsibility for, if we look at what responsibility we have to others we may be able to link the individual practices of self-care to resistant social practices. McLaren (2002) argues that “self-transformation can lead to social transformation as individuals create new non-normalizing, noninstitutionalized ways of living with and relating to one another” (160). Integrating the idea of responsibility for meeting the caring needs of each other into this conception can increase the possibility that self-transformation leads to social change.

Rather than argue that the practices of care of the self *can* involve care of others, the feminist ethic of care theorists argue it *does and should*. Responsibility is a key concept in the feminist ethic of care. Throughout her foundational text, Gilligan many times calls it an ethic of responsibility. Gilligan (1982) finds that the women she studies see the exercise of care “as the fulfillment of moral responsibility” (73). In an ethic of care we have a responsibility to care for each other because we are fundamentally relational beings. This echoes McWhorter’s (2013) assertion above, and the general Foucauldian feminist idea, that we are constructed as selves relationally. Starting from the relational self, then, the ethic of care sees responsibility to those we are connected to as imperative. Responsibility to care is a necessary part of care (Tronto 1993). Sevenhuijsen (2004) argues that because the ethic of care starts from this relational conception of the subject and has “an interactive image of moral subjectivity, care and responsibility apply not only to ‘others’ but also to moral subjects themselves” (58). If we apply that to techniques of care of the self, it means that in taking that care of the self one should incorporate considerations of responsibility and care for others.

For Sevenhuijsen (2004), responsibility to care for everyone all the time is not inherent in our relationality. It is attending to the question of responsibility that is important. She notes, “moral problems are observed and discussed from an attitude of caring, that is, with attentiveness, responsibility, responsiveness and the commitment to see issues from differing perspectives. The conclusion of this may not necessarily be a duty to care; it could also mean deciding not to provide care” (84). Whether we decide to take responsibility for that care will depend on a variety of situated, contextual factors such as resources, conflicting needs, or incompatible political commitments (Sevenhuijsen 2004). Bringing this “attitude of caring” and the responsibility which inheres in it to practices of self-care forces those practices to look beyond the individual. This inclusion of responsibility could make the care that is practiced in the techniques of care of the self more robust and more clearly social.

If techniques of the self and care for the self are the way that we practice freedom, following Foucault, and if part of that care includes responsibility to those whom we are connected, these techniques can lead to broader, more sustained patterns of resistance. If one is able to practice critical techniques of the self, then to do so ethically would include practicing an attitude of caring for others. An ethical care of the self would include the responsibility to consider care for the other.

There are several features of the work done by the alternative justice programs that suggest they incorporate this notion of responsibility into their work and thus link individual practices of self care to collective forms of resistance. We see this focus on relationality and responsibility for care for the other in the focus the staff put on relationships. They recognize not only their relationship to the women they work with but also the variety of relationships the women are embedded in. In the inclusion of peer mentors we see that linking of caring for the

self and other. Women who have gone through the programs as participants come back into the programs as staff. Once the work has been done to care for the self, the woman comes back and cares for others. Cultivating this caring attitude could be strengthened in the programs by making it an explicit part of the practices.

This is an area, once again, where we see the greatest strength in the Aboriginal programs. In the interviews, the staff at these programs consistently linked the individual to broader collectives. One participant exemplified this in her interview with me. In discussing the work she does with women, she consistently linked the individual women to all their relationships. She spoke about care of the self: “And I usually start with the most important relationship which is the relationship with themselves. They need to know and understand and be comfortable in that relationship first in order to have other relationships and so I not only focus on the past relationship but we talk about all relationships and that.” She also talked about grounding that knowledge of the self in the past history of First Nation peoples in Canada. She then linked that to women going forward in a good way: “Because usually people don’t take time to think about themselves, they just do. And they’re so busy in the world they just go on and on not realizing how things are affecting them. But, like, we talk about feelings and we talk about other people and we talk about the seven teachings, you know? And so something sparks inside of them because they know it’s true. And so they stop for a minute and then they think about that. I think that really makes a difference.” Work is done with the women on themselves in order to meet not only their needs but the care needs of their families, communities, and ultimately nations.

Resistance in the Informal/Formal Justice Complex

There is resistance present in the alternative justice programs studied here. But it is a fragile resistance and it requires constant, conscious reflection by practitioners and an encouragement and enabling of that reflection to criminalized women. One way that this potential can be nurtured, to help realize it, is to strengthen ties between agencies. Having staff from multiple agencies be able to come together and share and reflect critically together could broaden and deepen the critical consciousness necessary. This would be similar to the ways in which consciousness raising groups operate. This practice is occasionally done in Winnipeg.

Onashewewin and Elizabeth Fry hosted a public event with speakers Kim Pate and Debbie Kilroy. This was an event in which the public and alternative justice staff came together to discuss the challenges facing criminalized women. The discussion was critical of the criminal justice system, corrections in particular, but also drew on broader critiques of colonialism and patriarchy. These types of events could strengthen, build, and disperse a resistant ethic of self within the justice complex.

The potential of this type of collaboration is constrained by the neoliberalization of the justice complex. It is only sporadically done at present. Participants spoke of very little connection between them. Several acknowledged that part of the reason for a lack of collaboration was competition for funding dollars – despite the fact that most of the programs serve women with different needs or at different points in the justice process. The programs do collaborate with agencies not located in the justice complex. My participants spoke of their relationships with housing groups, social welfare organizations, a university, and other local community programs. While funding competition in the justice complex may limit the degree to which the programs collaborate together, it may push them to engage with non-justice agencies.

To a significant extent the programs are networked with larger social movement organizations and advocacy agencies, potentially increasing the possibility for self-conscious critique of the justice complex.

The potential for resistance is also constrained in other ways by the programs' placement in the informal-formal justice complex. The process of "government at a distance" (outlined in Chapter 2) puts pressure on the programs to operate according to dominant mentalities. This placement of the programs, the ties they have to the formal justice system, keep their work focused on criminal justice. The justice work that they do most closely resembles neoliberal strategies and mentalities of governance. It is when my participants were talking about their justice work that the Criminalized Woman was most likely to be described as the Neoliberal Subject. For agencies that are not only justice agencies, such as Native Women's Transition, having a program in the justice complex may work to import the neoliberal governance mentalities into their other programs. In this way, the justice complex not only constrains the potential for resistance it may extend dominant mentalities into new spaces.

Resistance is also, however, enabled by being placed in the justice complex. It is through the justice work that the programs engage with criminalized women in most instances. Were it not for the justice relationships the program staff may have no relationship, no contact, with criminalized women at all. This connection to the criminal justice system also provided the programs with resources, however meagre and rule bound they may have been. Having some government funding may allow agencies to leverage other funds or give them some stability from which to fundraise and recruit volunteers. Official partnerships with the justice system also mean that agency staff, especially Executive Directors, may have regular contact with policy

makers. By giving alternative justice programs the responsibility to govern women, neoliberal strategies also give the programs the ability to change what that governance looks like.

Concluding Remarks

In Chapter 1 I focused on the ways in which feminism has been argued to link to neoliberalism. I used the concepts of alignment and government at a distance to argue that in the case of the programs under study, their interests often do align with broader neoliberal interests. Janet Newman (2013, 2012) uses data gathered from interviews with female activists to make the same argument but she stresses the presence of multiple processes. Feminist interests can align with and support neoliberal ones. Neoliberal interests, however, can also be made to align with and support feminist ones. Finally, feminist interests, discourse, and mentalities can be brought in to change neoliberal projects. In specific connection to my analysis, Newman analyzes the way that “‘community’ is traversed by multiple and often antagonistic political projects” (2012, 44). She demonstrates how the community is constructed to be a new space of “government at a distance,” but how it is also a space in which feminist and critical race activism takes place (Newman 2012). As governments looked to responsabilize community, as they constructed community partnerships, they did create spaces of neoliberal governance, but they also “offered new spaces of power that drew women into governance arrangements while also offering them resources that they could sometimes divert in their efforts to promote social justice” (46). That same potential exists in these alternative justice programs. Because staff constitute the Criminalized Woman as the Marginalized Woman, they do make an effort to ameliorate her marginalization and to agitate for broader social justice.

Newman (2012, 2013) is not naively optimistic about the power of feminist and other oppositional movements. She notes that feminist successes are often small and not sustainable.

Looking forward she argues, “the spaces of power with which I have been concerned are shrinking, the borders tightening and material constraints couple with more coercive governance regimes make it more difficult for activists to find the time or resources for creative political work.” (217). What Newman does, and I have tried to do here, is show the moments of opposition – the potential for and the realization of resistance.

Resistance will not, however, be a massive overthrow of the informal-formal justice complex. It will be the reworking of these relations and a different way to understand the Criminalized Woman and “the fact that one cannot guarantee the outcome of such resistance is no argument against it. It is, instead, a reason to continue to be attentive to the limits of one’s own discourses and practices” (Sawicki 1991, 100). This analysis takes its inspiration from Foucault’s description of the work of the intellectual: “it is, through the analyses that he carries out in his own field, to question over and over again what is postulated as self-evident” (Foucault 1988, 265). I offer this analysis of resistance as a questioning of the critical criminological conclusion that community justice programs that engage in personal development strategies are only exhibiting normalizing, neoliberal governance. I also want to offer a caution to feminist criminology. In order to resist neoliberal governance “feminists must critically assess our own methods, in Beatrice Webb’s phrase, of ‘governing and guiding’ other women. Another way to say this is that feminism’s will to empower other women must undergo some intense scrutiny. The problem for feminists is not *whether* to help other women but *how*; what form should helping take?” (Cruikshank 1999, 60). It is this spirit that I have focused on community alternatives. My analysis suggests that we, as feminists, should not be overly sanguine in our call for community alternatives. The potential for resistance to neoliberal governance is evident in the

work these alternative justice programs do, but so too is the potential for the programs to contribute to that governance.

The key problem with alternative justice programs, their ability to not only support but strengthen the criminal justice system as identified by Cohen (1985), does not disappear here. Does the incorporation of care, of technologies of self-care, the alternative things that the programs offer justify continued criminal justice intrusion into the lives of criminalized women? In so far as the programs prop up the formal system they severely constrain the potential for resistance. They carve out a small space for some difference but in doing so they allow the overall response to criminalized women to be the one, dominant, justice system response. Comack (1996) identifies the irony for many of the incarcerated women she interviewed: “only after they were caught up in the criminal justice system did they receive access to resources they needed to begin resolving their troubles” (140). The programs here, in many ways, provide the material resources, critical reflection, and support women need, and unlike the women in Comack’s study they provide them outside of a jail or prison. But, and this very serious constraint remains, criminalized women must still be criminalized in order to access these programs. Though the program staff constitute her as the Marginalized Woman the reality remains that marginalization is not enough, in most cases, to gain access to these programs. She must be the Criminalized Woman.

CONCLUSION

The alternative justice programs studied here are sites of resistance against dominant neoliberal governance. I theorize resistance using a Foucauldian feminist framework. In such a framework, as I discuss in Chapter Five, resistance consists of refusing dominant norms and subjectivities. Resistance is also the act of thinking about, offering to others, and practicing new ways of being. Resistance is present most clearly where the programs and staff refuse the individualized, responsabilizing discourses of neoliberalism. It is present more obviously where they link the personal troubles of criminalized women to the public issues of gender, race, and class. I have highlighted, in Chapter Five, self-writing and consciousness raising as two practices that Foucauldian feminists identify as examples of resistance and argue that these could be incorporated in the alternative justice programs to strengthen the resistance that is already present. While the programs here are not complete alternatives to the formal system they do offer spaces and strategies of resistance to criminalized women.

Although resistance is present and I have tried to focus and bring out the resistant aspects of the programs, it is important to remember that this is present in the program discourse alongside dominant forms of power and practice. This tension is exemplified in Chapter Four. There I argue that much of the work that the programs do is personal development, training, and education that is directed at the Criminalized Woman working on herself. Scholars have shown that this type of self-governance is a hallmark of neoliberalism. Through much of the programming the Criminalized Woman is encouraged to know herself, to build self-esteem, and to improve, based on neoliberal standards, the way that she make choices and ultimately behaves.

This type of work on the self has also, however, been theorized by feminists, following Foucault, as having the potential to be resistant. Present in the data is a discourse of care. Participants strive to care for the Criminalized Woman. They prioritize her needs and try both to meet them and to better allow the Criminalized Woman herself to meet them. With this discourse of care and the goal of addressing the Criminalized Woman's marginalization, these practices of the self can be seen to be deployed by the programs in a resistant, rather than neoliberal, way. They can be used to multiply the capabilities and options for criminalized women rather than simply reproduce neoliberal strategies. With the practices of the self we see the practice of both dominance and resistance. The primary reason that the programs respond to the Criminalized Woman in this dual manner is because they constitute her in a variety of ways.

The alternative justice programs constitute the subject of governance, the Criminalized Woman, as the Neoliberal Subject, the Medicalized Woman, and the Marginalized Woman at the same time. As the Medicalized Woman she is connected to her medical problems, mainly addiction problems. This is perhaps the least constituted subjectivity in the data and when the Criminalized Woman is responded to she is very rarely the Medicalized Woman. The relative absence of this Woman in the programs is in opposition to the ways in which the formal justice system constitutes the Criminalized Woman and warrants further investigation. As the Neoliberal Subject, the Criminalized Woman is held personally responsible for her criminal behaviour. She is seen as having choice and the responsibility to exercise her options properly. However, the dominant constitution of the Criminalized Woman in the data is the Marginalized Woman. This Woman is understood to exist in and be constrained by overlapping structures of power, including race, class, and gender. This is a further example of the presence of multiple and conflicting discourses and strategies in the justice programs.

The presence of these various subjectivities and discourses complicates the programs' position in the informal-formal justice complex. They are, as I argued in Chapter One, spaces that govern at a distance. Through the justice programs the community, non-profit agencies, and individual volunteers, are responsabilized to deal with crime and govern criminalized women. Through the programs neoliberal ideas around individual responsibility, choice, and responsible self-governance circulate and are used in the governance of criminalized women. Although the programs are implicated in these dominant governance relationships they also contain the potential for resistance against those same relationships. Staff constitute the Criminalized Woman in an intersectional way and respond to her with care, against neoliberal notions of individual responsibility. This positions them in the informal-formal justice complex as a point of break or rupture. They do not exist as alternatives outside of the justice complex nor do they completely rework it but they do provide criminalized women with spaces and techniques of resistance.

The programs also provide an example of a phenomenon I have tried to understand and highlight here: the alignment of feminist, and other social justice projects, with neoliberalism. I have struggled throughout this project to make sense of the apparent congruence of feminist and neoliberal strategies. The concept of alignment – the idea that although the motivations and goals of various strategies may be vastly different their interests can be the same – has assisted in clarifying this for me. Neoliberal strategies operate with motivations of specifying particular limits to the array of options available to individuals with the goal of proper conduct in that narrowed field of action. Feminist strategies operate with motivations of opening up the options available to people in order to achieve the goal of social justice. Yet those very different goals

and motivations can both lead to strategies which emphasize education, training, work, and empowerment for individual criminalized women.

A specific example from this research is the personal advocacy work that staff do with individual criminalized women. They may assist a woman in accessing Employment and Income Assistance (EIA) as a means to expanding options for that woman. Their goal may be to help allow this woman to have more ways of surviving and supporting her family, and thus for the woman to have more possibilities of action in her life. This aligns with the interest that neoliberal governance has of citizens properly accessing things like EIA. Having an individual citizen navigate the bureaucracy and receive payment in lieu of, but in the course of securing, paid employment assists in the goal of having individuals act within limited parameters. Assisting the women in this way aligns the interests of both feminist and neoliberal projects. It stops the woman from operating outside of the parameters that neoliberalism draws, for example, stealing what she needs or agitating in a collective way for entirely different economic arrangements. It also allows the woman potentially more options than she currently has. It aligns with feminist goals of keeping women safe, the state having responsibility for citizens, and all people having fair distribution of resources. With very different motivations and goals, the same strategies make sense for both feminism and neoliberalism. This phenomenon needs to be studied further with a focus, similar to Newman's (2012, 2013), on how feminists can use this alignment to further their own goals and resist those of neoliberal governance.

One of the main uses of Foucault for this project has been to identify the multiple, overlapping, and sometimes contradictory discourses and practices present in the programs. One of the biggest strengths of a Foucauldian analysis is its allowance for ambiguity. By seeing power and resistance as relational and dispersed it allows us to see potential for both more and

less oppressive ways in which alternative justice may work. We can reject the binary that the very phrase “alternative justice” sets up. Similarly, viewing neoliberalism as a governmentality and governance as a project which is varied and always incomplete allows resistance to be seen. Rather than viewing neoliberalism as something which always co-opts and governs in a totalizing manner, a Foucauldian analysis alerts us to the potential of resistance and of alternate mentality and practices of governance.

The bulk of this analysis has involved describing and theorizing the resistance present in alternative justice programs. That was not, however, my original objective for the project. I did not initially think that there would be this resistance in the programs. Though I had hoped that working with criminalized *women* would mean that the programs had more of a social justice orientation, my readings of both the feminist criminological literature and critical analyses of informal justice meant that I did not anticipate finding it. So, although as a finished product, I hope that this dissertation makes the resistance and unique efforts offered by the programs clear and obvious, I do want them to appear expected or common place. The most exciting finding, for me, is the degree to which the programs constitute the Criminalized Woman as the Marginalized Woman. Their understanding of her is intersectional and their assessment, overall, of her social marginalization is that it is an extremely pressing issue. Their response to her, the resistant ways they act, flow from this constitution of her. While their practices could be strengthened to be more resistant I am not sure their construction of her could be.

My expectations limited the degree to which I asked my participants questions relating to resistance. I did not ask about activism, the perhaps most clearly resistant part of the work they do. My methodological choices limited this further. Doing one-off interviews meant I did not go back to my participants to explore the themes of marginalization, care, and resistance. It means

my analysis of what they do as resistance is solely my own; I did not ask them to reflect on what resistance means for them. This has been one aspect of the project that has convinced me of the value of engaging in longer-term and, ideally, participatory research projects.

Another consequence of my not expecting to find resistance is that I have spent the bulk of the analysis documenting and analyzing only one aspect of it: the governing discourse that the staff use. This is an important aspect of resistance but it does not provide a complete picture. There are at least three other registers in which resistance must be analyzed in order to more fully understand the realization and impact of the resistance that I have charted here.

One question that must be answered is: how do these discourses operate in practice? Do staff members practice what they discussed with me? Because of the simultaneous presence of social justice and neoliberal discourses, examining the actual work that the programs do could assist in clarifying the potential for resistance. Does one aspect of their discourse become more pronounced? One could imagine that this could be the case with either the resistant or neoliberal aspects of their discourse. It could be that staff discussed with me a more aspirational interpretation of their work, one which may not have space in practice to have an impact. Perhaps in the exercise of the programs the neoliberal framing and response to criminalized women becomes more pronounced. The opposite could also be true. In their discussion with me, staff may have emphasized the responsibility criminalized women have in order to present a discourse they know is in alignment with their funders and official government partners. A third, and most likely, outcome could be that examining the practice of alternative justice gives my analysis here of overlapping and conflicting discourses and subjectivities more nuance as neither take precedent but both appear in and influence the work in which alternative justice staff engage. In any case, observational research of the alternative programs needs to be done in order

to give us a more complete picture of the ways in which power and resistance are deployed in alternative justice.

A related, and crucial, question that must also be examined is: How do criminalized women respond to this governance? How do they take up or resist the subjectivities constructed in these programs? Future research should investigate how criminalized women experience, understand, and respond to the alternative justice programs' discourses. What other understandings of themselves, justice, resistance, and power do criminalized women bring into these programs? Do they arrive with a strong sense of self that then comes into conflict with the subjectivities constructed by program staff? How do they take up and use the various versions of the Criminalized Woman that the programs construct? Future research could also examine the ways that criminalized women use the techniques of the self on offer by the programs. Recall that Foucauldian feminists argue that we can only know if these practices are resistant by examining them; future work must take as its object of study the discourse of criminalized women.

Third, and finally, the political and economic contexts in which these program operate must be taken into account. In a critical read of the appropriateness of Foucault's work for feminism, Soper (1993) argues that it is not enough to identify resistant discourses, because "what is critical to their advancement is the specific economic and political climate in which they are expressing their resistance, and this can be more or less favourable to their reception" (34). The context impacts not only their reception but also their articulation. Identifying the governing discourses utilized is an important and necessary analysis but Wacquant's work could possibly be used as a way to bridge the economic/structural analyses of neoliberalism and the governmentality/discursive ones.

Rather than view the state as a structure or monolithic thing, Wacquant uses the work of Pierre Bourdieu and the concept of the bureaucratic field to argue that we should conceptualize it as a field of activity; a space or configuration of relationships. Included in the bureaucratic field is the set of organizations that “define and distribute public goods” (Wacquant 2011, 207). Using this Bourdieusian approach, Wacquant (2009) argues that neoliberalism is “a transnational political project aiming to remake the nexus of market, state and citizenship from above” (Wacquant 2009, 306). The remaking of the bureaucratic field is not a *fait accompli*, it is a struggle. This struggle involves the various sectors of the bureaucratic field as well as groups in civil society, all attempting to impose their expertise (Wacquant, 2010). Using this theoretical framework, further research should place the discourse and practices found here in alternative justice programs in the broader political context, examining both the influence of the field on the discourse and the potential influence of discourse on the field. This would expand our understanding of the potential of and constraints on alternative justice for resistance. It may also better allow us to theorize how to utilize the alignment between neoliberalism and feminism I discussed earlier. While I believe there are many more avenues of research to pursue on this topic, I also believe they follow directly from the findings of this project. A Foucauldian analysis has highlighted the resistant features of the alternative justice discourse that make the projects above worth exploring further.

While each of these three areas – the practices of alternative justice, the discourse of criminalized women, and the structural context of these programs – could be studied in isolation a particularly fruitful approach may be to study all of them at one research site. Research that could potentially address all three of these areas and provide more empirical data on alternative justice would be an ethnography of one particular program. In Winnipeg, Eagle Women’s Lodge

would be a site that could potentially provide insight into all of these issues. The Lodge is clearly situated in the justice complex and acts as a residential facility for women with legal conditions. Yet it is operated by an agency that historically has not been a justice agency. The staff I spoke to from here had a clear social justice influenced understanding of their work and the women with whom they work. Yet their programs are also heavily based in neoliberal strategies of work and education and responsibility. This program could also provide more insight into how Aboriginal agencies, staff, and criminalized women navigate and resist colonialism and how they draw on and practice Aboriginal culture and politics.

That being said, such a project is not one that I, nor any other non-Aboriginal researcher, should do alone or unthoughtfully. As a feminist scholar I understand social justice to be most fully sought after for women only when it is done for all women. Justice is only aspired for Aboriginal women only when it is so for Aboriginal men.²⁶ It is with this inspiration, expressed by Kim Pate, executive director of Canadian Association of Elizabeth Fry Societies that I engage in feminist research. Pate writes that it was a federally sentenced woman, author, and activist Gayle Horii that introduced her to a quotation credited to Lilla Watson, an Aboriginal woman from Australia: “If you have come here to help me, you are wasting your time. If you have come because your liberation is bound up with mine, then let us work together” (as cited in Faith and Pate 2000, 147). This has been the spirit in which I have approached the study of feminist criminology and it was a sentiment that was with me throughout this project.

It is not, however, enough to do socially just research with Aboriginal women. Throughout this project, despite my intersectional intentions, I was reminded by committee members, participants, and myself to include race and colonialism in the research. Class issues

²⁶ This is also true for a variety of different identities and markers of inequality, not simply Aboriginal women and men. I focus on race here for reasons which should become apparent in the follow paragraph.

and, of course, gender issues were easily and continually identified by me and incorporated into the research as I have experienced these inequalities. My privilege as a white Canadian was a constant barrier to fully developing the racialized aspect of the research. I say all of this because a reality of feminist criminology is that Aboriginal women will, and should, be at the centre of our scholarship and advocacy. Aboriginal women are the targets of institutional and personal violence. Our criminal justice system responds disproportionately to them. We must put our scholarship in service of social justice for Aboriginal women. And, in doing so, intersectional intentions are not enough. We must, as non-Aboriginal scholars, bring settler-colonial theory, Indigenous feminism, and participatory methods into our research. I did not do this here and though I have tried to be constantly attentive to and highlight the unique experience of Aboriginal women, this is the largest limitation of this research.

A strength of the research has been to bring non-profit, community-based justice agencies into the study of the governance of criminalized women. While feminist criminologists and socio-legal scholars have studied the law and corrections as spaces of governance for women, it is rare that they have looked outside of the formal criminal justice institutions. Studies that have looked to community programs have tended to use theoretical perspectives that lead them to see the criminal justice system and neoliberalism as totalizing and always co-opting any difference or resistance that may reside in the community. Jill McCorkel and Lynne Haney have done ethnographic work that looks at the complexity and ambiguity of community governance of criminalized women in the American context. They focus, however, on community treatment programs. With this project I contribute to the literature and theory on the governance of criminalized women by bringing a discursive analysis of resistance in alternative justice agencies.

One of the key findings for me is how the work that the programs do and the ways in which they think about the women they work with transcend the criminological literature and the criminal justice field. The programs are part of the informal-formal justice complex but they also have connections to and roles in child welfare, social assistance, medical, government, and activist fields. They have these connections because the women they work with are also involved in all of these other institutions. A task for feminist criminologists is to study and conceptualize these links, particularly between criminal justice, child welfare, and social welfare, further.

Postmodern and poststructuralist theorists are continually critiqued for being unwilling to provide alternatives. This is possibly the central problem that feminists see in using these types of theories in the service of feminism. My reading of Foucault, Butler, and others in this tradition reveals not a complete disavowal of offering alternatives. They reject the possibility of A Way Forward that comes from a specific analysis and claims to be a solution for all. If we are to move or strive to move towards more just social relations, alternatives must be provided. To do so from a poststructural position is to offer alternatives along with their critique, to argue that this alternative may be better but it will certainly not escape the thing it is an alternative to and it may be worse. Feminists often charge Foucault with having a lack of normative foundations and advocating a relativism that cannot contribute to a feminist project. To do so they point to his claim that “everything is dangerous.” To appropriate his insights in a feminist manner we must use our own feminist standards to engage in the activism Foucault (1994) argues is necessitated by his work when he argues “my point is not that everything is bad, but that everything is dangerous, which is not exactly the same thing as bad. If everything is dangerous, then we always have something to do. So my position leads not to apathy but to a hyper- and pessimistic activism” (256).

So while I have insisted throughout this project on interrogating the work that alternative justice programs do, guided by the assumption that the work they do can be dangerous, I would like to offer some suggestions for doing that work that could increase the potential for resistance. This is, of course, not to say that my suggestions are immune from this hazardous potential. As alternative justice programs, the areas in which the agencies have the strongest potential for resistance is the work they do that is not directly justice related. In their care, advocacy, and culture work the programs constitute and respond to the Marginalized Woman. Doing more of this type of work can both provide criminalized women with the support and services they need as well as engage in more resistant work. This will be strengthened further if the programs can keep their constitution of the Criminalized Woman as Marginalized central to their understanding. Staff need to be cognizant of the times when their analysis does slip to the individual level, when they construct the Neoliberal Subject, and expect her to solve her own problems.

To assist in this it would be helpful for the programs to keep building partnerships with other community agencies outside of the justice field. At the same time, however, the programs I have studied here would be well served by strengthening their ties to each other. There is very little in terms of relationships between them at present. Programs should work to create space to come together and share their work and their analysis of the situation for criminalized women in Winnipeg. This could provide support for individual staff members. It could also allow the programs to further develop their understanding of the issues the Criminalized Woman faces and this could potentially lead to the development of more resistant strategies for responding to her. Many of the staff I spoke to feel that the state should be providing a variety of supports and

services to criminalized women. The agencies would be able to present a stronger case for this as a united group.

As I conducted my interviews with staff at these programs one of the most obvious features of the work that they do is their commitment to it. As Andi clearly articulated: “We’re kept very busy. I don’t know if we’d know how to do anything different though. We’re all very dedicated to what we do. I don’t think you could work in this office without being dedicated.” That dedication, coupled with the ways in which the staff place the Criminalized Woman’s offending behaviour in her social context and strive to respond to the needs she has that arise from her marginalization, speak to a real potential for resistance to dominant, neoliberal mentalities and strategies of governance. But it is also true that through these agencies the community is being articulated into the project of governance and that neoliberal features of governance are being reproduced there.

At the conclusion of my analysis, I return to the questions that motivated this research in the beginning. What kinds of justice practices are available for criminalized women in the community? There are criminal justice practices that mirror the formal system, there is surveillance, responsabilization, and education and training. But there are also social justice practices that are focused on the supporting criminalized women. What kinds of work is done in these community spaces? Multiple types of work are being done. Justice, care, advocacy, and culture work are all being done in an overall project of governing criminalized women. What alternative to the formal justice system do they offer to criminalized women? The programs offer an alternative which is both different and similar to the formal justice system. They offer a space in which the Criminalized Woman is encouraged to work on herself. In one sense this is very similar to the formal system and its focus on individuals re-making themselves into responsible

citizens. In another sense, though, this is entirely different. The Criminalized Woman is encouraged to care for herself, to understand and be critical of the social context in which she finds herself, and in many cases to remake herself in a way that is grounded in her culture. These aspects of the programs should be strengthened. It will be in identifying these moments and spaces of resistance, in co-ordinating and strengthening them, that we will be able to provide alternative justice and ultimately social justice to criminalized women.

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APPENDIX A LETTER OF INTRODUCTION



UNIVERSITY
OF MANITOBA

Hello,

I am a PhD candidate at the University of Manitoba and am contacting you in your capacity as a community organization involved with women in conflict with the law. I am currently undertaking my dissertation research, funded by Social Sciences and Humanities Research Council of Canada, titled “Gender and Justice: A Feminist Analysis of Informal Justice” and I hope to interview you as part of my research.

In this project I am interested in informal justice for women, that is the different types of justice programming that is available to women outside of the formal criminal justice system. The objective of the project is to get a clear picture of the different types of informal justice that are available for women in conflict with the law. I will be examining the relationship between informal justice programs and the formal justice system, looking specifically at how that relationship affects the work that community organizations can do. I am also interested in how community or informal justice programs think about gender, how the programs are specifically tailored to women and what those working in these programs think justice looks like for women in conflict with the law.

Participation would take place at your convenience and would require approximately one to two hours of your time. At the time of the interview I will request that you permit me to tape record our conversation, but if you object I will transcribe it by hand.

In the course of the interview, I will ask you questions about the type of work you do, the values of the organization, the challenges women in your program face and how you assist them in those challenges, the relationship between the program and the formal system.

Your name or position will not be revealed in any written reports produced through this research. If any statement you made during this interview is used in a research report it will be attributed to an anonymous source.

I will keep any information gathered in this research strictly confidential. All documentation will be identified only by code number and kept in a locked filing cabinet in my office. You will not be named or identifiable in any reports of this study and will be provided an opportunity to read written reports prior to publication to ensure that your anonymity has been preserved.

Interview transcripts will be deleted and/or destroyed by shredding once the project reaches its conclusion.

Please feel free to contact me by phone or email if you have any questions. I will contact you by phone/email approximately one week after you receive this letter to ask if you are interested in participating.

Sincerely

Amanda Nelund
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APPENDIX B INTERVIEW SCHEDULE

This research project is examining community justice programs for women. The purpose of this interview is to ask you some questions about the work you do here. The intention is to get a picture of what kind of work this program does and how it does it that work. I'll be asking questions about the program, how it works, whom it serves, and how it differs from traditional criminal justice programs. There are no right or wrong answers, I'm looking for your opinions and want to learn from your expertise about your work.

What does informal justice look like:

Can you please describe what your program does?

Please walk me through a typical case, from when the client begins the program through to the end?

What does an average day at work look like for you?

How long have you been working here?

What kinds of training did you receive here?

What do you see as the overarching purpose of the program?

What are some of the key values for you in the program?

Before this position had you worked in any similar programs?

Gender:

What are some of the characteristics of your clients? Gender, race/ethnicity/nationality, age, relationship status, children, employment etc?

(if the program serves men and women) How is the program different for men and women?

What do you see as the challenges for the women in your program?

In what ways do you think your program can assist with those challenges?

In what ways does your program differ in its approach to working with women than the criminal justice system?

Relationship with the Criminal Justice System:

In what ways do you think your program is different from traditional criminal justice programs?

In what ways are they similar?

What sorts of interaction are there between your program/organization and the criminal justice system?

Are there any important aspects of your work that we haven't talked about yet?