

**Manslaughter Sentencing Disparities Between Aboriginal and Non-Aboriginal
Offenders in Canada**

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Abstract

The following study examines sentencing disparities among Aboriginal and non-Aboriginal manslaughter offenders in Canada. The data utilized was extracted through the online database (CANLII) and included 189 Canadian sentencing decisions for male manslaughter offences from 1993 to 2013. Aboriginal and non-Aboriginal offenders were compared on offender variables, offence features, and sentencing variables. The main objective of this study was to compare the length of sentencing for Aboriginal and non-Aboriginal offenders and to examine other factors that may have differed between the two groups. The results indicated that, although sentence length did not differ, many observed differences demonstrated social inequalities between the two groups.

Manslaughter Sentencing Disparities Between Aboriginal and Non-Aboriginal Offenders in Canada

The overrepresentation of Aboriginal individuals in the criminal justice system is a well-known tragedy that led to the enactment of Bill C-41 and the Gladue principles to ensure recognition of various social injustices and biases that Aboriginals endure as a population. Aboriginal individuals are disproportionately involved in the criminal justice system as offenders and also as victims. The rate of Aboriginal individuals accused of homicide is eight times greater than non-Aboriginal individuals (Roy & Macellus, 2019). In addition, Aboriginal individuals accounted for 22% of the victims of homicide in 2018, with a rate five times higher than non-Aboriginal individuals (Roy & Macellus, 2019). Various factors such as oppression, discrimination, implicit biases, and social inequalities disproportionately impact Aboriginal individuals' lives (Legal Services Society, 2018). Therefore, this study will examine if there are discrepancies between the sentencing severity of Aboriginal and non-Aboriginal homicide offenders in Canada. Before delving into this research, the statistics and patterns regarding homicide cases in Canada will be examined to understand the overrepresentation problem in more depth.

In Canada, there is an uneven distribution of homicide rates, with higher rates occurring in the western provinces (Trussler, 2012). Research conducted by Trussler (2012) indicated that some of the factors that contribute to this disparity include higher levels of social disorganization, divorce rates, immigration, and income inequalities. Further studies conducted by Daly et al. (2001) revealed that income inequality was the strongest predictor of increased homicide rates in Canada. Correspondingly, Merton's Strain Theory explains that disadvantaged individuals will engage in criminal activity as a means to access resources (Merton, 1938). Consistent with this theory, Kennedy et al. (1991) found that as unemployment increases in

Canada, homicide rates also increase. One of the most significant demographic factors associated with violence and crime in Canada is gender and age. Young males in their mid-twenties are the most likely to be involved in violent crimes (Ulmer & Steffensmeier, 2013). While homicide cases only represent 0.2% of Canada's violent crimes, they represent the most violent act and, as a result, are of great interest to researchers (Roy & Macellus, 2019).

In 2017, the police recorded the highest number of homicides in Canada since 1972, with 660 reported cases (Department of Justice Canada, 2019). The findings also indicated that the rate of Aboriginal individuals accused of homicide during that period was 12 times greater than non-Aboriginal individuals. In addition to being disproportionately accused of homicide, Aboriginal offenders were much younger than non-Aboriginal offenders. The average age of Aboriginal offenders accused of homicide in 2018 was 28 years old, which was six years younger than non-Aboriginal homicide offenders (Roy & Macellus, 2019). One reason that has been proposed to explain the discrepancies between Aboriginal and non-Aboriginal offending characteristics is income inequalities and educational disparities (The National Indigenous Economic Development Board, 2019). Income inequality is one of the most significant predictors of increased homicide rates (Trussler, 2012). A report completed by The National Indigenous Economic Development Board (2019) indicated that the Aboriginal median income in 2016 was 26.2% lower than non-Aboriginal individuals. Additionally, the unemployment rate for Aboriginals is 7.8% higher than non-Aboriginals, and the Aboriginal high school completion rate was 14.8% lower than non-Aboriginals. These differences lead to a substantial social inequality for Aboriginal individuals and may contribute to their overrepresentation in the criminal justice system.

Many social problems that exist among Aboriginal populations are said to be the result of residual effects of colonization and residential schooling (Bombay et al., 2009). Traumatic

events can have a lasting psychological impact on individuals, and the effects can be intergenerational. The effects of colonization and assimilation led to the loss of culture and identity for many Aboriginal communities. In addition, many survivors were subject to abuse, neglect, and shame, which led to generational trauma (Legal Services Society, 2018). In light of the increased degree of adverse childhood experiences, such as abuse and neglect, Aboriginal individuals have higher rates of high school dropouts, unemployment, poverty, violence, suicide, and substance abuse (Bombay et al., 2009; Legal Services Society, 2018). In addition to these various experiences, Aboriginal individuals also have to deal with racial profiling and discrimination (Bombay et al., 2009). These various experiences can lead to increased criminality and have a considerable impact on Aboriginal individuals' lives.

As a response to the overrepresentation of Aboriginal individuals in the criminal justice system, the government enacted Bill C-41. The provision states, "all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders" (R.S.C., 1985, s. 718.2[e]). The purpose of this bill was to encourage judges to seek alternative sentencing decisions to reduce overreliance on incarceration. In addition to this provision, the Gladue principles were instated in 1999 as an additional legal basis for sentencing Aboriginal offenders in Canada. The Gladue principles were developed to acknowledge that various systemic factors lead to increased criminality and sentencing biases for Aboriginal individuals (Legal Services Society, 2018). Therefore, a Gladue report is conducted to ensure that judges take special consideration when determining a sentence for an Aboriginal individual and ensure that they acknowledge a great range of information regarding the offender that led to the criminal offence. Judges take into consideration any adversities endured by the individual and their family by examining various factors. Factors that are examined include a history of sexual or physical

abuse, familial history of attendance at residential schooling, past criminal history, alcohol or drug abuse, unemployment, level of education obtained, dislocation from the Aboriginal community, and their living situation (Legal Services Society, 2018). The various Gladue factors mentioned impact a sentencing decision by promoting alternative sentencing options that rely on restorative justice practices to mitigate the adversities faced by many Aboriginal individuals and their ancestors.

The purpose of alternative sentencing options is to rehabilitate the offender while also restoring harmony in the community by repairing any injustices caused by the crime (Jeffries & Stenning, 2014; Legal Services Society, 2018). Sentencing options for the offender might include being mandated to participate in cultural justice traditions, counselling, or attending a treatment program (Legal Services Society, 2018). However, the application of the Gladue principles and alternative sentencing options are restricted due to mandatory minimum sentencing in Canada (Department of Justice Canada, 2018). In addition, some urban areas in Canada lack resources, such as counselling services, monitoring programs, and treatment options, which limits the ability of judges to choose alternative sentencing options for the offender when applicable.

The justice system has acknowledged that their attempts to address Aboriginal overrepresentation in the criminal justice system did not have as prominent of an impact as they had expected initially (Jeffries & Stenning, 2014). One of the limitations noted was that in order for judges to consider the factors discussed in an offender's Gladue report, a causal relationship between the Gladue factors and the offence must be established. One can assume how difficult it would be to create a causal relationship among factors such as oppression, discrimination, and social inequalities to a criminal offence, despite these factors exerting a significant influence on the individual's behaviour. In addition, there has been criticism that the Gladue principles have

not been universally applied to all Aboriginal cases as they were intended (Jeffries & Stenning, 2014). According to the Criminal Code section 718.2(e), the Gladue principles should be applied to all cases regardless of the sanction. However, they are regularly not applied to cases with severe and violent offences. A study regarding the use of alternative sentencing decisions will be examined to demonstrate how Bill C-41 has not been effectively applied to all cases involving Aboriginal offenders.

A study conducted by Welsh and Ogloff (2008) compared sentencing decisions made 76 months before implementing Bill C-41 for Aboriginal offenders to the sentencing decisions made throughout the 76 months after the legislative implementation. The results indicated that following the implementation of Bill C-41, Aboriginal individuals were not any more likely than non-Aboriginal individuals to receive an alternative sentence. This study exemplifies how Bill C-41 has not been implemented as it was intended. All of the cases involving an Aboriginal offender following the implementation of Bill C-41 should have been more likely to receive an alternative sentencing decision than the non-Aboriginal group. Despite these findings, further research has indicated differences in sentencing outcomes for Aboriginal and non-Aboriginal offenders.

A subsequent study conducted by Weinrath (2007) analyzed custody length sentences for male drunk drivers in Alberta and found that Aboriginal status and age impacted the length of sentences. In the young offender group between the ages of 20-29 years old, Aboriginal offenders received a sentence 74% shorter than Caucasian males of the same age category. While the result for the age group 40-49 indicated that Aboriginal offenders received a sentence 93% longer than Caucasian males of the same age group. These results indicate that the older Aboriginal group were considered more blameworthy than the younger Aboriginal group, which may be due to stereotypes surrounding alcoholism and substance use for certain age groups of

Aboriginal individuals. The study's results are suggestive that some Aboriginal offenders are still subject to unfair treatment as the older Aboriginal group received a sentence substantially longer than the non-Aboriginal group. The implementation of Bill C-41 and the Gladue principles were intended to ensure that Aboriginal individuals are sentenced fairly. However, this study's results indicate that Aboriginal individuals are still subject to inequitable sentencing, which may be the result of implicit biases.

To examine whether implicit biases play a significant role in Canadian sentencing decisions, Maeder and Yamamoto (2018) examined if defendant and victim race would influence a mock juror's decision in a robbery case comparing Caucasian, Black, and Aboriginal defendants. The results indicated that the juror's verdict was guilty in 70.8% of the Aboriginal defendants' cases, 53.1% for the Caucasian defendants, and 28.0% for the Black defendants. These findings indicate that Aboriginal defendants were perceived as more reprehensible despite the robbery trial's transcript being identical for each offender group.

Bill C-41 and the Gladue principles were implemented to moderate Aboriginal individuals' unfair treatment in the criminal justice system. However, it is evident from prior research that these legislative policies have not led to increased alternative sentencing decisions for Aboriginal populations. To further examine whether Canada's sentencing decisions may be biased, the current study's objective is to compare sentencing verdicts for Aboriginal and non-Aboriginal defendants of manslaughter cases. The goal is to expand upon prior research by examining whether sentencing decisions are associated with Aboriginal status for a severe crime, such as manslaughter. Implicit biases can directly influence manslaughter sentencing as the offence does not include an automatic sentence length and relies on the judge's discretion. Therefore, due to the various inequalities that disproportionately impact Aboriginal offenders, it is expected that Aboriginal offenders will receive a sentence length greater than the non-

Aboriginal offenders. In addition, the offenders will be compared on various variables to examine if there are discrepancies between the two groups which could have impacted the sentencing outcome.

Method

Source of Data

Cases were extracted using an online database called the Canadian Legal Information Institution (CANLII; <https://www.canlii.org>). CANLII is a publicly accessible database of court judgements from all Canadian courts, including the Supreme Court of Canada, federal courts, and the courts in all Canada's provinces and territories. For the purpose of this study, only criminal cases from provincial and federal courts were included in the sample.

Sample Description

This study included 228 Canadian sentencing decisions for manslaughter offences through the years from and including 1993 to 2013. The primary criteria for inclusion were that the sentencing decision involved males convicted of manslaughter. Female offenders were not included in this study since there was a small sample size of 39 during the period of consideration. The male offenders comprised 189 out of the 228 manslaughter sentencing decisions made over the 20-year period. The mean age of perpetrators during the offence was 28.71 years old, and the average jail length sentence was 81.70 months. While the total percentage of offenders who entered into a guilty plea was 51.6% (95/189).

First, the offender variables were examined. Out of the 189 males convicted of manslaughter, 24.3% ($n=45$) were Aboriginal, and 75.7% ($n=144$) were non-Aboriginal. The offender variables indicated that 65.8% ($n=73$) of offenders had less than high school education, 13.5% ($n=15$) had obtained a high school diploma, and 20.7% ($n=23$) had some post-secondary education. While the offenders' occupation levels indicated, 18.1% ($n=21$) were unemployed,

2.6% ($n=3$) were students, 26.7% ($n=31$) had unskilled work, and 29.3% ($n=34$) had meaningful employment. Of the cases, 64.7% ($n=119$) had a prior criminal record, of which 49.1% ($n=86$) of those with a prior criminal record had violent charges and convictions. In addition, 17.1% ($n=31$) of offenders had a history of childhood abuse, and 41.6% ($n=77$) had a history of alcohol abuse.

The next group of variables that were examined included the victim variables. The victim sample indicated that 78.8% ($n=149$) of the homicide victims were male, and 21.2% ($n=40$) were female. While at the time of their death, 4.8% ($n=8$) were under 12 years old, 4.8% ($n=8$) were between 12-17 years old, 86.7% ($n=144$) were between 18-64 years old, and 3.6% ($n=6$) were 65 years and older. In terms of marital status, 51.3% ($n=59$) of victims were single, while 45.2% ($n=52$) were married or living with a partner, and 3.5% ($n=4$) were separated. The relationships between the offenders and their victims indicated that most of the victims did not have a close relationship with the offender, with 28.7% ($n=51$) being strangers, 25.0% ($n=44$) being acquaintances, 23.3% ($n=41$) being friends/roommates/coworkers, and 3.9% ($n=7$) being intimate partners.

In terms of offence variables, 30.3% ($n=56$) of the offences were considered brutally violent, and 64.0% ($n=119$) of the offences included the use of a weapon. In 57.5% ($n=107$) of the cases, alcohol and or drugs were used at the time of the offence. In the cases involving alcohol and or drugs, 52.0% ($n=92$) of the offenders and 40.5% ($n=70$) of victims were under the influence. The sentencing decision determined that 31.7% ($n=53$) of offenders were cooperative with police, and 59.4% ($n=111$) were deemed remorseful. In addition, the judges reported that 29.8% ($n=56$) of offenders had a troubling childhood and that there was a possibility for rehabilitation in 56.9% ($n=107$) of the cases. A presentence report or evaluation was conducted and or utilized in 46.8% ($n=88$) of the cases. Ultimately, the outcome for the cases revealed that, 97.8% ($n=182$) of offenders received jail time, 5.5% ($n=10$) received probation, 2.7% ($n=5$) were

referred to treatment, and 2.2% ($n=4$) resulted in a conditional order.

Measures

A coding form was developed to operationalize offender variables, index offence variables, sentencing variables, and sentencing outcomes. Offender variables included age at the time of the offence, whether the offender had a prior criminal record and or any past violent charges, the perpetrator's education level (i.e., high school completion), a history of childhood abuse, and a history of alcohol abuse. Index offence variables included violence of the offence (highly/brutally violent), if a weapon was used and the type of weapon (knife or gun), the use of alcohol or drugs during the offence by the offender, and the relationship between the victim and the offender. Sentencing features included whether the offender entered a guilty plea, cooperation with the police, the judge's perception of the offender's remorse, the judge's indication of whether or not the offender had a troubling childhood, the judge's belief whether or not the offender could be rehabilitated, the use of or mention of a presentence report/evaluation, and the sentencing outcome in term of the length of jail time.

Procedures

Institutional research ethics review was not required in light of the data source being available through a public domain. Cases were identified and selected following a search for homicide cases that resulted in a conviction of first-degree murder, second-degree murder, or manslaughter. Search terms included “sentencing decisions and first degree,” “sentencing decisions and second degree,” and “sentencing decisions and manslaughter.” Furthermore, sentencing decisions were further reduced to include only those from provincial criminal courts and decisions that were written in English (rather than French, which is also common in one of the Canadian provinces, Quebec).

Using a small sample of 10 cases, the primary investigator and two research assistants

developed a coding form that included seven subsections: Basic information (e.g., conviction, year of conviction, plea), offender variables (demographic and background information; e.g., gender, age, ethnicity, education), victim variables (demographic information; e.g., age, gender, employment status), offence information (e.g., relationship between offender and victim, use of a weapon), sentencing variables (e.g., express remorse, presence of presentence report, aggravating and mitigating factors), whether the trial involved a jury, and sentencing outcome (e.g., incarceration, supervision conditions). To ensure that interrater reliability was adequate, a sample of 20 sentencing decisions were coded by two research assistants. Intraclass correlations (*I.C.C.*) ranged from 0.75 to 1.00, demonstrating interrater reliability of coding was good. The research assistants were subsequently assigned sentencing decisions to review and completed a coding form for each sentencing decision. For this study, only cases that led to a manslaughter conviction were included in the analyses.

Results

Comparisons between Aboriginal and non-Aboriginal offenders sentenced for manslaughter were conducted using t-tests for continuous variables and Pearson chi-square tests for categorical variables. The offenders were compared on personal and criminal histories, offence features and severity, and sentencing evaluations. Subsequently, the jail time lengths received by each group were compared to determine if Aboriginal offenders received a sentence length of greater severity than the non-Aboriginal offenders.

Offender Variables

We compared the offender groups on various personal and criminal history variables, which indicated many observed differences between the Aboriginal and non-Aboriginal individuals, as seen in Table 1. The first variable that was examined was the age at the time of the offence. The finding for the age at the time of the offence indicated non-significant results,

with a mean age during the offence of 27.71 years old for Aboriginal offenders and 29.03 years old for non-Aboriginal offenders. There was a significant difference observed between the offender groups for high school completion rates, with significantly fewer Aboriginal offenders (16.0%) completing high school than the non-Aboriginal group (39.5%). Another significant finding was the history of childhood abuse and alcohol abuse among the offenders. It was indicated that a history of childhood abuse was more prevalent among Aboriginal offenders (37.2%) than non-Aboriginal offenders (10.9%). Similarly, a history of alcohol abuse disproportionately affected the Aboriginal offenders with a prevalence of 65.9%, as compared to 34.0% for the non-Aboriginal group. A majority of both of the offender groups had a prior criminal record. However, the results indicated a significant difference between the two groups, with a more significant proportion of the Aboriginal offenders (79.5%) possessing a prior criminal record than the non-Aboriginal group (60.0%). Additionally, a significant difference was observed between the groups for the prevalence of prior violent charges. The results indicated that 73.8% of the Aboriginal offenders had a prior violent charge, as compared to 41.4% of non-Aboriginal offenders.

Offence Features

The offence features were examined to determine if there were differences among the offender groups for the nature and severity of the crimes. In examining the relationship between the offenders and their victims, there were no significant differences between the proportion of non-Aboriginal offenders (32.1%) who committed crimes against strangers as compared to the Aboriginal offender group (18.2%). However, a significant difference was observed, showing that a greater proportion of Aboriginal offenders (81.0%) used alcohol and or drugs during the crime than the non-Aboriginal offenders (43.0%). It was also indicated that there were no significant differences between the two groups for the degree of violence of the offence. The

non-Aboriginal offenders' cases were indicated as highly/brutally violent in 30.7% of cases and 28.9% of cases for Aboriginal offenders. The results showed that there was a difference among the groups for the use of a weapon, with more Aboriginal offenders (68.1%) using a weapon than non-Aboriginal offenders (51.1%). While the results indicated that there was no significant difference between the two groups for the use of a gun or a knife.

Sentencing Variables

The sentencing variables were compared between the two groups to determine if there were significant differences in sentencing features that could have impacted each group's sentencing decision. Out of the sentencing variables that were assessed, the variable with the greatest difference between the two offender groups was the indication of a presence of a troubling childhood. It was indicated that the Aboriginal group had a much higher prevalence of a troubling childhood (57.8%) as compared to the non-Aboriginal group (21.0%). The proportion of offenders who entered into a guilty plea produced non-significant results, with Aboriginal offenders entering into a guilty plea in 60.5% of cases as compared to 48.9% for the non-Aboriginal offenders. The analysis indicated significant results regarding the use of a presentence report. The results indicated that a presentence report was utilized significantly less frequently in the cases for Aboriginal offenders (31.1%) than for the non-Aboriginal offender group (51.7%). While the findings were not statistically significant, it was indicated that both groups had a similar frequency of offenders who were perceived as remorseful. More Aboriginal offenders (61.4%) were perceived as remorseful than non-Aboriginal offenders (58.7%). Additionally, no significant differences were observed regarding the judges' comments about rehabilitation or the offenders' cooperation with police during the investigation. The judges noted that in 60.0% of cases the Aboriginal offenders could be rehabilitated, and 21.1% were cooperative with police. In comparison, the judges noted that in 55.9% of cases the non-

Aboriginal offenders could be rehabilitated, and 34.9% were cooperative with police.

The main finding of interest was the sentence length assigned to each offender group. The results indicated that the results were non-significant and that Aboriginal offenders did not receive a sentence length of greater severity than the non-Aboriginal group. The mean jail time length in months for the Aboriginal offenders was 67.74 months as compared to 86.18 months for non-Aboriginal offenders.

Discussion

This paper aimed to examine whether sentencing decisions are influenced by Aboriginal status for a severe crime, such as manslaughter. The results of this study challenge our original predictions and previous research findings as it was determined that Aboriginal offenders did not receive a sentence length of greater severity as compared to the non-Aboriginal offender group. When examining the offender variables, our findings were consistent with previous research, indicating that Aboriginal offenders were disproportionately impacted by various social inequalities that could lead to increased criminality. In addition, a significant finding that should be emphasized was that a presentence report was conducted significantly less frequently in the cases involving Aboriginal offenders. The first finding that will be examined in greater depth is the jail time length received by each group.

The finding regarding jail time length received by each group was unexpected but nevertheless produced positive findings. We had predicted that Aboriginal offenders would receive a sentence length of greater severity than the non-Aboriginal group due to various inequalities that impact Aboriginal offenders. Consistent with this prediction, previous research conducted by Weinrath (2007) and Maedar and Yamamoto (2018) determined that Aboriginal offenders received a sentence length of greater severity and were perceived as more

reprehensible than non-Aboriginal defendants. Despite these findings, the current study indicated no differences in sentence length received by each group for manslaughter.

Consistent with the literature, it was determined that social inequalities and systemic factors disproportionately impacted the Aboriginal offenders. The results indicated that the Aboriginal offenders had higher rates of childhood abuse, alcohol abuse, and troubling childhoods. Additionally, it was indicated that the Aboriginal offenders had a substantially lower rate of high school completion than the non-Aboriginal group. These various experiences could have a considerable impact on the offender's life and subsequently could lead to increased criminality. In consideration of these various experiences and the impact that they can have on one's life, these factors must be acknowledged during sentencing to ensure that Judges make an informed decision regarding sentencing outcomes.

To examine how mitigating factors could impact sentencing outcomes, Jacobson and Hough (2007) examined the effects of mitigating circumstances on various cases. The results indicated that mitigation resulted in a reduced sentence in nearly half of the cases. For the cases that were impacted by mitigation, a third of the offenders were able to avoid immediate custody, and a quarter of the sentence lengths were reduced (Jacobson & Hough, 2007). Jacobson and Hough (2007) also conducted interviews with judiciary members to identify their beliefs regarding how various mitigating factors can impact sentencing outcomes. The judiciary members indicated that personal mitigation could affect sentencing if it is indicated that the offender has reduced culpability, as specified by the occurrence of mental health problems, exceptional disadvantage, and young age. Although, a majority of the judges indicated that each case is unique and that mitigating factors do not always impact the sentencing outcome. The subjective nature of analyzing mitigating factors on an offender's culpability could lead to

inconsistencies in sentencing outcomes, but nevertheless, personal mitigation is an important aspect of the sentencing process (Jacobson & Hough, 2007).

Despite the implementation of Bill C-41 and the Gladue principles, it was indicated that a presentence report was utilized significantly less frequently in the Aboriginal offenders' cases as compared to the non-Aboriginal group. Bill C-41 and the Gladue principles were implemented to moderate Aboriginal offenders' unfair treatment in the criminal justice system and were intended to acknowledge that various systemic factors could lead to increased criminality for Aboriginal individuals (Legal Services Society, 2018; R.S.C., 1985, s. 718.2[e]). Therefore, due to the implementation of these legislative policies, it would be expected that presentence reports would be conducted more frequently or as often in the cases involving Aboriginal offenders as for the non-Aboriginal offenders. The lack of presentence reports conducted for cases involving Aboriginal offenders is especially important to note as it was previously indicated that Aboriginal offenders in this study were substantially impacted by various factors that would be considered mitigating circumstances. Consequently, these factors may be less salient during the sentencing process due to fewer presentence reports being utilized, which could directly impact the offender's sentencing outcome.

The lack of differences between the Aboriginal and non-Aboriginal offenders in this study suggests that the Aboriginal offenders were not subject to inequitable sentencing. Although, upon further examination, the results are not as promising. Based on the findings in this study regarding the various inequalities that disproportionately impacted the Aboriginal offenders, it would be expected that Aboriginal offenders sentencing outcomes would significantly differ from the non-Aboriginal offender group. The various variables examined should have acted as mitigating circumstances during sentencing, and therefore led to a reduced sentence length. Although this did not occur, and one possible explanation for this occurrence is

that implicit biases and inequitable sentencing are still apparent during the sentencing process for Aboriginal individuals. Though, further research would need to be conducted to determine if implicit biases impact sentencing outcomes for specific offender groups.

Limitations

A limitation regarding this study is related to the utilization of sentencing decisions to code and operationalize offender variables and outcomes. The retrospective nature and reliance on the judiciary's sentencing decision rather than what was relayed during the trial could have impacted the outcomes of this study. The reliance on the judiciary's sentencing decision could have led to aspects of the deliberation not being identified or acknowledged, as it is solely based on the ability of the judge to recall information that was discussed during the deliberation. Therefore, it is suggested that future research should attempt to replicate the findings of this study by utilizing sentencing transcripts rather than sentencing decisions. In addition, future studies should assess why presentence reports are utilized less frequently in cases involving Aboriginal offenders, as it is apparent that Aboriginal individuals are substantially impacted by various factors that should be made salient during the sentencing process. Additionally, leading to the research idea of examining what causes judges to request presentence reports for one case and not another? Lastly, while this study's results did not indicate significant differences in sentencing lengths between the two groups, future research should examine sentencing verdicts for other ethnic groups or other crimes to examine if there are discrepancies in outcomes.

Conclusion

It was determined that Aboriginal offenders received a sentence length similar to the non-Aboriginal offender group, despite many mitigating factors being identified during sentencing for the Aboriginal individuals. The findings mentioned above have implications for the use of presentence reports and Gladue reports during sentencing. It is imperative that presentence

reports are conducted more reliably to ensure that mitigating factors are made salient during the sentencing process to ensure that judges have a great understanding of what led the offender to commit the offence. In addition, the findings of this study suggest that the Aboriginal offenders were not sentenced according to the Gladue principles or Bill C-41. Sentencing decisions should be made according to these legislative policies to ensure that the various adversities that Aboriginal offenders experience are recognized and to reduce the overrepresentation of Aboriginal offenders in the criminal justice system.

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Table 1*Comparison of Aboriginal and Non-Aboriginal Offender Variables*

Offender Variables	Aboriginal	Non-Aboriginal	t / χ^2	p
Age at the time of the offence	27.71 (8.40)	29.03 (11.79)	0.717	.475
High school completion	16.0% (4/25)	39.5% (34/86)	4.765	.033
History of childhood abuse	37.2% (16/43)	10.9% (15/138)	16.025	< .001
History of alcohol abuse	65.9% (29/44)	34.0% (48/141)	14.015	< .001
Prior criminal record	79.5% (35/44)	60.0% (84/140)	5.598	.019
Prior violent charges	73.8% (31/42)	41.4% (55/133)	13.454	< .001

Note. For continuous variables, means and standard deviations (in parentheses) are reported, and results from t-tests are provided. For categorical variables, percentages and frequencies (in parentheses) are reported, and Pearson chi-square test values are provided.

Table 2*Offence Features for Aboriginal and Non-Aboriginal Offenders*

Offence Features	Aboriginal	Non-Aboriginal	t / χ^2	p
Victim was a stranger	18.2% (8/44)	32.1% (43/134)	3.134	.086
Offender used Alcohol/drugs	81.0% (34/42)	43.0% (58/135)	18.521	< .001
Highly/brutally violent	28.9% (13/45)	30.7% (43/140)	0.054	.854
Weapon used	51.1% (23/45)	68.1% (96/141)	4.265	.050
Use of a gun	11.1% (5/45)	25.5% (36/141)	4.128	.061
Use of a knife	37.8% (17/45)	29.1% (41/141)	1.203	.275

Note. Percentages and frequencies (in parentheses) are reported, and Pearson chi-square test values are provided.

Table 3*Aboriginal and Non-Aboriginal Offender Sentencing Variables*

Sentencing Variables	Aboriginal	Non-Aboriginal	t / χ^2	p
Offender had troubling childhood	57.8% (26/45)	21.0% (30/143)	22.162	< .001
Offenders enter a guilty plea	60.5% (26/43)	48.9% (69/141)	1.754	.223
Use of a presentence report	31.1% (14/45)	51.7% (74/143)	5.855	.017
Offender is perceived remorseful	61.4% (27/44)	58.7% (84/143)	0.096	.861
Possibility of rehabilitation	60.0% (27/45)	55.9% (80/143)	0.230	.731
Cooperation with police	21.1% (8/38)	34.9% (45/129)	2.592	.118
Jail time length (months)	67.74 (32.94)	86.18 (87.66)	1.347	.180

Note. For continuous variables, means and standard deviations (in parentheses) are reported, and results from t-tests are provided. For categorical variables, percentages and frequencies (in parentheses) are reported, and Pearson chi-square test values are provided.