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What's in a Pronoun?: The Ungovernability and Misgendering of Trans Native Kids in Juvenile Justice in Washington State

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ABSTRACT

Recognition of transgender identities and best practices in care for trans youth in juvenile justice settings have been gaining increased visibility. However, in interviews with juvenile justice defense attorneys, I have found that even attorneys who want to be supportive and affirming of transgender youth struggle with consistently affirming the youth's pronouns, especially in the case of Native trans youth. In this article, I will explore the ways that systems of "justice" are not set up to recognize transgender and Native youth correctly, because the goal is always to make Native youth invisible/assimilated and to make trans youth normative. For a transgender Native kid, even the best intentions of people working within this system are not going to be enough to overcome these systemic goals of settler colonial justice systems. This article highlights the limits of the U.S. juvenile justice system and argues for a turn to two-spirit critiques to fundamentally change the justice system for transgender Native youth.

KEYWORDS

Indigenous; juvenile justice; transgender

Heterosexuality, gender roles, racialization, and settler colonization were and remain fundamentally intertwined processes. Scott Morgensen (2011) referred to these processes collectively as "sexual colonization" of indigenous people. The imposition of European gender roles and family structures onto Native people is a part of the violence done to Native peoples in North America through ongoing colonization. Though there is extensive scholarly attention to the ways this has been done in policy, education practice, and artistic production, little attention has gone to the role of gender roles, racialization, and settler colonization in the juvenile justice system. In this article, I examine the gendered and settler colonial context of the juvenile justice system navigated by trans¹ Native children in eastern Washington, a part of the larger geographic area of the Columbia Plateau. Through attentiveness to the specificities of the ways that race, colonization, and gender operate in this region, I can better understand the context that justice-involved trans Native youth emerge from and operate within.

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In this article, I argue that trans Native youth are particularly illegible within the juvenile justice system specifically because their gender identity pushes against conventional cissexist understandings of sex assigned at birth and gender identity. For trans Native youth, this is combined with the fact that their identities and experiences as indigenous people are not meant to be seen due to the logics of indigenous erasure and elimination that are central to ongoing settler colonization. Misgendering of trans Native youth in this context, then, does not require active ill will—though it may exist—but is rather a result of the ways that indigenous trans youth cannot be understood properly in these systems. Justice-involved Indigenous trans youth are specifically and uniquely caught between systems of settler state justice, cissexism, and settler colonization.

The Columbia Plateau or Pacific Northwest Plateau is “an arid, often mountainous region drained by the Columbia, Fraser, and Snake rivers, or roughly occupying a region known today as eastern British Columbia, Washington, and Oregon, all of Idaho, and parts of Alberta and Montana. A wide range of Indigenous peoples made their home in the region, such as the Nez Perce in Idaho state, the Yakama of Washington state, and the Thompson, Lillooet, and the Okanagan in Canada” (Wright, 2003, p. 1). Indigenous peoples in this region generally engaged in seasonal rounds of gathering, hunting, and fishing, with women providing about half of the food supply. Though work was gender-divided, there is no evidence of one kind of work being valued above others (Armitage, 2014). Gender divisions were acknowledged, but gender hierarchy does not seem to have been a part of those divisions.

Gender was immensely important to the various indigenous peoples of the Columbia Plateau. However, these understandings of gender were different from Western understandings of gender, wherein gender is considered a social expression of individual identity. Like many other indigenous groups, Columbia Plateau peoples experienced gender not as “What clothing do you wear?,” which is closely associated with anatomy, but rather as “What work will you do within the community?” Gender and gender identity were connected to community and how a person contributed to that community, band, or tribe. Gender was not tightly controlled or contested prior to settler contact.

There is limited academic engagement with gender among Columbia Plateau people, with the notable exception of Lillian Ackerman’s *A Necessary Balance: Gender and Power Among Indians of the Columbia Plateau* (Ackerman, 2003). In this work, based on more than 10 years of field research with and among the residents of the reservation associated with the Confederated Tribes of the Colville Reservation in north-central Washington state, Ackerman asserted that gender equality existed among the people now living on the Colville Indian Reservation and, indeed, among all Plateau indigenous peoples, and it is likely to still be present today. Combining historical archival work with interviews with participant observation and

interviews, Ackerman asserted that gender equality among Plateau peoples was an ongoing trait of their communities and framed it as an “indigenous trait” and a “legacy from the past” that predates Euro-American culture (Ackerman, 2003, p. 229) and extends beyond settler contact. The archival information of indigenous women of groups now living on the Colville reservation show that women retained equal status after European and American colonialism, largely because of women’s prominent roles in economic activities and in cultural persistence.

Gender and sexuality in indigenous groups has not always been legible according to binary European understandings of both gender and sexuality. For indigenous groups for whom those names and roles have not been lost or eliminated due to the gendered violence of colonization, they tend to use the terms for these groups from their stories and traditions, including the *boté* of the Crow people, the *winkte* of the Lakota, and the *nádleehí* of the Diné. However, these practices and cultural understandings of gender and sexuality are not limited to the past nor to indigenous groups whose pre-contact understandings of gender and sexuality have persisted. Starting at the 3rd Annual Inter-Tribal Native American, First Nations Gay and Lesbian American Conference in Winnipeg in 1990, *two-spirit* was introduced as a pan-tribal term for indigenous people who do not conform to heterosexist sexual identities or cissexist or binary gender identities (Anguksuar, 1997).

I do know that the people of what are now central and eastern Washington state understood gender differently—and in less controlled ways—than European colonists and their settler ancestors. In my conversations with Indigenous people of this area, none have volunteered information about the ways that gender and sexuality functioned in contrast to settler understandings of these categories. Though there is published information about gender roles in ceremony and work among some of the people, this tends to focus on gender as understandable by settler norms—such as women dancing shawl dances (e.g., Arlee, 1998; Barry & Conlon, 2003). This could mean that there were no other gender roles, but it could also be because this history has been erased, or that those traditions and understandings are not things to be shared with non-Native people. However, it is important to emphasize that gender was and remains important to the indigenous peoples of this land. As for many indigenous peoples, gender was very important to the peoples of this region prior to settler contact, with gender structuring the types of work that individuals engaged in and even some spaces that were open to or exclusive to single-gendered groups (Wright, 2003). The recognition of different gendered roles continues to the current day, with young women being encouraged to perform first root ceremonies, compete as pow wow and rodeo royalty, and to perform in shawl and jingle-dress dancing, all activities limited to women. It is unclear whether transgender girls, for example, would be welcomed in jingle-dress dancing or eligible to compete as rodeo royalty.

And, indeed, their welcome or lack thereof might have as much to do with settler-imposed understandings of sexuality and gender, as anything else, as many scholars have noted (e.g., Driskill, 2016; Driskill, Finley, Gilley, & Morgensen, 2011; Erai, 2011; Gilley, 2011).

This importance of gender for indigenous peoples must be placed in the context of the ways that gender was deployed as a tool of colonization. Removing third-gender people was an explicit goal of many Bureau of Indian Affairs agents and their policies to “civilize” and ultimately eliminate indigenous people (Gilley, 2006; Jacobs, Thomas, & Lang, 1997; Rifkin, 2011). The removal of these third-gendered people was vital to this civilization process, as their gender roles were threatening to the colonial order. The existence of people who existed outside of the gender binary were ungovernable by the colonial order unless they were erased. I want to point to the fact that I am seating my understanding of the role of gender in indigenous communities to be one that is located not in non-Native or European understandings of queer studies or critical trans studies. Rather, I am drawing on two-spirit and indigenous queer studies as a way to center indigenous understandings of gender. Here, I am attentive to the call from indigenous activists and scholars who are critical of queer studies and critical trans studies for telling what Qwo-Li Driskill called “of an old story within ‘the new queer studies’: Native people, Native histories, and ongoing colonial projects happening on our lands are included only marginally, when included at all” (Driskill, 2011, p. 70). To counteract these stories, I consider both indigenous understandings of gender and the role of gender within larger settler colonial projects. Doing so allows an attentiveness to how gender in the context of ongoing colonization impacts the experiences of transgender Native youth in the juvenile justice system today.

The relationship between racialization and settler colonialism is also an important context for the experiences and treatment of Native youth in this region. Settler colonialism is the recognition that colonization of what is now recognized as the United States is not a discrete event that occurred in the past, but rather an ongoing process of dispossessing indigenous people of land. Connected to this is the concept of indigenous sovereignty. Native studies and settler colonial scholars such as Patrick Wolfe, Jodi Byrd, and Sara Deer have insisted that indigenous people’s primary relationship to settlers is not one solely of race, but rather of sovereignty: political authority and deep connection to their lands. As Wolfe explained, “Whatever settlers may say—and they generally have a lot to say—the primary motive for elimination is not race (or religion, ethnicity, grade of civilization, etc.) but access to territory” (2006, p. 388). The United States government can claim this territory only through the twofold elimination of Native people and dispossession of land from Native people.

The framework of Native sovereignty, then, is vital to understanding Native people's relationships to the U.S. in the context of settler colonization. Sovereignty is key to land claims made by Native people. The legal relationships between the U.S. settler governments, state governments, and the governments of federally recognized indigenous people are directly related to U.S. recognition of the assertion of Native sovereignty. These conditions are unique to indigenous people in the United States. This unique set of relationships and history is why we must always consider sovereignty alongside race when examining the experiences of Native people, as race is produced through colonization and the settler state's refusal of Native sovereignty. When Native people are categorized solely as a racial group, their political authority, their state-to-state relationships with the federal government, and their political and intellectual histories are illegible.

Specifically in this region, settler colonialism has its own history and set of practices. As Susan Armitage (2014) noted, the ways that different indigenous people experienced settler contact differed greatly between different regions and indigenous groups. While the Nez Perce were in what we now think of as Idaho, they began trading for horses with Euro-Americans in the 1730s, while Chinook women on the Pacific coast began trading sea otter furs to British and American traders trying to establish trade with China in the 1780s. In the resulting century after these different contacts, however, the dominant forces of colonization on the Columbia Plateau were through Catholic—often Jesuit—missionary workers, then establishment of treaties, reservations, and allotments. Compared to indigenous people farther East, the peoples of this region experienced a very rapid period of colonization, imposition of day and boarding schools, and attempts at removal and assimilation.

As critical indigenous studies scholars have pointed out, indigenous resistance to systems of gender and sexuality has always been about discarding colonial discourse on gender, sexuality, and binarism. After this discarding, indigenous peoples then offer a counterpoint term—*two-spirit*—which resists easy translation into colonial understandings of gender and sexuality and which insists that these understandings of gender and sexuality are fundamentally tied to indigenous assertions of relationality and sovereignty (Towle & Morgan, 2002). *Two-spirit* functions as a pan-indigenous nation term that crosses geographic boundaries and allows for connections for indigenous people whose experience is outside of binary understandings of gender and sexuality. *Two-spirit*, it is important to note, is not a synonymous with *LGBT* or even *Native LGBT*. Rather, *two-spirit* is a way for two-spirit indigenous people to talk about traditions, experiences, and wisdom of gender and sexual diversity among indigenous peoples, as well as their respective responsibilities to their communities. *Two-spirit*, then, is not simply a noun, but a verb, a sense of belonging. This assertion of two-spirit as a category, however, also remains one that is uncertain, as two-spirit communities in indigenous studies are exploring

how this category manifests and shapes itself, as well as the potential limitations of the category (e.g., Gilley, 2006; Wesley, 2015).

The intergenerational trauma of child removal is a part of what creates the conditions wherein Native people have been framed and understood by actors of federal, state, and county governments progressively more through the lens of race rather than the lens of sovereignty (Benson, [in process](#)). Sovereignty, the inherent right to self-rule and land possession of peoples indigenous to these lands, was the foundation of how U.S. government began its relationship to Native people—state-to-state relations of treaties. At the beginning of the timeline of child removal that I examine in my larger project (Benson, [in process](#)), sovereignty was the primary lens that administrators and teachers applied to Native families and Native children. Native children, through their education, were being “brought into” the United States as fully “civilized” citizens.

That understanding of “civilized,” however, is where race played a role in the early compulsory education projects. The process of civilizing indigenous people always intertwined understanding them as an inferior race and recognition of their limited sovereignty in the context of the settler state. Race as a legible category for Native people was tied up in and enforced through explicit education about Western gender norms, assumption of binary gender roles and heterosexuality, understanding Native families as too savage to properly teach their children, and obsession with the presumed hypersexuality of Native youth. The long process of removal frames contemporary Native youth as racialized subjects and elides sovereignty in ways that increasingly emphasize race over time but continue to articulate in gendered and sexualized ways.

The juvenile justice system is invested in the governability of youth. I argue that the ungovernability of trans Indigenous youth in the juvenile justice system is fundamentally about the ungovernability of their trans bodies and the ungovernability and illegibility of Native people. Native youth, then, are doubly ungovernable while also being doubly illegible. In the next section, I outline the ways that the juvenile justice system functions in the U.S. in general and in Washington in particular. I then turn to the intertwined impacts of indigeneity, racialization, and gender on juvenile justice involvement. Finally, I turn to a case study of the ways that trans Native youth are misgendered by a juvenile defense attorney in Washington state to examine how understandings of indigeneity, race, and gender function as illegible even to well-intentioned or supportive cis, White attorneys.

Understanding the juvenile justice system

Though the popular imagination of juvenile justice in the U.S. is a criminal system for kids, the truth is much more complex. A separate civil system for addressing

criminal behavior, abuse, and neglect of children has not always been in place in the United States. Until the 1800s, children were tried, convicted, and sentenced as adults in adult courts, and neglected or abused children were held in adult prisons. Recognizing that this system was imperfect, a movement of “child savers” reformers began in the 1830s to found refuge houses and reform schools for children they believed needed help, instead of to be treated as criminals. These reformers “approached juvenile misbehavior not as a crime, but rather as a disease that could be diagnosed and cured. This philosophy was soon expanded to include the belief that maladjusted behavior could also be prevented by active intervention in the early stages of the child’s development” (Becker, 1979, p. 290). Though arguably an improvement over incarcerating all children in adult jails, this system still treated child delinquency as a social disease and delinquent children as symptoms of that disease. This philosophy led to the establishment of civil juvenile justice systems. The first juvenile court in the nation was established in 1899 in Cook County, Illinois. Other states quickly followed this example (Becker, 1979). Juvenile justice system policies and procedures differ greatly from state to state and even county to county. Therefore, in this section, I am most attentive to Washington-specific policies whenever possible.

The establishment of juvenile courts started at the state and county levels after the child savers introduced the larger institutional critiques. In Washington, the state passed legislation in 1905 and 1909 that created separate juvenile courts and expanded their jurisdiction to include neglected children. Revised Code of Washington (RCW) 13.04—the Basic Juvenile Court Act—was passed in 1913, and the conditions and guidelines set under this act were the guiding principles for juvenile justice until 1977. Under this act, the juvenile court was given jurisdiction to intervene in the lives of children under 18 who were found dependent due to parental neglect or abuse. Additionally, the court was given jurisdiction over those youth found delinquent due to the court finding that they had committed a criminal act or a “status offense”—acts that would not be considered criminal if they were not children, which I discuss in more detail in this article. Though the federal Juvenile Justice and Delinquency Prevent Act of 1974 and the Supreme Court decision on *In re Gault* (1967), youth did have some measures of rights returned and were allowed more rights to counsel, notification, cross-examine witnesses, and protections against self-incrimination,

which were noticeably lacking in the previous juvenile justice system—the “child saving” impetus of the system remains largely unchanged.

There is an important relationship, then, between the child-saving goal in the founding of juvenile courts both nationally and in Washington state. The goal of the 1913 act was not to penalize, but rather “that the care, custody and discipline of a dependent or delinquent child as defined in this act shall approximate as nearly as may be that which should be given by its parents, and in all cases where it can be properly done, the dependent or delinquent child as defined in this act shall be placed in an approved family and may

become a member of the family, by adoption or otherwise” (RCW 13.04). Here, “care,” “custody,” and “discipline” are seen as the primary goals of the juvenile justice system. Additionally, this emphasizes that the juvenile justice system is more intertwined with foster care and adoption than is generally understood by the public. Delinquency is intertwined with care of children and their best interests.

Here, it is important to clarify what is meant by delinquency. One challenging aspect of writing about the law is that legal concepts are often ones that we also have a popular understanding of. The popular association of “delinquent child” is with “bad kid.” But delinquency actually has a legal definition, and there is a bleed between the legal definition and the popular understanding, so we use these legal terms without knowing what they mean.

The legal definition of delinquency can cover three different categories of action for youth. The first is that the court finds that a child has committed some kind of act that would be criminal if you were an adult because, technically, youth in the U.S. are not found guilty in criminal courts but are found delinquent in civil juvenile courts. That is in line with, but different from, the most common understanding that people have of delinquency: that a child has committed a crime. However, it is important that the legal boundaries are not that the youth are “guilty” of committing a crime, but rather that they have been found delinquent in committing an act that would be criminal if they were adults. This is important because the juvenile justice system is a hybrid of a justice system and a caring system for youth. It is not criminal court for youth.

The second way that youth can be found delinquent is if they are adjudicated in adult criminal courts on felony charges. Youth whose cases originally come into the juvenile court can be found delinquent by the judge and then decide to transfer the case to adult courts in the cases of serious felonies. The use of criminal courts to detain youth is in general decline in the state. In 2009, 152 cases in Washington were transferred to criminal court jurisdiction. By 2014, 71 cases were transferred to criminal court (Washington Juvenile Justice, [n.d.](#)).

The final way that youth can be found delinquent is through status offenses. Status offenses are when a child is found delinquent due to a behavior that, if done by an adult, would not be a criminal behavior. So youth can be found delinquent for “ungovernability”—for refusing to adhere to their parents’ rules or breaking a family curfew, something that adults cannot be penalized for in courts. Interestingly, the juvenile justice system as an attempt to manage ungovernable youth arose around the same time that laws were being introduced in states across the United States that attempted to govern gender non-conforming people—people who might eventually come to understand themselves as transsexual or transgender. Beginning in the mid-1800s, different cities and states began passing what were

colloquially called “dress code” laws, where people wearing clothing not associated with their sex assigned at birth could be punishable by arrest, fine, and incarceration (Garbor, 1992; Seals, 2015). These laws, too, were invested in governing the ungovernable trans bodies and molding them into legible gendered bodies that fit into the strict gender binary.

The use of status offenses—whether for ungovernability, truancy, or other minor infractions—have been analyzed as being selectively applied by both gender and race (e.g., Davis, 2007; Snyder & Sickmund, 2006). The use of status offenses to detain varies greatly by state and even by county, especially since the Office of Juvenile Justice and Delinquency Prevention in the Department of Justice has called for a reduction in the use of detention for status offenses. However, Washington state juvenile justice systems continue to use status offenses to disproportionately detain youth when compared with other states and counties.

In many U.S. states including Washington, the juvenile court system is embedded in the family court, and thus also handles child neglect, abuse, child custody claims, and child support complaints. In Washington state, an important context for status offense charges was an extension of the powers of the juvenile court authorized through Senate Bill 5439, colloquially known as the Becca Bill. The Becca Bill, passed in 1995, was named after a White teenage girl named Becca Hedman who was murdered in Spokane in 1993 after a series of runaway attempts from her adoptive parents’ home, group homes, and chemical dependency treatment centers after a childhood that contained two sexual assaults. Much of the media framing of Hedman’s death and the activism of her family to encourage the use of status offenses to detain at-risk youth was tied to her Whiteness and the need to protect (some) White girls from themselves (e.g., Murakami, 1995; “Keep Becca Bill Intact,” 1997). The Becca Bill, posthumously named for Hedman, then took the figure of the “running wild” White girl to justify use of status offenses to detain youth at rates far beyond those of other states.

The bill provides strict enforcement of truancy laws; processes for involuntary confinement of youth for drug, alcohol, and mental health treatment; lockup provisions to incarcerate runaways; and petition processes for the Child in Need of Services (CHINS) and At-Risk Youth (ARY). In function, these systems mean that parents, youth, and social workers can enroll youth in the juvenile justice system, even when they have not been accused of delinquency. Children do not need to commit acts that would be criminal if they were adults to be justice-involved. They are not necessarily alleging that they committed a crime, and they are not asking the court system to assess status offenses; rather, they want to enroll them in what attorneys in Washington refer to as the “civil side” of the juvenile courts—even though all of these courts are civil courts.

Due to the use of the Becca Bill, Washington state leads the country in states where youth are put in juvenile detention for noncriminal actions. In 2011—the most recent year with federal data available—Washington state detained 2,705 youth for status offenses, more than twice the rate of the next most detaining state (Santos, 2015). This system has also been critiqued by legal scholars as excessive court interventions into the lives of youth who have not been accused of criminal acts (Ivey, 1996) and as a process that reinforces the social processes that victimize girls as juvenile offenders (Eggers, 1998). Girls are victimized, according to Eggers, in three ways: in the home, where they are disproportionately likely to be victims of sexual violence; then discriminated again when entering the juvenile justice system; and in detention, where they are neglected. Therefore, status offenses can be both the ways that at-risk girls come into the system and why they may stay longer. This is because girls are more likely to be charged with particular status offenses such as “lascivious behavior,” and then can be neglected in detention, as the majority of attention in detention goes to boys, as they are the largest number of youth.

In 2002, the 1974 Juvenile Justice and Detention Prevention Act was reauthorized by Congress. In this reauthorization, Congress acknowledged that the current juvenile justice system was not serving many youth and, in fact, was harming some of them. In the reauthorized act, Congress provided for a nationwide juvenile justice advisory and planning services, federal funding for delinquency prevention programs in local and state juvenile justice systems, and the operation of the federal Office of Juvenile Justice and Delinquency Prevention. This act also authorized and focused on four primary areas of change: the deinstitutionalization of status offenders, removing juveniles from adult prisons and jails, requiring that juveniles not be housed in any institution where they would have contact with adult inmates, and reducing the disproportionate levels at which minority youth come into contact with the juvenile justice system (Juvenile Justice and Delinquency Prevention, as amended, Pub. L. No. 93-415, 1974). The JJDP programs and funding have provided states and counties with potential grant resources and research that can help them address concerns with the juvenile justice system.

Though these systems of juvenile control were enacted to impact all youth in Washington state, indigenous youth have an additional context for the use of institutions to reform, assimilate, or correct Native youth. Formal governmental policies and programs were developed specifically to reform Native youth. These practices began at the national level with funding and requiring Native children to attend day and boarding schools run or paid for by the U.S. government in the 1880s with the explicit goal, in the words of General Pratt, to “kill the Indian to save the man” (Pratt, 1892; for more information, see Adams, 2006; George, 1997; Child, 1998; Hyer, 1990; Lomawaima, 1998). In the 1950s, many of the boarding

schools and day schools had closed, and many BIA officials expressed concern about the welfare of Native children being returned to reservation homes, ones that were assumed to be inferior and impoverished. These combined interests coincided in the Indian Adoption Project (1959–1977), a collaborative project between the BIA, the federal United States Children’s Bureau, and the nonprofit Child Welfare League of America. Through this project, Native children were removed from their homes and would be placed up for foster care or adoption with the preference for placement in homes far from their families (Jaffee, 1966). As highlighted by adoption studies scholars such as Margaret Jacobs (2009, 2014) and Laura Briggs (2012), as well as in a special issue focusing on transracial and transnational adoption in *American Indian Quarterly* (2013), this adoption project was explicitly intended as a replacement for the compulsory education system as a mechanism of assimilation and cultural elimination. In both of these systems, the “ungovernability” of Native children was both assumed and punished. For justice-involved indigenous youth, then, this context is equally as important as the ways that juvenile justice has been established in Washington state.

Indigeneity, race, gender, and sexuality in juvenile justice

An increasing attention in juvenile carceral research has been on the role that race, class, and gender have in the criminalization and punishment of youth in the United States. Because Native youth are racialized through the juvenile justice system, this literature is important in understanding how the juvenile justice system interacts with race, gender, and class. However, it is also vital to note that the existing research on juvenile justice in general treats Native youth as simply another racial category to be considered when juvenile justice systems assess disproportionate minority contact. The literature generally fails to emphasize the specific issues of sovereignty and self-determination of Native people that impact Native youth’s involvement in the juvenile justice system as much as race, gender, and class—one contribution to the literature that I make in this article. However, the literature is instructive on the deeply embedded issues of racism, sexism, and classism within the juvenile justice system.

One important finding is that both young men and women of color in impoverished communities have been disproportionately marked as increasingly violent, along with the criminalization of previously noncriminal behavior, and the decision to charge the most serious of charges with status offenses, known as “upchargin” (e.g., Ferguson, 2000; Hewitt, Kim, & Losen, 2010; Meiners, 2007; Morris, 2012). Rios (2011) explored the impact of pervasive criminalization of the behavior of African American and Latino boys, which has led to inner-city youth being trapped in a punitive system that consistently uses race,

socioeconomic status, and the negative views of society to subject adolescent boys to circular systems of stigmatization. As a result of this ongoing policing, these boys tend to internalize their assigned criminality and attempt to defy the system by taking on the delinquent roles society expects them to uphold (Rios, 2011).

Similarly, scholars looking at the framing of girls' justice involvement find that there are clear ways that gender comes to matter when a child is in the juvenile justice system. Males (2010) pointed to the ways in which pathologizing and criminalizing girls as a group has stood in the place of analysis that considers the real relationship between girls' incarceration and poverty, abuse, and racial disadvantage (p. 28). These studies have shown that it is not that girls are getting more violent, but that they are more likely to be arrested and incarcerated for offenses such as arguments with their parents or fighting in schools (Chesney-Lind, 2010), which would have been classified as a status offense or ignored prior to the rise of "zero-tolerance" policies wherein youth who are accused of violence in schools are automatically referred to the juvenile justice system for delinquency charges. "This pattern suggests that the social control of girls is once again on the criminal justice agenda, with a crucial change. In this century, the control is being justified by girls' 'violence'" (Chesney-Lind, 2010, p. 60), which is a new way of framing older and previously noncriminal behaviors. This same pattern emerges for boys, wherein zero-tolerance policies combined with what Rios termed "the youth control complex" of criminalization of non-illegal behaviors such as truancy or "talking back" to teachers can lead to engagement with the juvenile justice system (Rios, 2011, p. 27) and codes these behaviors as violent and criminal. Here, we find that youth of color are increasingly being understood as ungovernable, and the system that teachers, parents, and administrators turn to for governance is the juvenile justice system.

These ongoing forms of behavioral policing and gendered and racialized expectations have long-term impacts on youth, especially poor youth of color. For the young men in Rios's study, criminalization permanently impacted these youth's choices and led to circumstances where "crime and violence [were] some of the few resources for feeling dignity and empowerment" (Rios, 2011, p. xv). Indeed, Rios argued, the state produces these options through the reorganization of the state's attention to the poor, where it is now prioritizing "its punitive institutions, such as police, and embedding crime-control discourses and practices into welfare institutions, such as schools. In my perspective, the state, in my community, had punitively asserted itself into civil society" (Rios, 2011, p. xii). This punitive structure, however, is not limited to formal punitive or welfare institutions. Chesney-Lind and Jones (2010) recognized that media and popular discourse also plays into racial and gendered understandings of violence and criminality. Their book is set up to encourage readers to question media and

political representations of girls as increasingly violent, offering empirical evidence that the moral panic resulting from this representation of girls is very harmful to the girls themselves, especially to girls of color who are more likely to live in highly policed urban areas. It is important to highlight that all these studies use a binary understanding of gender and, in fact, tend to study boys as one group and girls as another group. Nowhere in these studies is there room for genderqueer, nonbinary, or agender youth to be a part of the discussion of gender in the juvenile justice system, even though they are arguably some of the ones for whom gender systems can be most punitive.

Read together, these perspectives make it clear that there are strong race, gender, and class impulses in the ways that youth are framed as criminal and how their behavior is marked as criminal, even when no violation of the law has occurred. When combined with the history of using removal of Native children as ways to govern the ungovernable Native child (and family), this discrepancy becomes both important and distinct in contact for indigenous youth compared to other racialized youth. For both boys and girls of color, a racial lens applied to these gendered expectations produces a legal and public imaginary in which their criminality and violence is assumed and, therefore, their eventual detention in juvenile detention is inevitable.

Gender identity and expression also play a significant role in how trans and gender non-conforming youth experience the juvenile justice system. Though there have been critical trans studies scholars examining how gender impacts trans adults' experiences of incarceration and the prison industrial complex (e.g., Stanley & Smith, 2015; Spade, 2011), the majority of attention to the very different system of juvenile justice has largely been limited to criminological research. Many trans and gender non-conforming youth have reported that attorneys refuse to use their correct pronouns, judges hold gender non-conforming youth in contempt for the clothing worn during sentencing (Marksamer, 2008), attorneys use actively homophobic or transphobic language (Valentine, 2009), and their defense attorneys will refuse to return phone calls from detention or to explain sentencing options (Marksamer, 2008; Valentine, 2009). The results of these experiences with counsel and judges mean that transgender and gender non-conforming youth have a particular vulnerability to the juvenile justice system. Some legal theorists have argued that this means that attorneys representing transgender and queer youth have a moral responsibility to act as advocates for the expressed interests of youth, drastically changing the current theories of representation of minors in the U.S. (Valentine, 2009).

Unsurprisingly, trans and gender non-conforming youth experience specific challenges during sentencing due to entrenched beliefs about gender identity and expression, as well as frequent challenges with unsupportive counsel. One of the major risk factors associated particularly with trans youth is that they are more likely than any other youth to be forced into high-

security incarceration for crimes that normally do not result in that level of control (Estrada & Marksamer, 2006). This has been associated with the lack of appropriate alternatives to detention programs for trans youth, as many mainstream alternative programs will refuse trans youth referred to their programs by the court due to their perception that trans youth will require special care that the programs feel unable to provide. This is particularly troubling for Native trans youth, as many of their tribes are under-resourced for culturally appropriate alternatives to detention, so trans Native youth are doubly dependent on these programs that are likely to reject them.

Some of the research above studied lesbian, gay, bisexual, and queer youth and heterosexual transgender and gender non-conforming youth. I want to be clear, here, that I am not conflating the sexuality of lesbian, bisexual, gay, and queer-identified youth with the gender identities of transgender youth. Rather, I include studies on the treatment of both sexual minatory and transgender youth because professionals in the systems often cannot tell them apart. Considering the amount of dismissal, refusal, misunderstanding, and outright harassment that LGBT youth have reported while in contact with juvenile justice system professionals, I cannot assume that staff, attorneys, judges, or social workers can tell the difference, for example, between a butch-presenting lesbian and a transgender boy who was assigned female at birth. Indeed, both the butch lesbian and the transgender boy would be serving any detention time in the same section of the juvenile detention center—the girls' side. In the next section, I turn to the very illegibility of trans youth in the juvenile justice system.

One juvenile justice attorney's navigation of pronouns and transgender identities

While researching the juvenile justice system's connections to social services in Washington state between 2014 and 2016, I spoke only with White professionals, including three attorneys and two juvenile justice administrators who were associated with the county juvenile courts, an administrator at private juvenile detention center that serves multiple counties and two tribes, a private attorney who contracts with a federally recognized tribe to do defense cases, a counselor from the Washington State Department of Justice who previously worked for the juvenile system, and one attorney who works a legal nonprofit (Benson, [in process](#)). In this section, I examine an interview I conducted in 2015 with one attorney where we discussed the treatment of the defense attorney's transgender Native clients to examine how trans Native youth are treated and understood within the juvenile justice system in Washington.

In the process of our conversation, this attorney mentioned in passing both the increase in transgender youth that she was seeing involved in the

juvenile justice system in her county and the pattern that she saw these clients being brought into the system for minor violations. In this discussion, she outlined the ways that she had advocated for a Native trans client with both a father who rejected her gender identity and with a probation officer who was uncomfortable with using her correct pronouns. The client had been placed back in detention after being released on electronic monitoring to her mother's house because Child Protective Services intervened and placed the client back in detention. She explained:

ATTORNEY: But yeah, I've got a transgender youth who is basically homeless, is homeless at Crosswalk because the father ... She couldn't get along with her father. He couldn't accept that she prefers the pronoun "she." He got mad at court officials for saying "she."

KRISTA: Which they're supposed to do.

ATTORNEY: Yeah, the judge is really good about it. The probation officer, he's old school, he's just like, "you know, I read this article by a doc that said we're only doing more damage by ..." and I said, "That would be the minority view. All the research shows that you should be calling the youth the pronoun that they prefer."

In many ways, this attorney is modeling being exactly the kind of advocate that critical juvenile justice scholars call for in juvenile public defenders. She is advocating for her client's correct pronouns with not just other court officials but also with her unsupportive parents. She is also advocating for the trans youth to be able to live in the housing situation where she feels most safe and supported. The attorney said, "She's doing awesome on probation. And she wants to go to [an overnight social services shelter for teenagers under 18] and her dad says 'absolutely not.' So her ... her PO says that he couldn't ask for anyone better, she's doing everything she should be doing. But she's pretty much homeless." Though the client had the option to live with an aunt and uncle, those family members lived in a rural town more than 20 miles away from the metro area, where the client lived and went to school. Because this client's father was her custodial parent, she had been released by the juvenile court into his home, and he had to approve of any other placement. Here, her attorney tried to advocate for the best placement for her client to ensure that she met one of the conditions of her probation, which was staying in the home where she has been placed by the juvenile court after being released. This is particularly important for juvenile dependents because failing to live and stay in their designated placements can result in a violation of their probation and their return to juvenile detention. In all of this, the attorney is following the best practices for affirming trans clients' gender and encouraging others to do the same whenever possible.

Though in many ways, this attorney is a model of affirming practice with transgender clients, this changes when she discusses another Native client. When introducing this client, she was discussing the minor crimes she saw trans youth being brought in for. "They're all minor crimes. One was

a transgender youth who ... high risk kid, on the streets, and he shoplifted a bunch of toiletries from Rite Aid [...] So he shoplifted, third degree theft, came into the system, was on probation. Was in and out of detention every week because, oh a Native kid, actually.” At this point, I thought that the attorney was discussing a transgender boy, something that seemed interesting because transgender boys and men are so rarely mentioned in any kind of discussion about gender identity. However, then the attorney continued, “[h]e wasn’t living ... his dad was a former boxer ... so this was a male, but prefers to identify as a female. And the father just ... so his father kind of disowns him. The auntie was accepting of him. He was just coming into detention for leaving placement. So, in and out of detention.” This pattern of moving in and out of detention is exactly what studies about the treatment of trans youth suggests is common, but what is also consistent with the research on transgender youth’s experience with being misgendered by defense counsel and other representatives of the juvenile court. Even this attorney, one who had just finished discussing her advocacy for another trans Native client in the conversation, is consistently misgendering this client, even as she tries to support her. This is consistent with what the literature shows about transgender youth’s experiences in the juvenile justice system. They are disproportionately likely to be homeless or in tenuous housing situations (Quintana, Rosenthal, & Kehely, 2010; Durso & Gates, 2012), which then makes them more likely to come into contact with the juvenile justice system (Majd, Marksamer, & Reyes, 2009). Once in the juvenile justice system, they are likely to have representatives of the juvenile justice system not affirm their gender identity or even deny it outright (Estrada & Marksamer, 2006; Grossman & D’augelli, 2006; Majd et al., 2009; Marksamer, 2008). This means that transgender youth are not being represented equally to cisgender youth—their representation depends on their attorneys and judges understanding the material realities of their lives and the impact their gender identity has on the stability of their family situations. When this does not happen, as it usually does not, transgender youth are even more vulnerable to mistreatment.

Notably, the attorney is properly identifying the gender identity of her first trans Native client, but not the latter. To some degree, then, her commitment to correct pronouns is evident, but disconnected from her actual practice of pronoun use with trans Native clients. I argue that this case study exemplifies the ways that indigenous transgender youth are doubly misunderstood and invisible within the juvenile justice system. These systems are set up within a settler colonial legal structure within which Native people are reduced to a statistically insignificant racial group. Transgender youth are navigating a system in which their gender identity is constantly at odds with how juvenile justice system employees—in charge of their safety and freedom—understand the relationship between sex assigned at birth and gender. Here, their ungovernability in

terms of gender presentation can be especially dangerous because of the binary gender segregation in juvenile detention and because of the common practice of housing a youth in the unit associated with their sex assigned at birth, not their gender identity or presentation. This means that both of the Native clients that the attorney discussed above were not only fighting against gender and colonial systems that understand them as ungovernable—they were also detained in wings that highlighted their ungovernability. Native transgender youth are navigating all of these things, perhaps compounded by the historical and ongoing erasure of gender diversity within their own communities. A well-meaning White attorney's good intentions are not sufficient to address these erasures and elisions.

Conclusion

Too often, the role of the juvenile justice system as a legal and cultural tool of ongoing settler colonialism is not apparent. However, when we are attentive to the ways that this system teaches and constrains gender roles within the system and the impact of race and sovereignty on youth's treatment, the intertwining of race, sovereignty, and gender within the juvenile justice system become much clearer. The invisibility of the way these systems function and how they impact one another, I argue, are exactly why the attorney I interviewed frequently stumbled in correctly identifying the pronouns of at least one of the transgender Native youth that she was representing. Even her good intentions and active self-education could not totally escape a system in which transgender youth and Native youth are understood as ungovernable and where transgender Native youth are functionally impossible to understand.

One potential avenue for the empowerment and understanding of trans Native youth within the juvenile justice system may be to look to the work that indigenous transgender people are doing to recover or reinvent understandings of gender and sovereignty that come from the ways of knowing of their own people.

Saylesh Wesley, a Stó:lō transgender woman from British Columbia's lower Fraser Valley explored the impact of the loss of pre-settler-contact two-spirit people and traditions in her own people (2014). Wesley used the knowledge and example of her grandmother's overcoming of homophobia and transphobia imposed on her by colonization to embrace Wesley and to grant her granddaughter a title in their Halq'eme'ylem language. For Wesley's people, grandmothers are the makers of laws on matriarchal lands. Wesley argued that her grandmother's actions provide a template for Stó:lō grandmothers, the *Sisele*, to support the establishment of a two-spirit tradition and place within the Stó:lō people as an expressly decolonial act. Though the Stó:lō and other coastal Salish people are distinct from the interior Salish people that dominate the Columbia Plateau, Wesley's call

provides a context for indigenous people who do not have stories or rituals for two-spirit people whose people do not have or have lost their stories of two-spirit experience and place within their societies prior to settler contact.

In a connected, but different strategy, Kalaniopua Young (Kanakanaka Maoli) framed the tensions around different internal movements for indigenous Hawai'iian self-determination as related to how these activists understand and embody histories, ideas, race, gender, and sexuality. Young connected these tensions to the impacts of ongoing colonialism, but instead of condemning them, she argued that they are a place "for healing and solidarity between critical resistances aimed at undermining the colonial logic embedded within the prison industrial complex" (Young, p. 84). She illustrated the way these solidarities could be enacted through her commitment to center the lived experiences of Indigenous people impacted by colonialism, racism, and the prison industrial complex. This includes centering her own experiences of incarceration, as well as her mother's. Through this, Young argued that prison abolitionists must understand the relationship between the prison industrial complex and settler colonization.

Here, both Young and Wesley offered two very different critical directions, but both are fundamentally seated in the experiences of transgender Native people. They are enacting what Qwo-Li Driskill called two-spirit critiques. Driskill argued these two-spirit critiques are vital to decolonization. Driskill wrote, "Decolonization in most of the United States and Canada is a process that looks very different from decolonial and postcolonial movements in other parts of the world. By using the term decolonization, I am speaking of ongoing, radical resistance against colonialism that includes struggles for land redress, self-determination, healing historical trauma, cultural continuance, and reconciliation" (Driskill, 2011, p. 69).

Native youth's bodies have always been read as ungovernable under ongoing settler colonization. The state attempts to specifically govern, punish, and assimilate Native youth in programs such as the compulsory education project and the Indian Adoption Project, where the goal was specifically to get Native youth to cohere with settler understandings of work, gender expression, and sexuality, show the U.S. government's commitment to tying together the projects of imposing binary gender identities, heteronormativity, and colonialism. For Native trans youth, they have generations of ancestors to look to when they are being misunderstood, misread, and misgendered within the juvenile justice system. The juvenile justice system was never designed for trans youth or for Native youth to be legible within them, and their illegibility facilitates violence against them, including the everyday acts of violence of misgendering.

In this article, I highlight the ways that U.S. juvenile justice systems not just fail Native transgender youth, but they are built so that they will fail

Native youth. The illegibility of the youth in the attorney's caseload is not up to an individual mistake or problem but are rather woven into the fabric of the settler colonial state in general and the juvenile justice system. We must understand the limitations of these systems for the worldviews and options presented by two-spirit critiques to become possible and legible.

Note

1. In this article, I use the terms *transgender* and *trans* as interchangeable terms for people who experience some kind of movement in their gender identity from the gender that is socially expected from their sex assigned at birth to their gender now. This can encompass other named identities as a part of the trans umbrella. A more specific look into experiences of trans-ness and transition are beyond the scope of this article, but I strongly suggest interested readers look into Julian Carter's "Transition" (2014) as one way of understand the variety of experiences and understandings that can be embedded in this names.

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References

- Ackerman, L. A. (2003). *A necessary balance: Gender and power among Indians of the Columbia Plateau*. Norman, OK: University of Oklahoma Press.
- Adams, D. F. (2006). Beyond bleakness: The brighter side of the Indian boarding schools, 187–1940. In C. E. Trafzer, J. A. Keller, & L. Sisquoc (Eds.), *Boarding school blues: Revising American Indian educational experiences* (pp. 35–64). Lincoln, NE: University of Nebraska Press.
- Anguksuar, R. L. (1997). A postcolonial colonial perspective on western [Mis]conceptions of the cosmos and the restoration of indigenous taxonomies. In S.-E. Jacobs, W. Thomas, & S. Lang (Eds.), *Two-spirit people: Native American gender identity, sexuality, and spirituality* (pp. 221). Urbana, IL: University of Illinois Press.
- Arlee, J. (1998). *Over a century of moving to the drum: Salish Indian celebrations on the Flathead Indian reservation*. Helena, MT: Montana Historical Society.
- Armitage, S. A. (2014). Tied to other lives: Women in Pacific Northwest history. In K. J. Blair (Ed.), *Women in Pacific Northwest history: An anthology* (pp. 5–24). Seattle, WA: University of Washington Press.

- Barry, N. H., & Conlon, P. (2003). Powwow in the classroom. *Music Educators Journal*, 90(2), 21–26. doi:[10.2307/3399930](https://doi.org/10.2307/3399930)
- Becker, M. K. (1979). Washington state's new juvenile code: An introduction. *Gonzaga Law Review*, 14(2), 289–312.
- Benson, K. (In process). *The kids who aren't there: Child removal through compulsory education, adoption, foster care, and juvenile justice in eastern Washington*. Unpublished book proposal, under consideration with University of Washington Press, Seattle, WA.
- Briggs, L. (2012). *Somebody's children: The politics of transracial and transnational adoption*. Durham, North Carolina: Duke University Press.
- Briggs, L. (2013, Spring). The politics of history and the history of politics. *American Indian Quarterly Special issue: Native Adoption in Canada, the United States, New Zealand, and Australia*, 37(2), 129–135. doi:[10.1215/9780822394952](https://doi.org/10.1215/9780822394952)
- Carter, J. (2014). Transition. *Transgender Studies Quarterly*, 1(1–2), 235–237. doi:[10.1215/23289252-2400145](https://doi.org/10.1215/23289252-2400145)
- Chesney-Lind, M. (2010). Jailing “bad” girls: Girls' violence and trends in female incarceration. In M. Chesney-Lind and N. Jones (Eds.), *Fighting for girls: New perspectives on gender and violence* (pp. 57–81). Albany, NY: SUNY Press.
- Chesney-Lind, M., & Jones, N. (2010). Introduction. In M. Chesney-Lind & N. Jones (Eds.), *Fighting for girls: New perspectives on gender and violence* (pp. 1–11). Albany, NY: SUNY Press.
- Child, B. J. (1998). *Boarding school seasons: American Indian families, 1900–1940*. Lincoln, NE: University of Nebraska Press.
- Davis, C. P. (2007). At-risk girls and delinquency: Career pathways. *Crime and Delinquency*, 53, 408–435. doi:[10.1177/0011128707301626](https://doi.org/10.1177/0011128707301626)
- Driskill, Q. (2011). Doubleweaving two-spirit critiques: Building alliances between native and queer studies. *Glq*, 16(1–2), 69–92. doi:[10.1215/10642684-2009-013](https://doi.org/10.1215/10642684-2009-013)
- Driskill, Q., Finley, C., Gilley, B. J., & Morgensen, S. L. (2011). Introduction. In Q. Driskill, C. Finley, B. J. Gilley, & S. L. Morgensen (Eds.), *Queer Indigenous studies: Critical interventions in theory, politics, and literature* (pp. 1–20). Tucson, AZ: University of Arizona Press.
- Driskill, Q. L. (2016). *Asegi stories: Cherokee queer and two-spirit memory*. Tucson, AZ: University of Arizona Press.
- Durso, L. E., & Gates, G. J. (2012). *Serving our youth: Findings from a national survey of service providers working with lesbian, gay, bisexual, and transgender youth who are homeless or at risk of becoming homeless*. Los Angeles, CA: The Williams Institute with True Colors Fund and The Palette Fund.
- Eggers, T. Z. (1998). The becca bill would not have saved becca: Washington state's treatment of young female offenders. *Law & Inequality*, 16, 219–258.
- Erai, M. (2011). A queer caste: Mixing race and sexuality in colonial New Zealand. In Q. Driskill, C. Finley, B. J. Gilley, & S. L. Morgensen (Eds.), *Queer Indigenous studies: Critical interventions in theory, politics, and literature* (pp. 66–80). Tucson, AZ: University of Arizona Press.
- Estrada, R., & Marksamer, J. (2006). Lesbian, gay, bisexual, and transgender young people in state custody: Making the child welfare and juvenile justice systems safe for all youth through litigation, advocacy, and education. *Temple Law Review*, 79, 415–438.
- Ferguson, A. A. (2000). *Bad boys: Public schools in the making of black masculinity*. Ann Arbor, MI: University of Michigan Press.
- Garbor, M. (1992). *Vested interests: Cross-dressing and cultural anxiety*. New York, NY: Routledge.

- George, L. J. (1997). Why the need for the Indian Child Welfare Act? *Journal of Multicultural Social Work*, 5(3–4), 165–175. doi:10.1300/J285v05n03_04
- Gilley, B. (2006). *Becoming two spirit: Gay identity and social acceptance in Indian Country*. Norman, NE: University of Oklahoma Press.
- Gilley, B. J. (2011). Two-Spirit men's sexual survivance against the inequality of desire. In Q. Driskill, C. Finley, B. J. Gilley, & S. L. Morgensen (Eds.), *Queer Indigenous studies: Critical interventions in theory, politics, and literature* (pp. 123–131). Tucson, AZ: University of Arizona Press.
- Grossman, A. H., & D'augelli, A. (2006). Transgender youth: invisible and vulnerable. *Journal of Homosexuality*, 51(1), 111–128. doi:10.1300/J082v51n01_06
- Hewitt, D., Kim, C., & Losen, D. (2010). *The school to prison pipeline: Structuring legal reform*. New York, NY: New York University Press.
- Hyer, S. (1990). *One house, one voice, one heart: Native American education at the Santa Fe Indian School*. Santa Fe, NM: Museum of New Mexico Press.
- Ivey, A. G. (1996). Washington's Becca Bill: The costs of empowering parents. *Seattle UL Review*, 20, 125–156.
- Jacobs, M. D. (2009). *White mother to a dark race: Settler colonialism, maternalism, and the removal of indigenous children in the American West and Australia, 1880–1940*. Lawrence, NE: University of Nebraska Press.
- Jacobs, M. D. (2014). *A generation removed: The fostering and adoption of Indigenous children in the postwar world*. Lincoln, NE: University of Nebraska Press.
- Jacobs, S. E., Thomas, W., & Lang, S. (Eds.). (1997). *Two spirit people: Native American gender identity, sexuality, and spirituality*. Urbana, IL: University of Illinois Press.
- Jaffee, N. (1966). National agency to aid adoption: National clearinghouse planned here by Child Welfare League. *The New York Times*. Folder 16:1: "Adoption – General, 1966–1969." Child Welfare League of America Records, Social Welfare History Archives, University of Minnesota.
- Keep Becca Bill Intact. (1997, March 4). Retrieved from <http://community.seattletimes.nwsourc.com/archive/?date=19970304&slug=2526954>
- Lomawaima, T. (1998). *Boarding school seasons: American Indian families, 1900–1940*. Lincoln, NE: University of Nebraska Press.
- Majd, K., Marksamer, J., & Reyes, C. (2009). *Hidden injustice: Lesbian, gay, bisexual, and transgender youth in juvenile courts*. San Francisco, CA: The Equity Project.
- Marksamer, J. (2008). And by the way, do you know he thinks he's a girl? The failures of law, policy, and legal representation for transgender youth in juvenile delinquency courts. *Sexual Research and Social Policy*, 5(1), 72–92. doi:10.1525/srsp.2008.5.1.72
- Meiners, E. (2007). *Right to be hostile: Schools, prisons and the making of public enemies*. New York, NY: Routledge.
- Morgensen, S. L. (2011). *Spaces between us: Queer settler colonialism and indigenous decolonization*. Minneapolis, MN: University of Minnesota Press.
- Morris, M. W. (2012). *Race, gender, and the school-to-prison pipeline: Expanding our discussion to include Black girls*. Washington, DC: African American Policy Forum.
- Murakami, K. (1995, June 23). "Would 'Becca Bill' have saved Becca? – Named for runaway girl who was murdered, new law gives parents more control over kids. *The Seattle Times*. Retrieved from <http://community.seattletimes.nwsourc.com/archive/?date=19950623&slug=2127830>
- Pratt, R. (1892). Kill the Indian, Save the Man. *Official report of the nineteenth annual conference of charities and correction* (pp. 46–59). Washington, DC.
- Quintana, S. N., Rosenthal, J., & Kehely, J. (2010). *On the streets: The federal response to gay and transgender homeless youth*. Washington, DC: Center for American Progress.

- Rifkin, M. (2011). *When did the Indians become straight?: Kinship, the history of sexuality, and native sovereignty*. Oxford, UK: Oxford University Press.
- Rios, V. (2011). *Punished: Policing the lives of Black and Latino boys*. New York, NY: New York University Press.
- Santos, M. (2015, July 13). Washington no. 1 for jailing noncriminal kids, spurred by law named for Tacoma runaway. *The News Tribune*. Retrieved from <http://www.thenewstribe.com/news/politics-government/article27129946.html>
- Seals, C. (2015). *Arresting dress: Cross-dressing, law, and fascination in nineteenth-century San Francisco*. Durham, NC: Duke University Press.
- Snyder, H., & Sickmund, M. (2006). *Juvenile offenders and victims: 2006 national report*. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.
- Spade, D. (2011). *Normal life: Administrative violence, critical trans politics, and the limits of law*. Brooklyn, NY: South End Press.
- Stanley, E. A., & Smith, N. (2015). *Captive Genders: Trans embodiment and the prison industrial complex* (2nd ed.). Oakland, CA: AK.
- Towle, E., & Morgan, L. (2002). Romancing the transgender native: Rethinking the use of the 'third gender' concept. *Glq*, 8(4), 469–497. doi:10.1215/10642684-8-4-469
- Valentine, S. (2009). Traditional advocacy for nontraditional youth: Rethinking best interest for the queer child. *Michigan State Law Review*, 2008(4), 1053–1113.
- Washington Juvenile Justice. (n.d.). Retrieved from <http://www.jjgps.org/washington>.
- Wesley, D. 2015. *Reimagining two-spirit community: Centering narratives by urban twospirit youth*. (MA diss.), Queen's University.
- Wesley, S. (2014). Twin-spirited woman: Sts'iyó'ye smestí'yexw slhá':Li. *Transgender Studies Quarterly*, 1(3), 338–351. doi:10.1215/23289252-2685624
- Wolfe, P. (2006). Settler colonialism and the elimination of the native. *Journal of Genocide Research*, 8(4), 387–409. doi:10.1080/14623520601056240
- Wright, M. C. (2003). The women's lodge: Constructing gender on the nineteenth-century pacific northwest plateau. *Frontiers: A Journal of Women's Studies*, 24(1), 1–18. doi:10.1353/fro.2003.0025