PENAL ASSEMBLAGES:
GOVERNING YOUTH IN THE PENAL VOLUNTARY SECTOR

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This objective of changing thinking patterns along with terms such as “pro-social,” “responsibility” and reducing “criminal thinking” are often linked to evidence based practice in criminal justice programming. A common objective for these programs is to change the way offenders think by developing pro-social skills and reducing maladaptive behavior linked to criminal activity. For example, two testimonials from young people who have completed a program designed to reduce shoplifting for youth describe their development of a new perspective:

“I learned to respect small and large businesses, they do me a favor by selling things I need so I do respect their property and them. This was a large eye-opener for me. I seemed to take things for granted.”

“I developed a whole new perspective on choices and learned that one mistake can change your life forever”. (PVS organization Annual Report, 2011)¹

The messaging behind these accounts is that young people involved with the PVS learn “new ways of being.” The phrases “whole new perspective” and “large eye-opener” connote a personal transformative experience and a departure from a former way of thinking and being. Temporally, these testimonials are a telling of the end of a narrative, what the young person’s perspective is like after youth justice programming offered by the voluntary sector. If we are to imagine what came before these narratives, we might assume crime such as stealing, and criminal attitudes.

While evidence based practices are not a recent strategy, the discourse is increasingly prominent under neoliberalism and “contractual governance” (Crawford, 2003, p. 480) in which particular aspects of the criminal justice process are outsourced to the penal voluntary sector. Like Corcoran (2011) I use the term ‘Penal Voluntary Sector’ (PVS) to refer to that segment of the voluntary sector that partners and delivers service in (and to) the traditional criminal justice system. The PVS has long since existed in western industrialized states, however, under a neoliberal penal regime it is being re-shaped and reconfigured as a site of punishment, correction and rehabilitation. Contrary to beliefs surrounding the independence of the voluntary sector, PVS workers in this investigation do not experience their work as autonomous from the state. Instead, this chapter demonstrates how PVS work is conducted in relation and in reference to the traditional criminal justice system.

In this chapter I explicate discursive practices to provide insight on how PVS workers approach and conduct their work. Building on previous empirical investigations of the practice of punishment (cf. Barron, 2011; Franzén, 2015; Gray & Salole 2006; Phoenix & Kelly, 2013; Singh, 2012; Thomas & Bull, 2013), I examine how local non-state actors approach youth in conflict with the law and how their unique position within the youth criminal justice system shapes their work. Distinct from the chapters in other sections of this volume, the focus of this investigation is on paid employees within the voluntary sector. I begin with a brief historical overview of the role of the voluntary sector in Ontario, Canada as it relates to the youth criminal justice system. Next, I outline the role of the PVS and contextual considerations in the modern youth justice system, while situating the prominence of cognitive behavioral approaches and risk frameworks within the context of ‘governing through freedom’ strategies (Rose, 1999). Third, I explain my methodological framework, sample and data collection processes. Utilizing

ethnographic observation and interview data, my findings section demonstrates how workers negotiate their institutional context within the contested terrain of the PVS.

THE ROLE OF THE PENAL VOLUNTARY SECTOR IN SHAPING THE YOUTH JUSTICE SYSTEM

European settlers understood Aboriginal children as the source of and the solution to Canada's "Indian problem." Initiatives to institutionalize the governance of Aboriginal children began with missionary education, which "paved the way for subsequent residential schools" (Smandych & McGillivray, 1999, p. 252). Indeed, McGillivray (1997) argued, "[the] colonization of Aboriginal childhood created a Foucauldian carceral archipelago whose institutions include the reserve, the residential school, the child protection system, young offender facilities and jail" (p.136).² While the specific experiences of racialized youth in the establishment of the juvenile justice system in Canada requires further study, Chen's (2005) examination of child-saving in Toronto from the 1880s to the 1920s indicates that race was quite relevant to the child-saving movement. Though race was not often mentioned in official records Chen explains, "essentially, child-saving work at the time reflected anxiety about the size and quality of the predominant Anglo-Celtic population" (Chen, 2005, p. 15).

By the late nineteenth century, the voluntary sector was not only involved in providing services for juvenile delinquents, they were recognized and sought out as being providers of rehabilitative and pastoral care.³ Chen (2005) documents the history of the 'detention room' operated by the Toronto Children's Aid Society from 1894 until 1920. Chen's research reveals that several modes of power coexisted in the detention room: "the old punitive and despotic tradition of dealing with 'infant criminals,' discipline based on the identity of juvenile delinquent, and pastoral power over 'erring children' " (p. 110). Recognizing that pastoral care aspects of the

detention room were missing, the Children's Aid Society involved volunteers from the Young Men's Christian Association (YMCA) and Big Brother and Big Sister Associations in order to provide these services. Chen (2005) notes how the presence of these volunteer workers reconfigured the power relations in the detention room. First, it meant the Children's Aid Society was:

... under the gaze of outsiders, who not only owed their loyalty to parties other than the society but were a new breed of personnel in social service. Second, even though the Big Sisters and Big Brothers were also authorities so far as the children were concerned, they were nevertheless different from the Children's Aid staff, such as the 'nightwatchman.' The presence of Big Sisters and Big Brothers could work as a mechanism for children to exercise their agency, for example, by simply telling a Big Sister that she had been treated badly in the detention room. (p. 113)

The presence of voluntary organizations helped to reconfigure power relations by undermining the "relative autonomy" of more institutional power (Chen, 2005, p. 113). That the Children's Aid Society, a child protection organization, operated juvenile criminal detention illustrates the historical marriage between child welfare and delinquency. Child welfare work was imbued with crime prevention and treatment duties. Simultaneously, the prison reform movement greatly impacted child welfare (Chen, 2005; Maurutto, 2003). Based on this historical relationship, there was a slippage in the concepts of deserving (dependent) and undeserving (deviant). Chunn (1992) noted, "the stringent nineteenth-century ideological line of demarcation between the deviant and dependent of the province was obscured" (p. 21).

The lines between public and private institutions were similarly blurred. Many historical accounts of the governance of juvenile delinquency and child protection highlight the social

control imperatives that belied social reforms. While the social control function of voluntary organizations is clear, it is also important to note that the trust and familiarity bestowed upon voluntary sector organizations did not always apply directly to the state (Maurutto, 2003). This unique familiarity aspect of the voluntary sector positioned them as attractive partners (albeit sometimes silent and invisible) with the state. The slow social reform process towards a separate youth justice system and child protection statutes witnessed the emergence of strategies such as reformatories, training schools, detention rooms and later a de-institutionalizing trend in favor of probation and community corrections. The voluntary sector was an important force of reform and change throughout this process.

Concern over juvenile delinquency helped to galvanize the voluntary sector to protect children from neglectful parents (Chen, 2005; Chunn, 1992; Maurutto, 2003). In addition to pastoral power, voluntary organizations and non-state actors regularly participated in a range of other rationalities and technologies. From supervising juvenile delinquents on probation to managing and classifying juvenile delinquents in industrial schools to advocating for policy change, the participation of voluntary organizations in the criminal justice system is complex and contradictory. The role of the voluntary sector in the governance of juvenile delinquents in Canada pre-dates the establishment of a federally mandated separate youth justice system, which was enacted with the Juvenile Delinquents Act in 1908. Recognition of this historical pattern of contested terrain is needed to understand the more recent context for the PVS in Canada. It also raises important questions about the role of the voluntary sector in the justice system. Has the PVS maintained the ability to disrupt institutional power as it did in the detention room? More broadly, how does the PVS relate to the traditional criminal justice system? How does the role of the PVS relate to the shifting social and political context? What is the role of the frontline worker

in the PVS?

Compared with previous youth justice policies, the current Canadian Youth Criminal Justice Act (YCJA) names “community” as an actor and stakeholder in youth justice policy; however, the concept remains malleable (Hogeveen, 2005). While collaborations and partnerships with the state are often couched in the discourse of community, non-profit organizations in the PVS have often filled the role of community as partners to the state. The YCJA applies to youth between the ages of 12 and 18 and is federally legislated and operationalized by the provinces and territories of Canada. The legislation adopts a bifurcated approach to youth in conflict with the law – specifying one approach for offenders who are deemed serious and another for those who are minor or first time offenders. These two approaches to young offenders have important consequences including “an assumed division of responsibility between the state and *the community* in managing them” (Campbell, 2005, p. 19, *emphasis added*). In addition, the enhanced role of community-based sanctions under the YCJA like attendance centers, community circles and community-based justice programs have contributed to a reconfiguration of partnerships between the state and the PVS.

PARTNERS IN CRIME:

YOUTH CRIME STATISTICS AND THE ROLE OF THE PVS UNDER THE YCJA

Across Canada, police reported crime statistics show that numbers and rates of youth accused of a Criminal Code offence have decreased steadily since the implementation of the YCJA in 2003. In 2014 approximately 94,100 youth were accused of a Criminal Code offence nationally (Boyce, 2015). Almost half (45 percent) of these youth were charged by police and processed through the traditional criminal justice system. The remaining 55 percent were processed through other means including being warned or referred to a PVS organization. The

total number of accused represents a 42 percent reduction since the enactment of the YCJA. Following these numbers, the proportion of youth sentenced to custody has also decreased substantially. In the 2011-12 fiscal year, 15 percent of youth found guilty of crimes served a jail sentence (Dauvergne, 2013). Most of these custody sentences were three months or less (74 percent) and less than 2 percent of youth court custody sentences exceeded one year. Despite the overall reduction in youth incarceration, there are continued indications of the over-representation of racialized youth at every stage of the youth criminal justice system. In Ontario, this over-representation manifests in the disproportionate representation of Aboriginal and black youths (McMurtry & Curling, 2008; Rankin & Winsa, 2013).

In the province of Ontario there are approximately 250 organizations that receive funds from various governmental branches in order to provide programs under the provision of the YCJA. The Ministry of Children and Youth Services (MCYS) has primary responsibility for administering youth justice services in Ontario and funds 207 organizations that serve more than 37,000 youth in conflict with the law annually in the province (Ministry of Children and Youth Services, 2014). The MCYS funds PVS organizations that run programs like open custody facilities, attendance centers, intense supervision programs, extrajudicial sanctions and extrajudicial measures.⁴ Referrals to these PVS organizations come from various points within the traditional criminal justice system (police, courts, probation). Most organizations in Canada's PVS are funded as transfer payment organizations, which means what the phrasing implies: Governmental ministries transfer funds to organizations in the provision of their state mandate. This funding stream accounts for over half of the total amount of the youth justice services' budget in Ontario. According to the Auditor General's (2014) audit, in the 2013-14 fiscal year the Ministry spent \$352 million on the Youth Justice Services programming. This amount

includes \$180 million in transfer payment funding. PVS organizations are diverse and range considerably in size, mandate, funding and are disparate across the province. From 2008-13⁵, the MCYS youth justice services funded approximately the same 205 organizations over five years. The highest transfer payment amount to one organization in the 2012-13 fiscal year was \$9,508,349. The lowest transfer payment amount in that same fiscal year was \$3,434. An examination of the MCYS funded organizations revealed that while there remains some organizations that provide a combination of child welfare services, developmental services and justice services, there is an increasing specialization of youth services for youth in conflict with the law as reflected in programming that is exclusive to young people as a result of being accused of crime.

PVS workers have a range of job titles, descriptions and educational backgrounds. For example, Youth Court Workers conduct much of their work in youth court and aim to represent their PVS organization to court personnel and youth in conflict with the law. Others are group facilitators who provide offence related programming as part of an extrajudicial measure program. Residential or primary workers supervise youth while they serve a custody sentence or are in pre-trial detention. Frontline PVS workers often have their Bachelor's degree or diploma in paid helping professions such as social work or child and youth work.

Young people in conflict with the law in Ontario, like many advanced liberal democracies, are often assessed through risk assessments tools. The risk/need assessment most commonly utilized in Ontario is the Level of Supervision Inventory – Ontario Revised (LSI-OR) version (Andrews, Bonta, & Wormith, 1995). This assessment focuses on lowering particular risks in the areas of: criminal history, education/employment, family, leisure/recreation, anti-social peers, substance abuse and attitudes/orientation. Standardized assessments are rooted in

actuarial research and based on the premise that these assessments will also lead to evidence-based interventions with youth in conflict with the law (cf. Whyte, 2009). One of the critiques of the prominence of governing through risk is the consequence of limiting individualized treatment and programming options. Hannah-Moffat, Maurutto and Turnbull (2009) explain:

The 'risk principle' directs practitioners to assign offenders to a limited set of programs that target criminogenic needs and demonstrate an impact on rates of recidivism. For institutions faced with declining resources, risk logics provide a convenient rationale for restricting and streamlining programming options. Thus, risk assessment is more than the management of offenders; it essentially limits the number and range of treatment options available to practitioners. (p. 396)

Risk assessments are intrinsically linked to treatment options. One of the more popular treatment frameworks used to reduce risk is cognitive behavioral therapy (CBT), which is a vast area of therapeutic intervention employed by those in the helping professions (including social workers, psychologists, and other counseling professionals). The approach is widely researched and empirically validated, making it a favored evidence-based practice for a variety of mental health issues such as addictions and depression (Butler, Chapman, Forman, & Beck 2006). Using this approach in youth justice settings assumes that young people in conflict with the law have distorted thinking and impaired social and interpersonal skills that contribute to offending behavior. Similar to risk assessments, this treatment option has also been met with a range of critiques. One critique is that CBT ignores larger social realities that construct offending behavior and therefore contribute to a compromised understanding of rehabilitation (Balfour, 2000; Barron, 2011). Another observation is that, under a cognitive behavioral approach, youth

in conflict with the law are encouraged to simultaneously practice submission and responsibility (Cox, 2011; Franzén & Holmqvist, 2014) and there is absence of interventions that would actually result in a change in their social position (Gray, 2013).

Risk discourse and CBT are aligned with technologies of “governing through freedom” (Rose, 1999) since they are preoccupied with the future and how choices can impact the future. If a young person does not exhibit behavior that is assessed as conducive to their becoming an autonomous, mature and responsible adult citizen, then experts will govern them “according to the new regime of autonomy and choice, utilizing a tool-bag of techniques ... to install the capacities for self-determination and self-mastery” (Rose, 1999, p. 89). These strategies, which are often linked to neoliberal governance, also produce particular subjectivities (cf. Franzén, 2015). This current research focuses on how PVS workers negotiate issues tied to subjectivity and explicates how responsibilization is practiced in a modern penal assemblage.

METHODOLOGY: MAPPING SOCIAL RELATIONS

Drawing on Smith’s institutional ethnography and Foucault’s theories of governmentality, this research explores the everyday realities and multiple rationalities that are available in the PVS. Despite ontological and epistemological differences between Smith and Foucault there remains utility in combining methodological aspects of the two scholars (Satka & Skehill, 2012). To understand various institutional contexts, I conducted 24 interviews with respondents from a range of employment contexts from 2012-14. Sixteen respondents were frontline PVS workers, four were PVS managers/executive directors, and four were professionals in the traditional criminal justice system, such as probation officers or police officers. The lines between these professional categories are not always clearly demarcated. That is, some PVS research participants had also worked in the traditional criminal justice system and some police and

probation respondents report having worked in non-profit organizations and the PVS. In addition, two PVS frontline workers had temporary employment experiences in the traditional criminal justice system and then moved to working in the PVS. Two PVS workers identified that they have also had interactions with the traditional criminal justice system as offenders and this experience of conflict with the law formed an important part of how they established rapport with young people.

For frontline workers, I examined how they spent their time at work and conducted interviews at their place of employments, an alternate worksite (such as court) or another agreed upon location. I asked questions about their professional accountability and the relationships they forged in order to conduct their work. Interviews were about one hour in length. At times, I asked questions about what would be considered a breach of social and institutional norms. For example, I would ask questions like, “Would you share that type of information with a probation officer? “How do you determine case management process and group curriculum topics? ” Answers helped me to ascertain how decisions were made and specifically how external actors and polices inform the local context. Following the method of institutional ethnography (Smith, 1987) I took particular interest in forms, policies, memos and the institutional sequencing of PVS work. While social characteristics like race, class and gender were an important part of this examination, I did not collect social demographic information and relied on research participants to make connections with how their identity informs their work. I developed a data dialogue sequence in order to inform my research problematic and read the transcripts and other data sources with multiple purposes (Doucet & Mautner, 2008). In the next section I delineate how PVS workers navigate and are an important part of the penal assemblage of the youth justice system. I demonstrate how these PVS workers resist, accommodate, subvert, extend and

negotiate state goals and rationalities with a particular emphasis on how risk governance and cognitive behavioral approaches are practiced and negotiated within the PVS.

FINDINGS: HYBRID ASSEMBLAGES OF PENAL GOVERNANCE AND THE PVS

The concept of an assemblage collates multiple discourses, acts and identities and helps to organize seemingly conflicting ideas that are not binary or temporal in nature. Newman and Clarke (2009) explain that the term assemblage:

... provides some conceptual leverage for understanding both the work of assembling (the building of assemblages in and through which governing is enacted) and the vulnerability of assemblages to coming apart (under the strain of maintaining their internal connectedness or apparent coherence). (p. 68)

The concept of a penal assemblage is useful to understand the *practice* of youth justice, which is often a departure from the policy of youth justice. PVS work like most criminal justice practice is complex, contradictory and based on hybrid models of punishment (Franzén, 2014; Gray & Salole, 2006). These findings are divided into two main parts. First, I explain how PVS workers strategically accommodate and approach risk discourse and assessments. Second, I explore how PVS workers negotiate a mandate to offer CBT programming in the PVS.

Strategic Accommodation/Acceptance: Risk Discourse

PVS workers espoused varying degrees of support for risk discourse; however, all PVS workers were made to somehow accommodate the discourse in order to conduct their work. Some research participants expressed a degree of confidence in the risk assessments tools and their ability to drive case management decisions. PVS worker Ray⁶ explained that he thinks that risk assessments have authority, and while he does not consider himself an expert in “that kind of stuff,” he “knows that a lot of research went into it. And it’s probably the best thing we got in the

science of young people getting in trouble.” Ray went on to explain that he “...hasn’t really looked into it because it’s not as if it would make any difference. They [probation] seem to think it’s important. So guess what? It’s important.”

By contrast, PVS worker Aziza explained, “They [LSI scores] don’t really mean anything to me. I read them but then I go on to get to know the youth. That’s where the answers are. Not on some piece of paper.” For Aziza, risk assessment tools undermine her caring and authentic approach to young people in conflict with the law. Aziza also questioned the authority and legitimacy of the LSI as a tool:

At risk. What does that even mean? From what I can tell it means how marginalized a young person is and I don’t think the answer to that marginalization should be to treat youth like they are a number. They are so much more than that.

Other research participants noted that the LSI is not aligned with their approach to working with youth. As one frontline worker, Arundee explained,

Well, I have a problem with how those things are done. Most of the time they want you to sit down with a kid and ask them a bunch of questions. And it’s really hard to make it sound natural. And when you’re trying to build a rapport with a young person, the last thing you want to do is just drill them with questions. And then, well, and then what? You can’t even say it was worth it. Because you go through all these questions and then the conclusion is this number that really doesn’t mean anything to them. I guess that’s my problem with it. My problem with it is that’s so obviously a professional exercise that my clients don’t care about. It’s not for them. It’s for probation. It’s for the professionals.

Importantly, PVS workers expressed indifference or skepticism towards risk assessments when they felt alienated from the process. They reported frustration when probation officers did not share the entire risk assessment and only shared the goals that are understood as the outcome of the assessment. Regina indicated that there had been instances where she had longstanding relationships with a young person and she was not interviewed as part of the probation officer's assessment and pre-sentencing report. She lamented,

So if they are not going to ask me, their worker who has seen them [the youth client] almost every week for the last two years about what's been going on with them [the youth]. What's going on at home? What's going on at school? What's going on with court dates and whatever? If they are not going to ask me, then quite frankly I just don't think that probation takes them very seriously. They obviously are just going to write what they want to write. But it's such a piss off. Because here I am in the probation office, seeing [this particular probation officer] and he doesn't even want to ask me. Because you know those reports [pre-sentencing reports] are important. Judges read them. And, well it's not because I'm hard to find. I'm right in front of his face all the time.

For Regina, being excluded as a key-informant for a pre-sentencing report undermines the legitimacy of the process. While PVS workers are often positioned as working alongside the traditional criminal justice system, they unanimously agreed that they needed to be recognized by the courts, police and probation.

As a result of lack of information from probation, some PVS workers conducted their own risk/need assessment. Sadie expressed some ambivalence about that process:

... so in essence when [PVS organization], when we complete a risk/needs assessment they have no weight, whatsoever anywhere in this universe. Nowhere, nowhere but

within our organization. And the reason why we even conduct them is that we can be on the same page as probation. So it's to, at the end of the day, come out with a risk/need assessment that is pretty similar to what probation came up with.

In a slightly different vein, Ray found the assessment tools useful and a form of leverage with probation officers that he works with. He describes, "I always refer to the LSI score. It means that I'm speaking the same lingo as the P.O. It gives us some common ground and shows that we are looking at what they are sending over." According to Ray and Sadie, the risk/need assessment, then, is embedded within a particular knowledge base that carries legitimacy with probation officers.

One probation officer who formerly worked in the PVS indicated that she often completed risk/need assessments as part of her routine work in the PVS. But only as a probation officer did she understand the purpose of the tools. She explained: "As a probation officer I go to training, like days of training, on how to do these assessments. Working at [a PVS organizations] they give you some old unofficial photocopied version that's just a form and not one day of training. You just kinda figure it out."

Connected to Arundeeep's ambivalence and frustration with the official rationales for risk assessments, Arundeeep explained that she used risk/need scores to meet other goals. In the quote below, she refers to the risk score (and therefore reconstitutes the risk score), not because of blind adherence to risk rationality, but to meet her client centered goals. She explained:

So I don't pay much attention to those scores for what I do. But when I need to write a letter for probation or when I'm doing my summaries, I do refer to them. Especially, if it helps to rationalize something that the youth actually needs... An example would be family counselling, home visits that sort of thing. I mean probation is very formulaic

when it comes to goals. It's always education. It's always anger management. And it becomes the same thing again and again, but, I see these guys as different. I try to tailor what I do for them.... I say to the probation officer that this is really aligned with the risk/need assessment even if I think some other language would be better to use for the sort of work that I do.

Regardless of the PVS workers' perceptions of validity of the risk/need assessment, the narratives of the workers indicated that they engaged in a form of *strategic accommodation*. In doing so, they recognized that it was an important part of their work, particularly as it applied to their work with probation. Some workers like Arundee were able to use assessment scores to ensure that helping goals were met. As opposed to probation officers who might partially engage in and/or embrace risk discourse for the defensible decisions it creates, PVS workers do not have to defend their case management with the young person as much as they need to establish legitimacy and broker a relationship with probation officers who are the official case managers. While risk discourse is important to probation officers and the MCYS, PVS workers also felt that risk discourse was easy to understand and comply with for the purposes of their work. Indeed, in this case strategic accommodation can be easily accomplished by aligning PVS work with the case management goals that the probation officers set.

Prior research has indicated that probation officers have a complex relationship with risk assessments (Hannah-Moffat et al., 2009) in which they maintain discretionary power in the utilization of risk-needs-assessments. However, the PVS workers in this study explained that they negotiated their relationship with probation officers based on the premise that the officers strictly adhered to risk assessments. That is, for PVS workers, the myth of the monolithic and comprehensive risk discourse, as it applies to probation officers, remains. There are a few

possible explanations for these different findings. One possibility is that it is simply easier for probation officers to communicate certainties to PVS workers. Indeed, while the presences of fissures and exceptions to rules are a reality, it is more difficult and time consuming to communicate the particularities of when and why exceptions should occur. Put another way, that discretion exists in every facet of the criminal justice system is not contested; rather, discretion becomes problematic when there is a negative unintended consequence to that use of discretion. Another possibility is that since probation officers are the case managers for the purpose of having to defend decisions, it is also likely that they do not want there to be a second layer of “black box” (opaque) decision making residing in the PVS. Rather, if the probation officers have to defend decisions made, they would prefer all decisions to be theirs.

Changing Minds (Within Reason)

PVS workers expressed that there was a certain functionality to the cognitive behavioral approach that was aligned with the work that they do with people in conflict with the law. Citing literacy levels of the clients, effectiveness, and the punitive functions of their work, PVS workers explained that CBT has both legitimacy and utility in their work with young people in conflict with the law. For Meredith, the expert role and the hierarchy associated with the cognitive behavioral approach, and its distinction from a “feel good” approach invoked the punishment role of the PVS. Meredith indicated how CBT fits with her approach to young people in conflict with the law because you can just be like “um nope, you’re wrong.” She explained,

For a lot of these kids, we are seeing them pretty short term. It’s kinda punishment to see us and we also need to give them some new skills so if they want to use this as an opportunity to turn things around, at least they got some skills to do that. So our programs

need to send that message, they need to be about taking responsibility and giving them options and to make better choices.

Other research participants explained how the cognitive behavioral approach is aligned with evidence-based practice. Aziza stated:

Well, counseling young offenders is tricky. A lot of the times I know I am doing some good with them just because they have someone to talk to. I know it, they know it. But how do you prove that? You can't really. So I think that we end up doing a lot of stuff here that we can't prove. So we give them a pre-test and post-test so we can prove we are making a difference and it just so happens that CBT fits well with that model. So it wins.

The verifiable efficacy of CBT was also pointed to as one of the reasons why PVS workers adhere to the principles behind the cognitive behavioral approach. Mandy explained:

Well probation is pretty clear that they want us to use a thought-feelings-action approach. This seems to be what works and that's what they think that we do. So we just have to keep on doing it... And I would have to say that I think it does work. I think it's easy for them [the PVS clients] to understand. If you look at our pre/post scores, I can tell that it does make a difference. It gives the tools they need to take responsibility. I know it doesn't work for everyone but at least we can have some answers for them. A lot of these kids come from pretty tough homes and so if they want to make a change and maybe treat their kids differently, well here are the tools. They really need to change the way they think.

CBT resonated with many workers for various reasons, including the simple premise of the modality fitting well to ease of tracking measurable outcomes. For some research participants like Meredith, CBT's focus on individual responsibility is connected to the rationality of the

criminal justice system. For her, it is important to extend that rationality that is core to the criminal justice system and neoliberal governance alike.

Another observation from PVS workers' assessments of cognitive behavioral approaches are that some of them, like Aziza and Mandy, are acutely aware that it is often factors which stem from outside their PVS work setting that inform their work. From a management perspective, Kandy explained that it was important that group sessions be standardized so that referral organizations know what to expect from the PVS. She explained,

But, so now we've moved to very standardized groups. This is the curriculum we offer. Make sure you do these exercises, make sure you do these worksheets. Following this, it's part of your job. Because we are not going to get referrals if people don't know what they are referring folks to.

Participants largely agreed that there is a certain degree of functionality in standardized group curriculum. At the same time, some PVS workers felt as long as the learning objectives were met in a session, there was still room for the facilitator to make modifications as they saw fit.

I've been doing this for so long that I end up using the 'best of' series. We've purchased a lot of different kits over the years. And each of them has something that it's good at. So I choose what we do based on what I've seen to be the most successful and by that I often mean they understand it. Quite honestly, that's what we are dealing with here. You'd be surprised at the number of these guys that can't read. I have one guy now who is in grade 11 and he is at a grade 5 reading level. What are you supposed to do with that?

Other participants concurred that modifications could be made to the curriculum or the general cognitive behavioral approach, "within reason" (as Regina stated). Importantly, the permission or personal agency of PVS workers to veer away from set curriculum had to do with their

personal context within the PVS organization they worked for and whether they considered the modification to be reasonable. Examples of modification “within reason” were: adding material from other group pre-packaged group modules, discovering new material that fit (even loosely) within the cognitive behavioral framework, and adding popular culture references (one PVS worker used crimes committed by celebrities as an example to apply to the cognitive behavioral framework). The PVS workers indicated that ‘within reason’ translated to keeping the cognitive behavioral framework clear and intact.

There were also elements of group programming that fell out of the bounds of “within reason.” For example, participants did not consider it appropriate for PVS workers to discuss race or racism in group sessions or individual counseling sessions. Aziza shared an experience when she had all young black in men in her anger management group:

So this was the first time this happened to me. This was the first time I ever had when every single participant was a black boy. And I just couldn’t do it the same. I tried, because it was early on and I thought there might be trouble, and I’ve got mouths to feed at home, so I’m not trying to draw attention to myself ... but, I was like unable to. It was like my body would not let these young black boys leave this class without some sort of race analysis. So the first couple sessions were the same and then one day, I was just like this is the day. And it was all about why are young black men angry? What is happening to them? And also, why are people so scared of black men? I thought it went great. Yeah, it was great until [the youth] went up to his probation officer citing Malcolm X. Well, let’s just say I got spoken to. Let’s just say I don’t do that in groups no more.... But I still do it. But I do it when I know that they [youth] know that most people around here are going to be scared when we start talking about Malcolm [Malcolm X]. I ain’t trying to

start no revolution. I just want them to connect the dots. And it's sad. It's sad that they can be in a room with all young black men who got into trouble and they still need me to connect the dots for them. What's happening there?

Aziza's experience indicates that she took a risk to do something outside of the curriculum or the bounds of group sessions. She knew it was professionally risky to depart from a CBT approach to a more structural analysis; however, she felt a moral imperative to change the material. Her rationale for stepping outside of this scope was that she thought it would be helpful for the young black men in her anger management group to link their experience of criminalization to a historical and ongoing criminalization of black men. This connection contradicts the individualized framework and calls into question assumptions of individual responsibility.

This tension regarding racism in the criminal justice system and a shared social identity based on race for young people in conflict with the law seemingly undermines approaches seeking to fix or reform individual thinking patterns (see for example Chapter 8 in this volume, Lea & Abrams). Aziza further clarified that what was problematic about the breach in her conduct was not that she went off the cognitive behavioral script. Rather, the precise problem was that the youth's probation officer called her PVS manager to express discontent when her youth client cited a subversive narrative (Ewick & Silbey, 1995) of racism in the criminal justice system. Drawing from this experience, subversive narratives become problematic when youth become more difficult to control and/or challenge the notion of individual responsibility.

It is important to note that this encounter did not result in Aziza abandoning what she considered an important part of her work. Instead, she reconfigured her work to ensure that that these subversive narratives were undetected by probation by providing further background to youth in individual sessions of how subversive narratives can be used. Specifically, she taught

youth that probation officers would not be amenable to hearing about these subversive narratives; however, they can still be empowering (“Use it so you can see that people who look like you can have power”) and educative (“You got to find this stuff out. There is a lot that is not taught in schools”).

Cognitive Behavioral Approaches in the PVS: The ABC’s of Compliance

In this section I examine a worksheet used by PVS workers as a case study of how cognitive behavioral approaches play out at the local level of the PVS organization. In response to my query about forms and texts that would help me to understand frontline PVS work, several research participants produced examples of therapeutic interventions they use as tools in either group or individual sessions.⁷ In the middle column of Table 10.1 I have replicated a worksheet described as rooted in CBT by Shannon, a PVS worker. This worksheet was representative of others worksheets I viewed within the purview of this research. Shannon spoke favorably about cognitive behavioral approaches for youth in conflict with the law and saw it as a tool to “help them figure out different ways to think about what they did.” Shannon also saw CBT as a way of showing her clients that they should take responsibility for their actions. In my interview with Shannon I used this worksheet as an opportunity to understand more about how PVS workers determine whether a young person in conflict with the law is compliant and/or rehabilitated. In the left hand column are some observations and generalizations that would apply to a compliant response from a youth in an interaction centered on this worksheet. Inversely, in the right hand column is a summary of observations from non-compliant responses by a youth. Quotes in Table 10.1 are from an interview with Shannon.

Prerequisites to Shannon completing this worksheet are that there has been a general review of cognitive behavioral approaches – without actually naming the words cognitive

behavioral approach with the youth. Shannon's employment in the PVS has involved her being a Residential Counselor in an open custody facility, an Alternative to Custody caseworker, Youth Bail Supervision caseworker and more recently a front-line worker in an Attendance Centre. Shannon indicates that she has used versions of this form with young people in all of these front-line positions. Shannon used this worksheet as part of a larger pro-social curriculum where the crux of the curriculum was "your thoughts impact feelings which consequently influences actions." She explained that she sometimes asked her youth clients to complete a worksheet (with the text replicated in the middle column of Table 10.1) as homework; however, more often, she guides youth through the completion of the worksheet because it is often one of the first ones they complete.

<INSERT TABLE 10.1 ABOUT HERE>

From my interview with Shannon, it became clear that there was a difference between acceptable and rehabilitated. Indeed, a youth who she mostly understands as being non-compliant and not rehabilitated can attend and successfully complete her group or individual sessions on criminal thinking. Shannon understood the expression of non-compliance as an opportunity to correct a young person's thinking errors by identifying them as such and it was important for her to not react punitively to these thoughts and instead approach them as a learning opportunity. Once Shannon corrects non-compliant thinking, it then becomes the young person's responsibility to adopt a new line of thinking that the PVS workers consider compliant or pro-social. Shannon also explained that what I've described here as 'compliant' youth are rare. Shannon explained, "Most of these guys have a ton of thinking errors. But, even if they learn just a little something.... That's okay." She further explained that she was only expecting "baby steps of change ... for me the main thing is that they are open and willing to shift. To probation I

report on their attitude, participation levels and if they are open. Whether or not they get it, well I don't really know. All I can do is try and hope they will too."

Referring to Table 10.1, Shannon explained that the title of the worksheet was a mnemonic device that she hoped her young clients would invoke in risky situations. The offense specific focus of this worksheet is indicative of a narrow focus of rehabilitation. As Garland (1996) noted, "Where once the individual's personality or social relations formed the object of transformative efforts, that object is now offence behaviour and the habits most closely associated with it" (p. 176). Since this worksheet focuses on the offence (not the offender), there is a short temporal inquiry: PVS worker Shannon is interested in what happened on that particular day and/or recent history. She explained, "And so when they are doing this form, I don't let them go too far back like what their childhood was like. I want to know what's happening lately. We can't do anything about the past." For Shannon, focusing on the present is a way to control the scope of her sessions with youth in a way that she understands as fitting with a CBT model. In addition, she also believed that a short temporal scope will be helpful to the young person in conflict with the law. Deeper social relations (for example, colonialism, childhood abuse, child welfare history, victimization etc.) would not be relevant to the frame created in this worksheet.

Despite there being a separate youth justice system based on "diminished moral blameworthiness or culpability" (YCJA, Section 3[b]), there is little recognition that young people are less responsible than adults. This responsabilization of the young person in conflict with the law also seemingly contradicts the juvenile title of the worksheet. In addition, that the same therapeutic intervention (Table 10.1 worksheet) is used for youth in confinement and those in community-based settings raises questions about the differentiation between intervention

modalities according to punishment. That is, while the different level of punishment and control between a custody sentence and probation sentence can be presumed, the messaging about responsabilization and the subject positioning in probation or the PVS is less clear.

Moreover, there is an embedded assumption that offenders can learn to anticipate and make more pro-social choices if they are equipped to do so and this omits that crime can be the result of rational thinking (cf. Fenwick & Hayward, 2000). More than taking responsibility for past conduct, this worksheet posits that young people should take responsibility for their future selves and engage in personal crime prevention. Similar to research examining youth confinement, the task for the PVS worker is to coach youth into being “simultaneously responsabilized and self-governing” (Franzén, 2015, p. 274, see also Cox, 2011). While this suggests a wide scope of inquiry and involvement for the PVS worker, there is simultaneously a detachment and a ‘self-serve’ approach to youth clients in the PVS. Indeed, according to the practice of punishment in this investigation the cognitive behavioral approach vis-à-vis the PVS worker can only offer answers to *modifying* criminal behavior but does not make claims to *addressing* underlying needs and marginalization. This finding is aligned with Phoenix and Kelly’s (2013) observation that young people in conflict with the law receive the message that:

... being responsabilized meant that they understand they (as opposed to anyone else) were responsible for themselves (as in there was no one else who could effect change in their lives), despite the fact that many of the conditions that shaped their offending were outside of their control to change. (p. 433)

In line with ‘governing through freedom’ youth are experiencing a governing regime that represents a shift from Foucault’s panopticon. Rather than a constant disciplinary power (such as that of a prison guard), the PVS workers and the cognitive behavioral approaches employed are

aligned with a more relinquished intrusion in the lives of young people in conflict with the law. This is not to say that the youth experience in the PVS is necessarily less coercive or intrusive. Rather, the workers' discourse and understanding of their role is that the choice ultimately lies with the young person in conflict with the law to choose pro-social thinking and the PVS worker is seriously constrained on whether the young person makes this choice.

DISCUSSION

While PVS workers pride themselves on their pastoral and caring power, their strategic accommodation of risk discourse and cognitive behavioral approaches can also be understood as helping to (re)produce neoliberal strategies that blame and responsibilize the individual young person in conflict with the law. The voluntary sector and the helping professions have a long history of focusing on individual reform. Finn (2001) argued that social work as a profession is built on interventions based on individual reformation and adaptation to social conditions. Furthermore, these individualizing and often pathologizing interventions that aim to reproduce white middle class values have been central to social work and social services in Canada and the United States since the profession was founded in the early twentieth century (Graham, 2005). This recognition of longstanding individuation in social services is in stark contrast with concerns that somehow the institutionalization of the PVS (in which the PVS will become simply an extension of the state) will cause a rupture in service – as though the state and the PVS inherently have different ways of governing. While social work has some history of anti-oppressive, critical and social justice praxis (cf. Mullaly, 2006; Sakamoto & Pitner, 2005), there are also social workers and other helping professionals [including in the PVS] who are willing and active participants in the individualization of social problems. Participating in discourses and practices of individuation, normalization and even disciplinary practices does not preclude PVS

workers from expressing concern about structural issues such as racism and poverty. Aziza, for example, reported switching from cognitive behavioral approaches when another approach seemed particularly salient as with the example of her integrating a critical race analysis into her group session. All research participants in this investigation valorized their work in the PVS as helping young people in conflict with the law and held well-meaning intentions for their youth clients. Issues related to the limits of individualized approaches in the PVS are important to discuss, although difficult to resolve without further research and investigation.

One certainty is that individualized approaches to working with young people in conflict with the law are pervasive and dominant in the PVS, an approach that mirrors the mostly individualized criminal justice system. While outside the scope of this chapter, it is important to note that youth are also situated actors. Young people in conflict with the law also adapt, subvert, and negotiate the criminal justice system and the PVS alike. For example, Abrams and Anderson-Nathe (2012) in their ethnographic examination of incarcerated youth demonstrate how contradictory frameworks (and/or technologies) require “residents anticipate and differentiate when they would be expected to assume responsibility for their own actions and when they would be expected to account for their behaviors based on their family problems” (p. 59).

This chapter demonstrates how some workers within the PVS are positioned as double agents within the youth criminal justice system. Indeed, it is possible that those who work in the PVS enable neoliberal governance through a form of a double alliance. That is, they can “ally themselves with political authorities” and simultaneously form alliances with those in conflict with the law whilst offering “to teach them techniques by which they might manage better” (Rose & Miller, 1992, p. 189; see also Bull, 2008) that are also aligned with the neoliberal

governance. Thus, through the role of an intermediary expert, responsabilization strategies can align the personal choices of offenders “with the ends of government” (Rose & Miller, 1992, p. 189). Frontline PVS workers remain “situated agents”⁸ influenced by social context and capable of acting as result of their own intentionality; however, these alliances are often not made visible. Indeed, there is considerable effort and energy expended by PVS workers to ally themselves with institutional discourses of the criminal justice system while subversive narratives are submerged so as to be undetected.

CONCLUSION

In the late nineteenth century, one of the roles of the voluntary sector in the criminal justice system in Ontario was to disrupt the coerciveness and punitive nature of the criminal justice system. Indeed, the mere presence of the voluntary sector ruptured the disciplinary power of the detention room (Chen, 2005). In contrast, the more modern role of the PVS in the youth criminal justice system raises new questions of autonomy within the current neoliberal context. While PVS workers’ helping/pastoral rationalities are often contorted by the hierarchal relationships PVS organizations have with the state, fissures and subversion do exist. Corcoran (2011) explains that:

It would be premature to announce the wholesale assimilation of the voluntary sector, although neoliberal social capitalist discourse has disarmed elements of the pluralist, solidaristic consensus of the voluntary sector mainstream. Modernization entails an ideologically charged and contested, rather than seamless, discourse.

There are limits to disavowing the voluntary sector’s distinction from states or markets without jeopardizing its public legitimacy.... Resistance by voluntary workforces to micro-management indicates a durable disposition towards social

democratic and solidaristic concepts of justice and citizenship. (p. 47)

In other words, it seems possible for neoliberal rationalities to coexist with other forms of rationalities within a penal assemblage. Neoliberalism has not completely engulfed the PVS; resistance and negotiations continue. While the PVS is not completely encompassed by being a service provider to the state, the inherent hierarchy in relation to the state seriously compromises the ability of PVS organizations to be visible advocates and social reformers. In addition, the shift in focus from offender to offence within the penal assemblage for young people in conflict with the law results in a more individualized approach for young people in conflict with the law. This individualized approach is especially problematic considering the marginalized social location of young people in conflict with the law.

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ENDNOTES

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- ¹ The names of organizations that research participants were employed in are confidential and unidentified. As such documents collected from research participants will not identify the publishing organization name.
- ² It is beyond the scope of this chapter to provide a thorough history for Aboriginal children who were (and continue to be) governed differently from non-aboriginal children. For a specific examination of the governance of Aboriginal children and childhood see McGillivray's (1997) examination of the centrality of childhood in colonial and postcolonial Canadian policy and Miller's (1996) examination of residential schools.
- ³ Foucault uses the concept of pastoral power to describe a benevolent form of power. For Foucault, the pastorate is a prelude to governmentality through procedures and "through the constitution of a specific subject, of a subject whose merits are analytically identified, who is subjected in continuous networks of obedience, and who is subjectified (subjectivé) through the compulsory extraction of truth" (Foucault, 2007:184-185).
- ⁴ Extrajudicial sanctions and extrajudicial measures are alternatives to traditional criminal justice programming made available under sections 6, 8 and 10 of the YCJA. Extrajudicial measures refer to pre-charge proceedings outside of the formal court system. Extrajudicial sanctions divert charged young people in conflict with the law away from the traditional criminal justice system.
- ⁵ This information was gathered as result of a Freedom of Information request.
- ⁶ Pseudonyms were used for research participants.
- ⁷ Notably, despite the standardized approaches in programming that many of the PVS workers identified as prevalent, research participants chose to engage activate texts (Smith 1987) as part

of a data collection process with worksheets that they created. Research respondents cited various reasons for this choice including being concerned about sharing trademarked documents that were part of packages and feeling that their own worksheets were more exemplary of their work with clients.

⁸ Bevir (2013) explains, “To say that people are situated agents is to say only that their intentionality is the source of their conduct; they are capable of using and modifying language, discourse, or tradition for reasons of their own. It is not to say that their intentionality is uninfluenced by their social context” (p. 37).