Parole for Life: A Qualitative Inquiry into the Canadian Life Sentence

by

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Bachelor of Sociology, Social Research Concentration, University of the Fraser Valley, 2022

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We acknowledge and respect the Lək̓ʷəŋən (Songhees and Esquimalt) Peoples on whose territory the university stands, and the Lək̓ʷəŋən and W̱SÁNEĆ Peoples whose historical relationships with the land continue to this day.

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Abstract

Life sentences in Canada punish individuals until their deaths, constituting the harshest sentence permissible under the Criminal Code. Canadian life sentences are presently among the harshest versions of life imprisonment globally. There is a dearth of research into life sentences and their impacts in the Canadian context. To address this, this thesis presents the findings of a qualitative study that considers 19 interviews with life sentenced people in Canada who are living in the community on parole for life. It draws from standpoint theory and thematic analysis as its methodological approach, centering the experiences of people with the sentence, then broadens to locate individual experiences within the legislative and policy framework that they are embedded within and socially organized by. This approach highlights the ways that life sentences constitute an opaquely administered sentencing regime that is operating in conflict with the listed goals and limits of Canada's prison system. The goal of Canada's prison system is to be reintegrative, yet through the administration of the sentence, life sentenced people are both expected to and prevented from reaching this goal. This liberatory research roots analysis in critical legal and political theory, centering the impacts of law in society. It demonstrates that the conditions of parole-for-life are operating without procedural safeguards, fracturing families and creating invisible isolation in the community in particularly harmful manners for Indigenous Peoples, and for the many very young people who are given live sentences in Canada. Building on Agamben's concept of states of exception, parole-for-life is explored as a rising status of exclusion, pronouncing not just the adverse impacts this status creates for those who are subjected to it, but also the power potentialities that the increasing normalization and presence of this status provides to the state. Broadly, findings offer that the presence of perpetual punishment is changing the nature of the relationship between citizen and state. Practical policy and legislative solutions are offered, emphasizing the need to legislate a process to terminate life sentence parole after a successful behavioral period is demonstrated in the community, which is aligned with international human rights law and the practices of many countries globally.

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Most significantly, I acknowledge the contributions of the many life sentenced people and their communities who participated in this research, who so generously opened their lives and experiences to me, and who represent the heart of this research and its objectives.

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"People go in very young and they come out much older "

"I am 42 years old…I am not who I was when I was 18…I am an adult and can make decisions about who my friends are. If the system can't trust me that much, then what are we all doing here, really?"

Introduction

Life sentences in Canada punish individuals from the day they are arrested until their deaths, constituting the harshest sentence permissible under the Criminal Code[1], and making the Canadian life sentence among the harshest versions of life imprisonment globally. Unlike the very few countries which administer 'life without parole' versions of life sentences, most life sentences globally provide some mechanisms for individuals to be relieved over time of the punishment and restrictions that they experience, if not relief from the sentence altogether (Van Zyl Smit & Appleton, 2019). In Canada however, life sentences are imposed as a mandatory minimum penalty that exist for the duration of a person's natural life, with life sentenced people kept either in penitentiaries or in the community on restrictive forms of parole, ending only by their death (Parole Board of Canada, 2024).

In Canada (and globally) the use of life sentences is rising. In 2024, 27.8% of all federally sentenced people in Canada have life/and or indeterminate sentences (Public Safety, 2024), a figure which has steadily risen since the introduction of life sentences in 1976 (Parkes et al., 2022). There is also a dearth of insight into the Canadian life sentence. It is poorly studied, there is no policy direction related to it, and its conditions have not been subjected to any evaluation or scrutiny beyond two qualitative inquiries conducted in the early 2000's which focused upon individuals' periods of re-entry on parole in Canada, and the more recent legal scholarship of Debra Parkes, which will be emphasized throughout this thesis. Despite the sentence's severity and increasing prevalence, the last and only dedicated government driven research into the effects of life sentences and lengthy incarceration dates to 1991. American and

[1] The Criminal Code contains the legislation regulating criminal trial, conviction, and sentencing procedures.

European scholars problematize life sentences' inherent justness on global scales (Price, 2015; Van Zyl Smit & Appleton, 2019), but Canada has notably been excluded from this examination due to an absence of available Canadian data.

While there is little information across both public and policy domains about life sentences in Canada, there is peripheral evidence of glaring problems, both within the sentence's structure and administration, and evident through *who* is being subjected to it. While it is widely assumed in media discourse that life sentences are only given to people who commit exceptionally heinous acts, there is a broad scope of convictions that result in use of the sentence (Kish & Humphrey, 2024). Demographic concentrations of racialized populations among those sentenced to life suggest prejudicial application (Parkes, 2021), and mounting evidence suggests a high prevalence of wrongful and over-convictions at the life sentence level (Pate, 2022; Roach, 2023).

To begin to gain insight into the impacts, effects, and socio-legal context surrounding life sentences in Canada, and more specifically, to grapple with what it means to allow a sentencing regime which punishes individuals for their lifetimes, I interviewed 19 life sentenced people who have gained parole and spoke with them about what parole for life means and how it unfolds over time. I interviewed people who have lived in the community on parole for a range of years - the shortest being 2 years since release from prison and the longest being over 35 years ago. These individuals generously shared their experiences and perspectives with me, allowing this thesis to inform the literature by exploring the way in which life sentences are carried out from the perspectives of those who experience them. In this research, I have sought to answer the following research questions:

1) What are the experiences of people on parole for life in Canada?

2) What are the impacts of being on parole-for-life on people's ability to participate in the social world around them?

3) Are there social implications that flow from the practice of perpetual punishment?

While this thesis follows academic tradition in language and format, it also aspires to be an accessible text to audiences from diverse backgrounds, and so utilizes clear language and footnotes to define and contextualize legal histories/principles and academic nuance when rooted in a specific tradition, where possible. It broadly aspires to increase understandings of how Canada punishes increasing amounts of people perpetually through the life sentence, as this phenomenon presently largely exists invisibly. By working to answer my three research questions, this research aims to spark broader questions for scholars, policy makers, and the general public alike to grapple with the ethics of lifetime punishments, especially as it is being imposed predominantly upon multiply disadvantaged people with little to no access to procedural safeguards. Through this emphasis, it encourages readers to think more deeply about life sentences, and to question whether perpetual punishment can ever be justly applied.

My research questions are particularly important both because of the severity of the consequences that result from receiving a life sentence, and because the Canadian government maintains many claims to reducing systemic discrimination, inequality, and to ending the mass incarceration of Indigenous Peoples, all of which (as this thesis will demonstrate) are systemic social problems bound to the rising use of life sentences. Moreover, these research questions seek to hold the government to account in relation to its legislative requirements related to criminal law and punishment, which mandate that incarceration should be limited in its use, temporal in nature, and applied in the least restrictive manner permissible (Canada, 2023; CCRA, 2024).

The format of my thesis is as follows: I first outline what is known about life sentences, and provide a generalized backdrop[2] into the legal scope and socio-political culture of incarceration in Canada. Then, I articulate the theoretical frames underpinning this research, which specifically draw from critical traditions in legal and political philosophy, including critical legal theory (critical jurisprudence), biopolitical power, and states of exception, as well as the sociological approaches of standpoint theory and institutional ethnography. Following this, I outline my methodological decisions and research design process. Specifically, I articulate how I use the qualitative method of thematic analysis approach as positioned by Braun and Clark (2006) and Nowell et al. (2017). Presentation of key findings from my interviews follow. My findings highlight shared experiences of people on parole for life in Canada, and emphasize participant perspectives on needed change. Then, drawing inspiration from institutional ethnography, I locate individuals' experiences within the broader legal context that they are embedded within, that is, the legislative and policy framework regulating them. By situating the experiences of people on parole for life in socio-political-legal context, and integrating analytic frameworks from critical legal theoretical traditions, I emphasize the *impacts* of the law, at both the individual and macro scale. I do so to highlight divergence between law on the books, and law in action (Allison, 2015; Douzinas & Gearey, 2005), and more wholly, to focus attention on fundamental incompatibilities between people's experiences, and the legislated purpose and limits of law that are claimed to be actualized through the administration of criminal sentences in Canada.

[22] I emphasize that this backdrop is generalized to highlight that there is considerable nuance and history to incarceration and its socio-political embeddedness, which I could not include in this thesis due to its scope.

In the pursuit of answering my research questions, it became obvious (as these findings will demonstrate) that life sentences are being administered in a myriad of exceedingly harmful ways. Life sentenced individuals are subject to a perpetual Sisyphean task; from their first day in prison, they are expected to work for years and decades toward the possibility of parole, expected to one day reintegrate into the community as law abiding citizens. However, those who make it to parole are then subjected to conditions which deny their reintegration, conditions that preclude the possibility of their full social participation, leaving them invisibly suffering in the community while witnessing the world around them but unable to fully participate in it. These conditions are operating absent policy direction, and in fact, in violation of multiple legal principles. Yet, people on parole for life find themselves excluded from legal protections and opportunities for redress. The conditions that life sentenced people on parole are subjected to are especially harmful to the many vulnerable and multiply disadvantaged communities who represent life sentenced people, especially Indigenous peoples. Thus, to engage with the implications of these findings and consider why social change has been absent despite the legal contradictions and adverse social impacts life sentences are producing, I briefly consider the legal consciousness of people on parole for life in Canada.

I conclude by centering consideration of the individual, social, and legal impacts that flow from the perceived exceptionality of life sentences. I problematize both the harshness and the contradictory nature of conditions of life sentences, and advance that legislative processes must be implemented to provide opportunity for relief of punishment for individuals who have lived for a number of successful years on parole. Absent this procedural safeguard, life sentences create a new sub-citizen legal class of person: the perpetually criminalized 'offender,' who lives in the community and appears outwardly as citizen, but who is invisibly punished forever. A

person subjected to an absolute and unconstrained version of the law, who does not benefit from the rights and constitutional guarantees of citizenship. Instituting a procedural safeguard to provide relief of punishment is not only the key recommendation advanced by participants, but a small and pragmatic legislative solution that can *begin* to address the tensions and issues produced by the invisible rise of the Canadian life sentence, in the hope of a more just social world.

Chapter 1

Literature review

This chapter provides insight into incarceration, and parole generally in the Canadian context. In addition, it outlines what information is known about life sentences in Canada, and as well offers information about life sentences from a global perspective for comparative value. This chapter also summarizes elements of findings from the limited scope of inquiry that has been made into Canadian life sentences to date. The purpose of providing this depth of background information is to assist readers of this research to better understand the topic in study, especially given that knowledge about the realities of incarceration in Canada tend to be invisibilized and unknown among the general public. It seeks, accordingly, to help readers to understand the legal, political, and social context within which life sentenced people exist.

Incarceration in Canada

Understanding who goes to prison in Canada

The populations who experience incarceration in Canada do not represent the country's most deviant or dangerous, but the country's most socially and economically disadvantaged populations (Côté-Lussier, C, 2016; Kish, 2021). The overlap between incarceration and social marginalization is consistent globally (Eubank & Fresh, 2022; Heffernan et al., 2009). and is most evident in Canada especially in terms of the mass criminalization of Indigenous Peoples. While Indigenous Peoples represent approximately 5% of the population in Canada, they account for over 32% of all federal prisoners, and more than half of all women in federal prisons. In the province of Ontario, there are also vast representations of Black people in both federal and provincial prisons (Owusu-Bempah et al., 2023). In provincial prisons, especially in Manitoba

and Saskatchewan, Indigenous people are also vastly overrepresented, relative to the general population (see Appendix C, Table 1).

In addition to being a racialized population, there are a high prevalence of incarcerated people who are survivors of physical and/or sexual violence and victimization (Zinger, 2020). This figure overlaps with Canada's criminalization of addiction, which leads many people into incarceration who have histories of, and/or who are in, active addiction, and where many people who suffer from addiction also suffer from histories of victimization (Jones et al., 2019). People admitted into federal custody also have extremely low levels of formal education comparative to the general public, entering penitentiaries with an approximation of grade 8 being the highest level of formal education attained at the time of sentencing (see Lea, 2023). People who become federally incarcerated also come from communities that overwhelmingly experience poverty and economic precarity (Sapers, 2016; Zinger 2020). There is a high prevalence of people, especially women in prison who enter prisons with pre-exiting mental health diagnoses (Pate, 2016), and experiences in prison both exacerbate pre-existing mental health issues (Sapers, 2024) , and create adverse mental health outcomes for people (McWhinney, 2022; Sapers, 2024)[3]. It is increasingly being recognized that the experience of being incarcerated in and of itself, and especially the experience of length and/or in segregative conditions, produce post-traumatic stress disorder (Anderson et al., 2016; McWhinney, 2022).

The legislated purpose and limits of incarceration in Canada

While punishment is an objective in the criminal code, Canada's salient legislation regulating criminal legal procedures and convictions, the same law cautions that incarceration is

[3] As the Structured Intervention Unit's (SUI) Implementation Advisory Panel notes, the overlap between adverse mental health outcomes and being subjected to a SUI has a multidirectional causal arrow (Sapers, 2022).

only to be used when less restrictive measures are not possible. When someone is sentenced to a period of incarceration a different authority becomes salient: the Corrections and Conditional Release Act (CCRA) and Corrections and Conditional Release Regulations (CCRR), respectively. In sum, the act of becoming convicted is regulated through the Criminal Code, while the experience of being incarcerated (for periods of longer than two years) is regulated through the CCRA and CCRR. And within these laws regulating Canada's federal prison system, the objective of punishment is not permitted. What this means is that removal from community through the imposition of a prison sentence is supposed to be the punishment a person receives for being criminally convicted (Parkes, 2019). All experiences beyond this are mandated to serve the interests of an individual's reintegration and rehabilitation, under the assumption that this process will support public safety (CCRA, 2024). When administering a criminal sentence, all practices and aspects of the sentence must be administered in the least restrictive manner possible—when there is a less restrictive alternative, it must be utilized (Criminal Code, 2024). All decisions made by officials representing the Correctional Service of Canada, the organization responsible for administering federal incarceration must be done with a focus on alternatives to incarceration (CCRA, 2024).

Importantly to this research, all practices and conditions required to administer a criminal sentence must respect the foundational human, legal, and constitutional rights that all people in Canada maintain. To be clear, federally sentenced people in Canada retain all rights guaranteed to all people in Canada, except only those that need to be constrained to impose the sentence. This is generally understood to be limited to the removal of liberty during custodial periods of a sentence, in the least restrictive manner possible (CCRA, 2024). All conditions of criminal sentences must be subject to due process, people must not experience cruel or unusual

punishment, and when people's rights and liberty are constrained, there must be a clear and proportionate link to a perceived risk. These requirements, outlined in the Corrections and Conditional Release Act (CCRA) and Regulations (CCRR), respectively, are claimed to be operationalized through a policy framework known as Correctional Service of Canada Commissioner's Directives, which outline both the conditions in prison, and those of parole.

Socio-political tensions in the administration of Canadian incarceration

Myriad literature describes Canada's long and contentious socio-political relationship to the administration of incarceration. Since the early 2000s, Canada's approach to incarceration is recognized as marked by an onslaught of 'tough on crime' political discourses and reactionary policy changes that openly proclaim harsh punishments, and a general disregard for the value of incarcerated people's lives (Kish, 2021; Webster & Doob, 2015). While the early 2000s have come to be understood in the literature as the beginning of a more 'punitive turn' (Pratt, 2005), Canada's prison system has long been criticized as operating beneath a 'liberal veil' even during those time periods when, on the surface, penal practices appeared less retributive or 'gentler'. At a deeper glance, the logics and inherent character of incarceration reveal its necessarily punitive character (Clarkson & Munn, 2021; Parkes, 2019) and underscore its primary objective as punishment (Gray & Salole, 2006). The persistent presence of social structures that punish and harm individuals beneath Canada's listed reintegrative penal mandate have led to general 'incoherence' in Canada's prison system (O'Malley, 2014), sometimes referred to as a 'swinging pendulum' between reintegrative and retributive policy direction (Duguid, 2000). There is a demonstrated and lengthy record of volatile and divisive political attitudes about crime and reactionary policy directions in Canada for readers who would like to learn more about this

history (see Clarkson & Munn, 2021; Kish, 2021; Kish & Humphrey 2024; O'Malley, 2014; Pollack, 2009; Webster & Doob, 2015).

Life Sentences

The life sentence globally

Life sentences are a rising global phenomenon. The rise of the life sentence replaces the use of the death penalty in many states around the world. The most concise information on life sentences from a globally comparative perspective is a book written by Dirk Van Zyl Smit and Catherine Appleton (2019) entitled *Life Imprisonment: A global human rights analysis.* Canada was in fact excluded from this analysis due to an absence of data about the Canadian life sentence. In the preface of this text, the authors offer a reflection, which suggests that Canada is not unique in having failed to capture this carceral practice in a legislatively or historically meaningful manner. The authors note how globally, "little is known about life sentences as an institutional phenomenon" (Van Zyl Smit & Appleton, p. x), and in order to put forward a coherent analysis, the authors had to work at national levels to 'piecemeal' information together. Van Zyl Smit and Appleton highlight that there is a lot of variation globally in terms of which states use life sentences, and in the manner in which they are imposed.

There are several nations that view incarceration for one's natural life as egregious. Portugal, Norway, and Spain are among some notable names of states who refuse to incarcerate for life, and it is important to note that most countries who do impose life sentences do not imposed them for the duration of a person's natural life, but instead offer pathways out of the sentence relative to time and in many circumstances, behavior. In Denmark for example, the life sentence is the most severe legal sanction, but a process exists whereby a pardon hearing is

possible after 12 years have been spent in prison (Van Zyl Smit & Appleton, 2019). The United States sits on the extreme opposite end, which imposes several iterations of life sentences that vary greatly across states, but the culmination of which can account for approximately 34% of life sentences globally, as of 2016 (Van Zyl Smit & Appleton, 2019). Their book also reports that India has the highest percentage of life sentenced people relative to their total prison population, with 53.7% of all sentenced persons being sentenced to life. Following India, Kenya, the United Kingdom, South Africa, and the United States are the countries with the next highest listed rates of life sentenced people in relation to their total prison populations: 11.4% or Kenya's prison population have life sentences, 11% in the United Kingdom, 10.5% in South Africa, and 9.5% in the United States (Van Zyl Smit & Appleton, 2019).

The Canadian life sentence

There are presently 5,792 life sentenced people in Canada, representing 27.8% of all federally sentenced people (Public Safety, 2024). The sentence formally replaced the death penalty in the Criminal Code in 1976. Since that time, life sentences have been written into the law to be imposed as a sentence for a host of convictions. There is a mandatory minimum sentence of life for both first degree and second-degree murder convictions (Criminal Code, 2024). There is also a maximum sentence of life for several other convictions, including manslaughter, party to murder, attempted murder, conspiracy to commit murder, accessory after the fact to murder, certain sexual assault charges, certain drug trafficking convictions, robbery, kidnapping, treason, and other politically motivated crimes against the state. Most life sentenced people are convicted of second-degree murder. Second degree murder convictions are imposed when a court finds that a death occurred but was not premeditated (for example, crimes of

passion, fights between strangers which resulted in the death of one person, etc.). This context represents over 70% of all life sentenced people in Canada (Public Safety, 2024).

Who gets life sentences in Canada

There is strong evidence to indicate a prevalence of wrongful convictions at the life sentence level (Pate, 2022; Roach, 2023). Kim Pate (2022) and Kent Roach (2023) have both published on the legally 'shaky' convictions that many people are subjected to, especially Indigenous people. The rising application of life sentences on Indigenous peoples is more than cause for concern and attention to life sentences: between 2012 and 2022, 61% of women who received life sentences were Indigenous. Between 2012 and 2022, 29% of men given life sentences were Indigenous. Looking at only the previous five years, this rate rose to 31% overall, and in 2022 (the last year there is publicly available data for), Indigenous men represented 35.4% of newly life sentenced people (Public Safety, 2024).

Public accounts of life sentenced people in Canada are both opaque, reductionist, and incredibly stigmatized (Kish & Humphrey, 2024) In news media and in political rhetoric, the subject of life sentences barely arise, and when they do, life sentenced people are typified by an image of the 'worst of the worst', of those few people convicted of serial killings and egregious acts of violence, often involving sexual elements (Kish & Humphrey, 2024). However, just as is the case with Canada's wider prison population, people who receive life sentences represent Canada's most disadvantaged, not most deviant, people (Kish, 2021); their stories and experiences, however, are invisible in public conversation and policy space. In 2022, Canadian Senator Kim Pate released a report detailing the histories 12 Indigenous women with life sentences in Canada, who all at some point had been labeled 'Canada's most dangerous woman'. Pate's report breaks down their tragic lives prior to incarceration and unpacks the very

questionable convictions that led them to be subject to life sentences (Pate, 2022). As the findings of this study will support, a great deal of life sentenced people received their sentences as very young people from marginalized communities.

While there is very little scholarly attention into life sentences in Canadian context, UBC Allard Law School's Chair of Feminist Law, Debra Parkes has maintained a longstanding focus on life sentences, especially considering their increasing punitiveness over time. While many concerned with incarceration will leave life sentenced people out of their analyses, Parkes argues that feminist and abolitionist scholars must "begin with life", centering this punishment regime as exemplary of the punitive character inherent within Canada's overall approach to punishment, broadly (Parkes, 2021).

Problematizing life sentences in the law

Life sentences constitute the harshest punishment permissible within Canada's Criminal Code; a perpetual punishment- the effects of which, on all scales of consideration, are virtually unknown. The life sentence exists in contradiction with the legislated purpose and mandate of the Canadian prison system, which is established through the Corrections and Conditional Release Act (CCRA) and requires that all of the processes and functions within the system are aimed at 'rehabilitating and reintegrating individuals as law abiding citizens' (CCRA, 2024). Reintegration is both expected of life sentenced peoples, yet denied by the sentence's structure, in that it permanently prevents life sentenced individuals from fully reintegrating by keeping them under the status of parolee forever.

Indeed, the possibility of parole constitutes the most liberty life sentenced people can ever attain (Parole Board of Canada, 2024), and yet perpetual nature of life sentences within a system geared to reintegrate have not been studied in a policy framework. Herein lies initial

insight into the cruelty of a perpetual sentence within a reintegration purposed system; the imposition of the life sentence in the Criminal Code as a punishment and deterrent, and the administration of the life sentence through the Corrections and Conditional Release Act as a process through which one becomes reintegrated as a citizen fundamentally misalign. This misalignment creates an additional and implicit layer of punishment for life sentenced people through a lifetime of being kept beneath institutional processes that expect them to work toward an ultimate status (reintegration as citizen) that is unreachable (given that parolee is the highest status that can be attained, and all the limits parole entails). This misalignment relegates life sentenced people to a perpetual Sisyphean task, the pursuit of a goal they can never achieve.

Parole and parole for life

Parole for life globally

In Chapter 10 of the text, *Life Imprisonment: A global human rights analysis* (2019), Van Zyl Smit and Appleton describe how globally, most life sentenced people are one day released from prison into the community. The dominance of this legal structure may result from international human rights standards, which dictate that prison systems must provide pathways for rehabilitation and reintegration. While many of the 83 countries included in their analysis indicate that upon release, life sentenced people are placed on parole with conditions imposed. In most countries, there are both standard conditions that all people on parole are subject to, as well as 'special' conditions, which are imposed to respond to a perceived specific risk. Conditions are increasingly intrusive into all domains of a person's life, requiring people on parole for life to have parole officers visit their homes, to approve their work, and beyond.[4] Appleton and Van Zyl

[4] This information will be crucial in the discussion section of this thesis, which explores Canada's use of standard and special parole conditions.

Smit write poignantly on how the tone of parole conditions being imposed on people with life sentences globally do not reflect a spirit of reintegration and reformation, but of surveillance and control[5] that is being referred to as "the new penology" (p.281)

> In many countries, the conditional release process for life sentenced prisoners points toward a marked shift in modes of crime control, away from the old penology concerned with normalization and rehabilitation, to a relatively "new penology", linked to what has become known as actuarial justice and illustrating the prominence of risk-based approaches to crime control. Extended parole conditions, civil disabilities, sex and violent offender registrations, notification schemes…are characteristic of the new penology.

On this trend as it has manifested in the United States, Petersilia (2003) notes that:

> Parole supervision in the United States has been transformed ideologically from a social service agency to a law enforcement system of surveillance and control. The traditional correctional objectives of rehabilitation and the reduction of recividism have given way to the rational and efficient deployment of control strategies for managing (and confining)…Surveillance and control have replaced treatment as the main goals of parole". (p. 281)

As a notable outlier, in Bangledash, once life sentenced people are released from prison, they are not subject to ongoing "legal restrictions and control measures"; as Bangladeshi authorities reported to the authors, "once you are freed, you are free" (Appleton and Van Zyl Smit, 2019, p. 276). One important characteristic about periods of parole for life sentence people that diverges greatly, even within many countries is duration. Periods of parole range from as

[5] The reading of Appleton and Van Zyl Smit's text followed the research design and data collection process This is significant in that the ordering supports the validity of my findings. The idea of the new penology is very relevant to the substance of my findings, indicating that Canadian applications pof incarceration follow its logics, albeit that I did not become aware of the term 'new penology' until the latter stages of data analysis.

little as six months to the duration of a person's life, but Appleton and Van Zyl Smit highlight how generally, parole conditions are legislatively structured to be individualized and determined largely by behavior, with the capacity to become less restrictive over time in most countries. This characteristic diverges from the findings of this study and will be explored at length in the discussion chapter of this thesis.

Parole for life in Canada

Life sentences in Canada are each accompanied by 'possibility of parole' eligibility dates, and this structure has led to myths that the Canadian life sentence does not last for the whole duration of a person's life. It is important to clarify that parole eligibility does not guarantee a person will gain parole, and moreover, that parole is not freedom. Those who do gain parole are being kept under statically restrictive conditions for years and decades, as I will explicate subsequently, until their deaths or return to prison for breaching their conditions (Parole Board of Canada, 2024).

When every life sentence is imposed upon a person in Canada, it is accompanied by a parole eligibility date, which is determined during sentencing hearings after a guilty verdict has been found. Parole ineligibility dates refer to a minimum number of years a person must spend in prison prior to becoming legally eligible *to apply for* parole. For individuals convicted of first degree murder, parole ineligibility periods are set at not less than twenty-five years in prison, and for individuals convicted of second degree murder, there is a minimum parole ineligibility period of ten years in a penitentiary. For those who receive life sentences for other convictions, there is no minimum ineligibility period determined.

At the commencement of a life sentence, all individuals are sent into federal penitentiaries, and are introduced to a prison environment where it is communicated to them by

every actor in the system—from peers to security staff, prison management and parole officers alike, that they must work every day from the penitentiary environment, for not less than the entirety of the years captured by their predetermined parole ineligibility periods (between 10 and 25+ year), toward the eventual goal of parole (Kish, 2021). However, people on parole exist under the total authority of correctional agencies, who hold complete legal power to monitor and limit their movement, actions, employment, and relationships, and hold discretionary power to reincarcerate them (Parole Board of Canada, 2024).

Just as is the case for people with legal problems in other legal spheres, people's unmet legal needs on parole "tend to lead to other social or health related problems. Left unresolved, the potential cost—economic, health, social, et cetera—to the individual, as well as to the state, is significant…" (Farrow, 2014, p .965). For life sentenced people, parole revocation can lead to lengthy or permanent reincarceration. A legislative change implemented in 2011 in Canada moved the legal requirement to be seen before the Parole Board following a parole revocation for people with life sentences from one year to five years, following revocation. The system may initiate a parole hearing prior to five years, but it is not legislatively required to prior to this time, adding years and years to the time life sentenced people spend in prison. In some cases, incarceration following parole revocation for life sentenced people has led to loss of life, with individuals being so hopeless after having their parole revoked facing the prospect of spending more years in prison that they have turned to suicide (Parkes, personal communication, 2023).

Punitive conditions in prison, and trends to lengthier periods of parole ineligibility

As noted above, not all life sentenced people in Canada will be granted parole. It is the Parole Board's mandate is to assess perceived present and future risk when deciding whether to grant or deny someone's parole. In cases where the future safety of a community would be

unlikely (such as parole hearings for ‘serial killers’), a negative parole outcome may not be surprising. However, many life sentenced people are continually denied parole even when there are not indicators of future potential risk, especially when there are political associations or high media coverage attached to their conviction. For example, Peter Collins was a man given a life sentence for the death of a police officer in 1983. He had been eligible for parole since 2008, but was continually denied parole, having five negative parole hearings between 2008 and his death in prison in 2015. Despite having strong public support calling for his release, parole hearings related to the deaths of police persons, and even the families of police, are heavily protested by police unions and objected to in media accounts. Collins had, like all life sentenced people, been expected to work for all his years in prison toward release, and he certainly had done all he could do, toward this. Collins was recognized in one national post article about the terminal cancer which he succumbed to in 2015 as being “ a model prisoner — someone dedicated to furthering his education and helping other inmates” (Duffy, 2015). While the Parole Board of Canada will explicitly claim it is an independent decision maker and that its decisions are impartial and not subject to political impact, the Parole Board is, at its core, a social institution which is embedded within broader social contexts and constraints that render it vulnerable to political motivations, cultural orientations, and social tensions which represent the broader socio-political agendas of the day.

Both highly politicized and egregiously violent convictions are gross outliers in consideration of the sum of people who receive life sentences. Most life sentenced people are sentenced to 2nd degree murder (Public Safety, 2024) and their convictions are not particularly troubling nor politically charged, but are rather the outcome of one instance of unanticipated violence, crimes of passion, or instances of unrecognized self defence. Many of these people also

struggle to gain (and to maintain) parole, due to the conditions of penitentiaries themselves, which work against people's wellnesses in myriad ways (CAEFS, 2022). Individuals with life sentences, for example, can and often do end up with lengthy institutional files, which include all of the documentation that security staff, parole officers, and institutional management may write about a person, including – most importantly any disciplinary infractions a person has been associated with over their years inside (Keating, 2020). Disciplinary charges in prison can be counterintuitive to what is considered positive in the community; for example, in penitentiaries, sharing and bringing food to another person can result in a disciplinary charge (Kish, 2016). Having multiple disciplinary charges can even lead to higher security classifications, which further prevents parole.

For people spending decades in these settings, the institutional (penitentiary) criminalization of kindness leads to very lengthy prison files and negative institutional records, which are often negatively interpreted by the Parole Board members assigned to a person's parole hearing, who may not understand the nuances of penitentiary environments. Indeed, when a person is being considered for parole, everything in a person's institutional file will be considered in their parole hearing (Parole Board of Canada, 2024), which makes gaining parole all the more challenging for people who have spent many years in prison and have a higher likelihood of incident. This challenge becomes especially true for people who enter prison very young, and for Indigenous and Black people, where systemic discrimination impacts all points in legal system involvement, not least of which, relating to the goals of release (Canada, 2024b; Owusu-Bempah et al., 2023). Recently, the inability of people in federal prisons to gain parole due to systemic barriers has been successfully acknowledged through multiple court decisions concerning the impact of systemic racism and discrimination on Black people's experiences and

outcomes in the prison system, which have led to a requirement for the Parole Board of Canada to consider Impact of Culture and Race Assessment (IRCA) reports, (R vs Anderson, 2020). Failure to do so can be challenged as an error in law[6]. These assessments have yet to be widely implemented, but the strong legal rulings in their favor demonstrate that there are conditions apart from individual behavior which shape experience, and specifically, that systemic racism and discrimination also shape peoples experiences in prison.

The lengthiness of parole ineligibility periods handed by judges at the point of sentencing for life sentenced people has been steadily increasing since the 1980s, not because the there is been a shift in the nature of events which people are being convicted of, but because the courts and system overall have normalized more time in prison (Parkes et al., 2022). Where life sentences with a 10 year parole ineligibility minimum for convictions of second degree murder were for many decades the norm, judges routinely impose 12, 14, 16 year minimum ineligibility periods (Parkes et al, 2022). Where the prospect of spending a minimum of 25 years in prison was seen as so dire that it was accompanied with associated *faint hope* legislation, a clause that allowed for review of first degree parole ineligibility convictions after 15 years, this too has been abandoned under punitive reforms. These reforms further imbue our institutions with the authority to punish and abandon people, rather than to treat them humanely and support their ability to move back into the community as productive members of it.

Relatedly, life sentenced people are spending much longer in prison *beyond* their parole eligibility dates than they used to. This means that even as individuals become eligible to apply for parole, they either are foregoing their hearings (as parole officers often encourage individuals

[6] See R. v. Anderson, 2020 NSPC 10 (CanLII), <https://canlii.ca/t/j5rkq>, retrieved on 2024-08-07

to do), or they are applying for parole and not being successful in their applications, until after a number of hearings, if ever. As Parkes and colleagues' study (2022) highlights:

> Looking at those who had their first full parole eligibility date between 1986 and 2000, 41.7% were released within a year of their eligibility date. Of those who became eligible between 2001 and 2008, about a third were released within one year, and of the most recent group (eligible between 2009–2015), only 14.8% were released within one year of their parole eligibility date (p. 84).

Despite that reintegration is the stated goal of prison, the increasing amount of time spent in prison by life sentenced people, and the fact that some life sentenced people will never gain parole seems to be normalized by the Correctional Service of Canada, as evidenced by CSC's 2024-2025 departmental plan, priority one: the "Safe management of eligible offenders during their transition from the institution to the community, and while on supervision" (Correctional Service of Canada 2023-2024 Departmental Plan). This language represents a tone shift away from the CSC's overarching legislated mandate of rehabilitation and reintegration for all[7].

Presently, approximately 60% of life sentenced people are in prison, while 40% are in the community on parole (Public Safety Canada, 2024). As of April, 2022, of the 2,194 life sentenced people in the community on parole, 79.5% were sentenced to 2nd degree murder (Public Safety Canada, 2024). For those who are eventually granted parole, people enter the community after having experienced years and generally decades within chaotic, unstable, violent and restrictive penitentiary environments (Hansen, 2018; Kish, 2021). Having been prevented from meaningful familial, economic, vocational, technological and social development

[7] According to the Corrections and Conditional Release Act, the purpose of the prison system is to support a just and humane society by assisting the rehabilitation of [people] and their reintegration into the community as law-abiding citizens through the provision of programs in penitentiaries and in the community (CCRA, 2024, section 3).

(Munn & Bruckert, 2013), life sentenced people begin the community re-entry process from a place of great socio-economic disadvantage, and with an added burden of heavy stigma associated with being on parole (Kish & Humphrey, 2024). From this place, individuals are expected to build lives for themselves, while also navigating a number of restrictive parole conditions. Remember, life sentenced people who gain parole in Canada are kept on parole until their deaths, or return to prison for breach of one of their conditions.

As the findings chapter of this thesis will demonstrate, the quality of life and the availability of liberty for people on parole for life has changed quite significantly, and in a negative direction, since the sentence was first integrated into the prison system. Prior to the late 1980's, parole generally was institutionally and culturally understood to be a supportive institution guiding reintegration (Canada, 2024a). By this logic, people on parole, including people on parole for life could see their conditions gradually lessened as they developed careers and families for themselves, culminating in a "parole reduced" status[8], which essentially allowed people to move forward with their lives, pending they did not have further negative interactions with the police or justice system. Following the 1980's, however, the quality of parole has transformed; it has been imbued with a character of restriction and ongoing punishment. Community parole officers, as this study's findings will demonstrate, no longer tell people that their conditions can be removed, with conditions largely remain as restrictive for people 30 years later as they were when they were first released from prison. The quality of life on parole is proclaimed today publicly in a Parole Board of Canada's public resource called "Myths vs

[8] Interestingly, parole reduction still appears in legislation today, in CCRA section 161.

Realities" as being intentionally restrictive and serve explicitly as an ongoing form of punishment (Parole Board of Canada, 2021):

> A life sentence means life. Lifers will never again enjoy total freedom…Lifers can only be released from prison if granted parole by the Board…If granted parole they will remain subject to the conditions of parole and the supervision of a CSC parole officer for the rest of their lives. Parole may be revoked and offenders returned to prison at any time if they violate the conditions of parole or commit a new offence… (para 38, lines 4-10).

Understanding Parole in Canada

The practice of parole and community incarceration is increasingly being naturalized as normal component of social fabric. Parole as a phenomenon today falls within a wider carceral trend of increasingly mobile, complex, and invisible forms of incarceration, categorized under the broad heading of 'community corrections'. The term community corrections in Canada describes the arm of the Correctional Service of Canada who oversee community based incarceration, namely people on parole. The legal status of being on parole entails being under a criminal sentence, but living in the community for a portion of the sentence. In the community, people on parole remain under the authority of carceral agencies and institutions who hold power to suspend their parole, in response to breach of conditions or the perception that a person on parole is at risk of breaching their conditions.

Public thought tends to conceptualize parole as an *earned* liminal space between freedom and incarceration. In recent years, community incarceration has even been positioned as a progressive solution capable of reducing global reliance on mass incarceration (American Legislative Exchange Council, 2015), however, as far back as 2010, Allspach was problematizing the conceptualization of parole as freedom. Allspach located parole as a

continuum of incarceration, a "transcarceral" space which "produce[s] continuities of confinement beyond prison walls on multiple levels," (p.721) an analysis confirmed through Van Zyl Smit's and Appleton's (2019) emphasis of 'the new penology', where risk management, control measures and surveillance apparatus have replaced conditions that support the successful determinants of community re-entry as a priority.

The history and changing scope of parole is, in and of itself, another topic under-represented in Canadian literature but understanding the socio-political history of the institution of parole provides important insight into the experiences of people on parole today, and into tensions and characteristics within the administration of parole, generally. Canada's system of parole was first enacted within an era of generally progressive prison reform (Clarkson & Munn, 2021). The institutionalization of parole driven largely by religious charities (Canada, 2024a). Whereas today the character of this institution intentionally proclaims itself as an instrument of punishment, and people exist under restrictive, static conditions, under the original intent of parole, and under its administration until the 1980's, parole was advanced to be a system to remove people from penitentiaries and from cycles of incarceration. As such, parole conditions were lessened over time to be responsive to one's needs and reintegration.

The system of parole in Canada began largely through championing by the Salvation Army, who visited penitentiaries and spoke against abandoning people to them (Canada, 2024a[9]). The goal of parole, first introduced in 1899 under the "Canadian Ticket to Leave Act" following British legislation, was accordingly to move 'redeemable' people back into the community. This process was facilitated by meeting eligible candidates within the prisons, then

[9] See History of Parole in Canada - Canada.ca

supporting a ‘community investigation’ process, through which one’s plan for living post release could be used to make a case to compel release. In fact, ticket of leave was actually framed as a pardon and designed with a particular kind of person in mind:

> a young man of good character, who may have committed a crime in a moment of passion, or perhaps, have fallen victim to bad example, or the influence of unworthy friends. There is a good report on him while in confinement and it is supposed that if he were given another chance, he would be a good citizen (Canada, 2024a, para 6).

This act reflected concern over the negative impact of the penal environment along with the importance of reintegration, “the sooner a man could be paroled, the sooner he could get back to supporting himself and his family” (Canada, 2024a, para 8). Importantly, individuals on ticket to leave were not under supervision after release, except for a commitment to report to the local chief of police, to agree to obey the law, and to avoid others who may be involved in crime (Canada, 2024a). During the Ticket of Leave era, support for an expansion of the use of parole continually increased, and systemic reforms were called for to make release from prison via parole efficient, standardized, and accessible to all (Canada, 2024a). These reforms were especially championed by religious advocates of redemption and fair treatment, and their advocacy against harsh penitentiary environments and against a lack of procedural clarity related to administering parole led to a number of reforms that shaped our present system (Canada, 2024a). Of particular importance was the establishment of an independent parole authority, the National Parole Board under the Parole Act of 1959, which was subsequently renamed to the Parole Board of Canada (Canada, 2024a). This monumental institutional development was followed by the establishment of the Correctional Service of Canada (CSC) in 1977, which combined the previous Parole Service

and Penitentiary Service. The goal was to align penitentiary environments with the positive 'reformation' of incarcerated people and the broader goals of community reintegration, which had been systemically entrenched through the establishment of Canada's parole system in years previous. The PBC was however skeptical of the CSC's ability to meet its mandate and effectively oversee periods of incarceration. Importantly, under the jurisdiction of CSC also went a 'community corrections' division, which assumed responsibility of the day-to-day overseeing of people on parole, leaving the only responsibility of the Parole Board to be an independent decision making body (Canada, 2024a).

The year 1992 marks the final systemic reform related to the legislative and institutional embedding of reintegration as the goal of Canada's prison system: the establishment of the Corrections and Conditional Release Act (CCRA, 2024). The CCRA is written in a spirit of human rights and the restrained use of incarceration, and clearly directs that the overarching purpose of incarceration is to successfully reintegrate people back into the community as law-abiding citizens. The CCRA is the overarching legislation that both the CSC and PBC must adhere to, and requires that all practices (including parole conditions) be imposed in the least restrictive manner possible, and that all decisions made in relation to incarceration must be responsive to people's unique mental, physical, cultural and other needs. Today, the CCRA remains the legislative authority regulating both the CSC and the PBC, and the CSC remains the organization for administering federal incarceration.

What is known about the *experience* of perpetual punishment in Canada

Since the 1990's, the prevalence of life sentences have risen, while research and policy focus on long-term incarceration has declined (Parkes et al., 2022). These contradictory occurrences are often attributed to the intentional creation of the 'closed doors' of penitentiaries

in Canada, where incarceration is administered insularly and without transparency or accountability (Wright et al., 2015). Such literature describes Canada as maintaining a "closed penal system whose knowledges and realities are largely expressed through the correctional system itself" (Wright et al., 2015, p. 113). While there is a dearth of information, some things are known about what it means to be on parole for life. For example, despite the barriers life sentenced people have overcome to gain parole, and the restrictive nature of parole, life sentenced people are associated with lower risk ratings and higher outcomes of success on parole than people with determinate sentences (Axford and Young, 2012). Though this evidence indicates the strong potential for life sentenced people to successfully reintegrate into the community, life sentenced people are never afforded the opportunity to become free or full citizens again due to perpetual parole (Parole Board of Canada, 2024).

Some ethnographic research has focused on re-entry outcomes for life sentenced people who receive parole in Canada, but focuses heavily on experience, and less on nature of specific parole conditions, or the legality of people's experiences over time on parole. Murphy and colleagues' (2002) text, *Paroled for Life,* focuses specifically on interviews with nine individuals on life-parole. Presented as full narrative accounts, the experiences of people on parole for life in Canada captured in this book indicate the 'haunting' and 'precarious' nature of being on parole for life, even prior to Canada's most recent punitive (re)turn (Pratt, 2005). These experiences result from people on parole for life knowing that no matter what kind of lives they build for themselves in the community, their place in it could be taken at any time via their return to prison (Murphy et al., 2002). "Your sentence has the appearance of being over," shares one of the participants of this study, "but its not. Life means life. It's never finished. For the rest of my life I'll have conditions of parole. I'll have people telling me what to do" (Murphy et al., 2002, p.

84). However, the publication of this book in 2002 limits the benefit to the impact of parole over the true life course its data, in that life sentences had only been formally enacted for 25 years. Closely related is Munn and Bruckert's (2013) study *On the Outside: From Lengthy Incarceration to Lasting Freedom*, which considers the ways in which people on parole gain stability in the community after lengthy incarceration. While not specifically focused on life sentenced people, their study presents findings from interviews with 20 individuals in Canada, 16 of whom have life sentences. Munn and Bruckert's (2013) findings also demonstrate tensions and complexities in aftermath of incarceration for lengthily sentenced people in Canada. One especially relevant finding to this study is that individuals on parole live in 'fragile freedom,' where they continue to face ''a profound sense of being abnormal, of being outside, of not belonging, despite their efforts to manage identity and accumulate assets'' (p. 169).

Parole for a lifetime has been described through one public account by Indigenous woman and author Yvonne Johnson not as living at all, but as being kept in a subjugated, limited place where all her actions and movement are restricted and surveilled, which amounts to 'existing in a state of survival' (Johnson & Scout, 2011). Johnson states that conditions of life sentence parole are a direct extension of colonial harm (Johnson & Scout, 2011), explaining how even years after prison, her body is kept in a small radius which she cannot leave without permission from the government, resembling Canada's historical segregation of Indigenous peoples through the reserve and pass system (see Storey, 2022).

Beyond the qualitative studies above which focus on the perspectives of life sentenced people, the most recent research that investigated whether exposure to long-term and perpetual sentences produce adverse impacts was conducted by Public Safety, and dates back to 1991. The research branch of the Correctional Services of Canada sought to answer the research question:

"What effect might very lengthy terms of imprisonment have on individuals?" (Porporino, 1991, p. 3). The study compiles a number of statistical trends and summarizes findings from related studies, and contends that if clear detrimental consequences of long-term imprisonment could be documented, either for [individuals] or the correctional system as a whole, then efforts could be made to mitigate these consequences" (Poporino, 1991, p. 3). Perhaps unsurprisingly by the nature of the study, Porporino concluded that there was not sufficient evidence that incarceration caused detriment. Instead, he arrived at the contradictory finding, by reviewing the available literature, that while incarceration produces harm, it is too subjective of an experience to identify exposure to it as producing general trends. On this he writes:

> On the one hand, the evidence indicates that imprisonment is not generally or uniformly devastating (Walker, 1983). No consistent relationships have been found between time served in prison and deterioration of mental state or emotional functioning, intellectual or cognitive abilities, physical condition, or social and interpersonal competence. Imprisonment, in and of itself, does not seem inevitably to damage individuals….On the other hand, it is also clear that long-term offenders react in particular ways to the circumstances of prolonged confinement. We know that relationships with family and friends can be severed, that particular vulnerabilities and inabilities to cope and adapt can come to the fore in the prison setting, and that the behaviour patterns and attitudes that emerge can take many forms, from deepening social and emotional withdrawal to extremes of aggression and violence ([Brodsky, 1985; Flanagan, 1981; Johnson, 1987; Toch, 1975] (p. 35).

Perhaps because of the incoherent conclusion of Porporino's study, Public Safety Canada has not developed a distinct approach to guide the implementation of long-term and life sentences.

Despite this, life sentenced people are an increasingly prevalent group, comprising near 28% of the total federal prison population (Public Safety Canada, 2024). Life sentenced people are also a hidden population, hidden in that there is not a policy directive for life sentenced or long-term sentenced prisoners in Canada. Nor is there an informed public discourse about life sentences. When life sentenced people appear in media, it is as archetypal folk-devil Others who are most often presented as deserving of punishment, through their being connected to the commission of egregious violence (Kish & Humphrey, 2024).

In 2015, Joshua Price published a book entitled Prisons and Social Death, which details the findings of a qualitative study he conducted about the social impacts of incarceration on individuals post release in the United States. Price's (2015) study finds that people who are convicted of law-breaking enter a cultural complex upon their release into the community, where even though they *appear* free, they are "forever reduced to the act they were convicted of" (Price, 2015, p. 47). This contributes to the "social death" of incarcerated people. The term social death is a concept Price extends from its original application by Patterson (2018) to subjects of slavery to illustrate how incarceration is a form of social violence that extends 'beyond the legal realm' traditionally associated with the imposition of criminal convictions in legal-rational democratic society, and creates wide reaching and often permanent loss of status for people. As Price (2015) aptly states,

> [social death] is…in some ways more ineffable, but no less powerful, than simply a question of rights accorded to citizens…[it] is not only a legal condition. It is a social condition. The social dead are not merely formerly full citizens who have temporarily lost some of their freedoms. Instead, their social status has changed much more radically (p. 48).

The concept of social death aptly illustrates that there are adverse and lifelong consequences that result from incarceration, and evidence of the characteristics of social death occurring post criminal convictions and post community re-entry surfaces through research that links the impacts of incarceration and parole with myriad forms of structural and systemic harm, especially experiences of stigma, trauma, and social ostracization (see Allspach, 2010; Anazodo, 2019; Andreson, et al., 2016; Leibling & Maruna, 2005; Pedlar, 2018).

Chapter 2

Theoretical framework

This project's epistemological orientation draws from critical theory, being concerned largely with the functions and impacts of social power structures and the experiences of people who exist beneath them. It is informed largely by Black and feminist thought and critical political philosophy. It is methodologically and theoretically informed most dominantly by standpoint theory, institutional ethnography, critical legal theory and Foucauldian thought , and, is strongly influenced by my academic background in sociological systemic analysis and critical state studies. My justifications for this epistemological orientation and methodology are as follows: Life sentenced people exist in the shadow of carceral hegemony. There is virtually no research or documentation of the experiences or outcomes of this population in Canada, outside of highly discursive correctional, Parole Board of Canada, and media frames which reduce life sentenced people to 'risks in need of management' (Kish & Humphrey, 2024). Such narratives produce limited, archetypal characterizations of a population that renders their multiple marginal social locations and identities, as well as their poor life outcomes invisible.

Standpoint theory and institutional ethnography

Standpoint theory begins from the perspectives of an oppressed or subjugated people, and seeks to disrupt hegemonic narratives, which misrepresent and obscure people's lived realities of systems within which they are not the dominant group. By centering suppressed and counter narratives, standpoint theory is able to richly uncover complex and nuanced experiences that are foundational to understanding social systems, but are obfuscated, if not completely erased, by hegemonic discourse. Standpoint is immensely transformative and offers an apt foundation to

situate this qualitative framework—which centers lived experiences of people with life sentences—upon. On standpoint's origins, Patricia Hill Collins (2002) writes:

> As critical social theory…Black feminist thought reflects the interests and standpoint of its creators. Tracing the origin and diffusion of Black feminist thought or any comparable body of specialized knowledge reveals its affinity to the power of the group that created it (Mannheim 1936). Because elite White men control Western structures of knowledge validation, their interests pervade the themes, paradigms, and epistemologies of traditional scholarship. As a result…Black women's experiences… have been routinely distorted within or excluded from what counts as knowledge…As long as Black women's subordination…persists, Black feminism as an activist response to that oppression will remain needed. In a similar fashion, the overarching purpose of…Black feminist thought is…to resist oppression, both its practices and the ideas that justify it (p. 251).

While standpoint theory originated to illustrate the erasure of Black women's experiences beneath patriarchal, racist worldviews, its approach also served to introduce a theoretical understanding of the ways in which knowledge across myriad oppressed groups become subjugated beneath dominant regimes in similar patterns, and emphasizes the impacts of how dominant discourses function to reinforce inequitable power structures. This understanding compliments Foucault's assessment of power and knowledge, which understands dominant discourses as tools that serve power interests. Institutional ethnography, heavily influenced by these same lenses, integrates an understanding of the discourse/power relationship and the centrality of standpoint theory in overcoming it into its methodological structure (Smith, 2005).

In addition to its strong efficacy to theoretically account for the erasure of knowledges, standpoint theory is as pragmatic as it is theoretical, as it locates qualitative experience as the central and beginning place of study, as the 'problematic' that exists in the day-to-day of experience from which wider systemic conclusions will ultimately be drawn (Smith, 2006; Smith, 2005). Day-to-day experiences are the "sites of inquiry", which feminist sociologist Paige Sweet aptly summarizes in her 2020 text, *Who Knows? Reflexivity in Feminist Standpoint Theory and Bourdieu:*

> Feminist standpoint theory is rooted in the idea that knowledge grows out of the relations of production (Longino 1990)—for feminists, this includes social reproduction. However, the consciousness that emerges from this material location is not spontaneous. This is not a "female" standpoint, but a "feminist" standpoint—epistemological insights grow out of material life and political practice (Hartsock 1983). It is for this reason, Patricia Hill Collins (1997) argues, that a standpoint should never be confused with a "point of view." Rather, a standpoint is a "site of inquiry" and a "relational achievement" ([Naples 2003, 84] p. 927).

The concept of epistemic privilege is a key element of standpoint theory and a central analytic tool to this analysis. Epistemic privilege "is the idea that more accurate knowledge is likely to be generated from marginal social experience…Social positions of exclusion, necessary for epistemic privilege in feminist standpoint theory, provide improved possibilities for "seeing" the social world" (Sweet, 2020, p. 926). Standpoint allows this research to center the epistemic privilege of people subjected to the law, and to begin in their 'everyday' (Smith, 2005), understanding that nowhere will knowledge be richer than here. Beginning in the rich insight of experience, it then locates peoples' experiences within the formal systems that socially organize

them. Indeed, standpoint theory directly informs Dorothy Smith's highly theoretical methodology of institutional ethnography (IE), a methodological approach which heavily inspires all of the research I conduct, including this study.

Institutional ethnography is a "mode of inquiry" (Taylor, Bogdan, DeVault, 2015, p. 26) that is grounded in the standpoints of actual people, toward broader analysis of the institutions within which they are embedded. Institutional ethnography begins in the everyday experience, then scales out from it in quest to understand the "text-mediated translocal relations" which shape experience (Campbell & Gregor, 2002, p. 42), a term synonymous to inquiry rooted in uncovering how law and policy shape and constrain peoples lives and choices. This mode of inquiry aspires to affect positive systemic change (Rankin, 2017) and understands epistemic privilege as a central analytic tool in uncovering bad policy. Doll & Walby (2019) highlight that IE is well-suited to explore carceral agencies, because of the centrality of law and policy to their operations.

Critical legal theory

While the importance of beginning with standpoint and the broad principles of institutional ethnography demonstrate the theoretical foundation underpinning my methodological approach to this inquiry, critical legal theory (CRT)[10] provides a theoretical framework through which to sociologically understand the institution of law, and carceral institutions. Many understandings of legal institutions see the presence of such institutions through reified, positivist lenses: these lenses naturalize systems of law incarceration and center the intent of such institutions, rather than the outcomes they produce in society broadly, and

[10] CRT is often interchangeably conceptualized as critical jurisprudence. Both represent the same framework, although CRT analyses tend to transgress legal philosophy, bridging into social and political analyses of legal impacts.

especially for those most subjected to them. As this research is concerned with understanding divergence between the listed goals of law and the social impacts of law[11], CRT provides an apt framework to guide analysis.

The term CRT describes a broad camp of thought with strong influence in political philosophy and classical jurisprudence. It is a diverse body of literature grounded in critical jurisprudence, and to a degree, critical state studies. CRT fundamentally contests the naturalization of law[12]; it understands otherwise reified social institutions as socially embedded, self-interested actors (Douzinas and Gearey, 2005). It is very concerned with what institutions of law *actually* do in society, rather than what their listed claims purport to do. Much CRT literature draws on conflict theory and centers focus on contradictions as an analytic tool to identify (often fundamental) crises in the fabric of society, and has been widely applied across legal, social, and political inquiry for its strength and emancipatory potential (Allison, 2015; Christodoulidis et al., 2019; Chambliss and Zatz, 1993). In this application, the presence of contradiction between law's listed and actual impacts highlights the need for change in life sentences, and underscores the social necessity of continually critiquing the legitimacy of the law, lest it drift into more and more punitive and unjust versions of itself.

Moreover, where institutional ethnography connects people's everyday experiences to broader systems of textual social organization, namely, the law (or specifically, the legislative and policy milieux regulating experience), CRT provides a lens to see the law through,

[11] The emphasis of divergence between laws listed claims and actual outcomes is commonly utilized in socio-legal analyses beneath the frame of "law on the books vs law in action". (See Allison, 2015 for a synthesis of this literature).

[12] Within this thesis, the terms 'law' and 'the law' will be used widely as a generalized way to describe the presence of law in society, law being a state-driven textually imposed mechanism of social order and tool of state authority. This characterization sees law as distinct social presence, one made up by the plurality of institutions, agents and processes that represent and operationalize it.

sociologically. Famously and under Foucauldian influence, CRT recognizes foundationally, the "law's complicity in the violent perpetuation of a racially defined economic and social order" (Douzinas and Gearey, 2005, p. 258). This lens assists this inquiry to begin to grapple with why and how life sentences are imposed upon mostly racialized peoples, and as well, provides insight into why the racism inherent in the amount of Indigenous and Black peoples who receive life sentences remains invisibilized beneath assumptions that people who receive life sentences are dangerous Others. CRT finally provides an apt foundation to understand the power potentialities that result from socially embedded institutions of law.

Biopower, bare life, and states of exception

For Michel Foucault (1977), parole is situated as an element of a broader carceral archipelago, with his famous conceptualization of incarceration as a system not concerned with correcting 'delinquency', but with producing order and a controllable criminal class from among society's lower class. In *Discipline and Punish*, Foucault introduces the term carceral as a network system of experts and institutions whose disciplinary technologies promote internalized governance, a 'discipline' that renders people within society docile and orderly. Recidivism is encouraged as criminal bodies provide the example of the disorder from which order is constructed: "what makes the presence and control of the police tolerable for the population…if not fear of the criminal?" (Foucault, 1977, p. 47).

While Foucault's assessment of disciplinary power and framework of how 'delinquents' produce order is central to understanding the carceral era, biopower is another important Foucauldian concept central to understanding changing carceral logics and ways of punishing. The rise of biopower marks the era of macro power which succeeds sovereign power, moving from a singular state authority (or sovereign) into the present era, marked by "complex systems

of coordination and centralization" which are concerned with "the management of life rather than the menace of death" (Foucault, 2008, p. 143). The technologies of biopower operationalize "the administration of bodies and the calculated management of life" (Foucault, 2003, page 140, also see p. 254), and are achieved through institutions, risk-assessment frameworks, carceral technologies, coordination between state agencies such as police, intelligence agencies, prison administrators, and parole boards, and the legislative and policy regulatory milieux which constitute the institutions of incarceration and parole. Biopower accounts for why the demographic composition of who receives life sentences are predominantly Indigenous, racialized, and multiply marginalized peoples, as this theory suggests that populations that become managed and expendable by the state will always adhere to fundamentally racist logics (see Foucault, 2003, p.254).

Building upon a biopolitical framework, Gorgio Agamben's (2005) concept of states of exception will be considered as a phenomenon that parole for life is representative of. States of exception refer to decisions made by sovereign powers to suspend the normal rights individuals (or groups of individuals) hold, and suspends the normal limits of the law. States of exception originate from events deemed to require 'exceptional' and emergency circumstances, but importantly for this study, Agamben (2005) brings attention to how state of exceptions are becoming increasingly normalized and permanent states, as opposed to being temporary. A state of exception is marked by the following criteria:

1. An abnormal threat or emergency
2. The suspension of normal rights and limits to the law as response to said threat/emergency

States of exception function to create 'bare life' conditions that reduce humans from full social participation as citizens into a legally reduced and Othered status. "The category of 'bare life" writes Downey, (2009, p. 109) "is used to refer to subjects who are denied both political and legal representation", those who "can be subjected to any manner of violence with impunity". On states of exception, Douglas (2009) offers:

> A state of exception arises when the population threatens to take violence away from the law – the population (rather than individuals per se) are regulated by surveillance methods, in order to ensure that the 'norm' of the law is not threatened; and for this norm to remain 'in force' an indefinite period of state of exception is often exercised States of exception "essentially nullify the application of normal laws protecting human rights, while still holding them technically 'in force'. We see also that these 'exceptional' laws go hand in hand with increased surveillance, both of which are tactics that establish control of the population (p. 37).

At the onset of *Homo Sacer*, Agamben directly discusses Foucault's biopower[13], which he positions as incomplete (Frost, 2019, p. 5). While Foucault describes a linear shift from the qualities of sovereign power into a new era of biopower, Agamben "sees the Foucauldian opposition between biopower and sovereign power as superfluous" (Ojakanas, 2007, p.5), and in fact positions biopolitical power as central goal of the sovereign[14] (Agamben, 2005, p. 6). For the purposes of this analysis, I operationalize the two as follows: bare life describes an *experience*

[13] In the literature, Foucault and Agamben are often put into discussion with one another, and as this analysis operationalizes both concepts, is important to continue to engage with them mutually here, especially to unpack how their theories are mutually applied in this analysis given the breadth of literature about these works and thoughts.
[14] "Agamben's crucial move is to claim that death is not power's limit, but rather the terrain upon which power operates. While Foucault wrote of the deadly combination of biopower and sovereign power, exemplified in Nazi Germany, Agamben reads this combination not as a historical aberration, but as a condition of possibility of Western politics" (Frost 2019, p. 6).

that results from exposure to a state of exception, and states of exception are increasingly normalized and facilitated within biopolitical macro power structures[15]. The broader carceral archipelago that parole is enveloped in can be understood biopolitically, in that the state creates conditions concerned with the management of life. In this structure, the life sentence manifests as a state of exception. The state of exception is a most concentrated instance of the biopolitical bare life, and in this analysis, the life sentence, or more specifically, the status of parolee for life will be explored for its resemblance to criteria of states of exception, as a *status of exception*. In this paper's discussion section, the 'conditions of possibility' (Frost 2019) that arise from the creation of a life long state of exception (or status of exception) will then be unpacked to highlight the ways this status create new opportunities for the state to broaden its authority and power over all citizens, and especially to maintain overly restrictive power over certain groups of people.

Legal consciousness

Subsequent to the analysis of the qualitative interviews that form the data in this study, how people who are subjected to the sentence understand (and resist or accept) it became a salient consideration. Accordingly, this thesis integrates analysis of select findings using the framework of legal consciousness. Similar to CRT, the legal consciousness model understands the law not as an objective and impartial institution, but as a socially embedded institution. Its focus diverges from CRT from the study of impacts of law, however, to a focus on the study of how every day people understand and take up the law, either by using it, avoiding it, or challenging it (Ewick & Silbey, 1998). The theory of legal consciousness asserts that formal systems of law represent only a fraction of law's function in society, and that much of law's

[15] Perhaps especially as traditionally relevant concepts to freedom and the social contract, such as privacy and liberty are becoming obscured with the flood of new technologies and conveniences in the biopolitical world.

meaning in society can only be known through how it is understood and operationalized in everyday life (Ewick & Silbey, 1998). More systemically, it considers "how the law sustains its institutional power despite a persistent gap between the law on the books and the law in action," and asks "why do people acquiesce to a legal system that, despite its promises of equal treatment, systematically reproduces inequality?" (Silbey, 2005, p. 323). Such a lens considered in relation to individuals' on parole is a much needed area of study, and dedicated insight into the legal consciousness of people on parole for life can assist to locate the legality of life sentences in Canada, and to resolve conflicts the sentence produces in the law.

In 2009, Young clarifies within the study of legal consciousness a subfield of what is pertinent to this study: 'rights consciousness' as a vein of legal consciousness. A rights consciousness focus is somewhat synonymous to legal consciousness with a focus on how people understand and take up their legal and human rights. Rights consciousness frameworks explore average people's understandings (and mobilization or lack thereof) of the constitutional, human, and/or legal rights available to them, with rights being a central element of modern law. Young notes that importantly, "Rights consciousness research has spanned a plethora of substantive civil law areas, but has not been explored with respect to criminal law" (Young, 2009), and that:

> "People's willingness to use the law as a problem-solving tool is closely related to their understanding of law and legality (Merry, 1990). Social experience ''creat[es] dispositions that come to colour future behaviour'' and ''affect[s] early, fundamental decisions about what options to explore and pursue,'' as well as whether people experience a problem as ''justiciable'' at all (Sandefur, 2007, p. 131; see also Engel and Munger's seminal work on legal consciousness and disability rights, 1996).

> Rebecca Sandefur (2007) has found, for example, that this mechanism contributes to socioeconomic differences in people's willingness to pursue legal solutions to their problems" (p. 69).

In sum, this study engages with multiple critical sociological and political theoretical frameworks to situate the relationship between people on life parole within a broader biopolitical social order, and to emphasize how people on parole for life are impacted by and interact with the law. It understands the law not as a neutral or reified element of the social world, but as a socially embedded, biased actor that creates much impact and consequence. It considers how the institution of parole has become an exemplar of a state of exception, and indeed has grown into a status of exception, where people on parole are permanently denied the constitutional protections of citizenship, and are simultaneously subjected to a host of extra-legal civil, political, and social sanctions and limitations (Agamben, 2005). It focuses on the lived experience of life sentenced people to gain meaningful insight into the dynamics and function of perpetual punishment, and seeks to understand the legal consciousness of life sentenced people. Moving theory into action, this framework aims to give rise to practical social action, namely the encouragement of legislative change about life sentences.

Chapter 3

Research design and methodological approach

The sample

The sample in this study is comprised of 19 individuals who met the criteria of being life sentenced in Canada and being on parole. Because of the small amount of people in Canada on parole for life and my commitment to protecting the anonymity and confidentiality of

participants, descriptive statistical data that has been generated in this study will not be presented, due to risk of deductive identification. However the following tables provide some insight into the demographic context that the sample represents:

TABLE 3.1: TOTAL YEARS SPENT ON PAROLE BY PARTICIPANT AT TIME OF INTERVIEW

30+ YEARS = 5 PARTICIPANTS	**6- 10 YEARS= 4 PARTICIPANTS**
20-29 YEARS = 3 PARTICIPANTS	**3-5 YEARS = 3 PARTICIPANTS**
11-19 YEARS = 3 PARTICIPANTS	**0-2 YEARS = 1 PARTICIPANTS**

TABLE 3.2: GENDER AND RACE OF PARTICIPANTS

12 MEN (4 INDIGENOUS MEN, 2 BLACK MEN)
7 WOMEN (4 INDIGENOUS WOMEN)

TABLE 3.3: AGE OF PARTICIPANT AT ARREST

17 OR YOUNGER AT ARREST = 5 PARTICIPANTS
18 OR YOUNGER AT ARREST = 6 PARTICIPANTS
21 OR YOUNGER AT ARREST = 13 PARTICIPANTS
25 OR YOUNGER AT ARREST = 16 PARTICIPANTS
25+ AT ARREST = 3 PARTICIPANTS

Recruitment strategy

The people who comprise the sample in this study were located through the following recruitment strategy: After obtaining the ethics approval to conduct this research, I electronically shared a recruitment poster (see appendix B) with my pre-existing, large networks of individuals with whom I maintain professional rapport, such as the John Howard Society, St. Leonard's Society of Canada, Long-term Inmates Now in the Community Society, and Correctional Service of Canada's Community Advisory Committee. I avoided sharing with the network of one

of the largest organization's supporting federally sentenced people, the Canadian Association of Elizabeth Fry Societies, given that I am employed with this organization, to avoid any potential conflict of interest. My recruitment information was highly endorsed by organizations who I shared my research poster with and within a week, I had received over 60 individuals reaching out to me via email, with the exception of 1 person who called me directly on the phone. I conducted interviews by using a pre-written email script in a semi-structured manner, meaning that I copied the script into responses but also allowed natural conversation to occur. I also had phone calls with several participants to explain the nature of the study and its parameters prior to conducting their interviews.

I originally committed to interview a maximum of 25 individuals, as per my ethics application, and in order to keep the study feasible and financially possible. I ultimately conducted 19 interviews. When participants emailed me and inquired about the study, I first read all of the emails and prioritized individuals who indicated that they had been on parole for lengthy periods. I wrote anyone who mentioned they had been on parole for 20 years or longer first, anticipating that this would be the rarest element of my sample. Once I sorted through participant emails seeking this criteria, I responded to all other people in the order that they reached out to me, and scheduled interviews accordingly.

Of note, one participant died the weekend prior to conducting his interview with me. He had just been released from prison and died at 59 years old of health complications from diabetes. I had communicated with his parole officer, at his behest, so that he would be permitted to travel to Vancouver Island to conduct the interview in person. He had shared with me that this was a dream of his, to come to the island. We spoke on the Friday prior to his interview and I found out, after having waited for him at his specified arrival time, that he had died the day after

we spoke. I share this information to impart the value of his life into public record via this thesis and the hopeful legislative change that follows, and to recognize that many life sentenced people have already lived and died under this regime. While his experiences could not inform the findings of this study because of his untimely death, reference to the hardships he experienced in prison and in his year on parole were made by two other participants. This individual, who wanted his story to be known, was an Indigenous man who went into prison as a teenager and came out at 58 years old. In 2021, Adelina Iftene's research found that long term incarceration reduces people's life spans comparative to the general public by 20 years (Iftene, 2021).

Ethics

Prior to conducting interviews, I received ethical approval to conduct this research from UVic's human research ethics review board, outlined below. Once approved, participants provided free, informed, and ongoing consent to engage in this study. Participants were advised of the scope and objective of the study, and their participation was voluntarily and without coercion. I expressed at multiple points that they could terminate their consent if they no longer wish to participate at any point in the process until the findings are written. They were also informed that I will not be able to withdraw their data from the study if it has already been incorporated into my findings. Prior to their interviews, they either signed and returned their consent form electronically, or provided verbal consent at the beginning of their interviews. Participant confidentiality and anonymity was rigorously protected; names and any directly identifying information were removed from transcripts, any indirect information which could lead to deductive identification is not presented in the findings.

This study exceeded minimal risk, as defined by the *Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans* (Canadian Institutes of Health Research,

Natural Sciences and Engineering Research Council of Canada, & Social Sciences and Humanities Research Council of Canada, 2018), especially as incarcerated people constitute a vulnerable group according to the TCPS 2. However, clear language was used in the ethics application to ensure that vulnerability and risk were not conflated. Importantly, the sample—while technically incarcerated in the community—dually fall outside of the vulnerable label assigned to incarcerated participants because of their physical location in the community.

All things considered, while incarceration and its impacts are a heavy topic with elevated risk of emotional disturbance, the people within the sample also live within the reality of life sentences: life sentences will have shaped their lives for generally decades of custodial time (Parkes et al., 2022), and will have shaped their lives since they have moved back into the community on parole. As participants live in their day-to-day immediacies beneath the conditions and constraints of these sentences, there was as much possibility that participation would elicit a neutral/naturalized reaction, and perhaps even positive experience from having an opportunity to share about a topic that many people may avoid discussing with them, as there was risk of emotional disturbance.

Nonetheless, to responsibly prepare for responding to potential emotional disturbance, I developed the following plan: It was emphasized at the start of the interview that participants may elect to not answer any question, at any point in the interview, without any explanation as to why they elected to not answer a question. They were further instructed that at any point the interview can be paused for a break, and resumed at a time of their recommendation. Resources were offered if participants became emotionally triggered during of after their participation. Length of commitment required for participation, a copy of my interview guide, and clearly

stated potential risk, as well as potential social benefit of participation were all included in the study's consent process.

Data collection

With participants' full, ongoing, and informed consent, they shared their experiences through in-depth semi-structured interviews that averaged approximately an hour in length. An interview guide containing a series of open-ended questions and some probing questions (Taylor et al., 2015, p. 120) about participant experiences of living with life sentences, focusing especially on time spent on parole was utilized (see appendix A). Most interviews occurred virtually via the video-conferencing platform, Zoom, while a number occurred over the telephone to support participants with technological barriers, and an additional number of interviews occurred in person, either in the homes of participants or rooms I secured in hotels, in the cities where participants live. All participants received a one hundred dollar honorarium to acknowledge their participation and to relieve any impacts on their time and incomes. When interviews occurred in a person's home or over the phone, I ran the Zoom application in any event to ensure the conversation was recorded, as the use of the Zoom allowed for recordings to be downloaded directly to computers, and saved to UVic student account Microsoft one drives, which maintain Canadian servers. Zoom recordings also create automatic transcription of interviews. Once interviews were completed, transcripts were anonymized and were read and cross-checked against the video recordings to ensure accuracy. Once transcripts accurately matched recordings, the recordings of interviews were destroyed.

Despite that I conducted 19 interviews and there are clear patterns and strong themes across them, conducting further dedicated research into the life sentences will be critical to gain a full picture of the sentence and its impacts. As such, the research program of understanding the

Canadian life sentence and locating its impacts across individual, familial, community, institutional, and societal considerations will continue to constitute my PhD work.

Methods

Thematic analysis is the qualitative method applied to this study. Thematic analysis is a 'theoretically flexible' approach that can be supported from multiple epistemological alignments and theoretical frameworks (Braun & Clark, 2006, p. 78). Its primary characteristics include using a systematic approach to uncovering themes in data (Braun & Clark, 2006), while remaining flexible and applicable across epistemological paradigms. Indeed, a criticism of the method flows directly from its epistemological flexibility, in that this has led to a plethora of incoherent applications. By the broad and often vaguely expressed manners it has been applied, thematic analysis has been termed a "poorly demarcated, rarely acknowledged, yet widely used qualitative analytic method" (Braun & Clark, 2006, p. 77).

To promote clarity in the value and direction in the application of thematic analysis, scholars such as Braun and Clark (2006) and Nowell and colleagues (2017) developed the method over time. Braun and Clark's (2006) guide put forward 6 phases: Familiarizing yourself with your data, generating initial codes, identifying themes, reviewing themes, defining and naming themes, and producing a report. They also offer common pitfalls to avoid, such as being careful to present your methods clearly in reporting, and ensuring that data actually substantiates any analytic claims researchers make (Braun and Clark, 2006). Nowell et al. (2017) contribute a more recent contribution with similar advice, unpacking issues of credibility transferability, and reflexivity that often show up in applications of the method. Nowell et al. (2017) deepen Braun and Clark's (2006) advice on how to produce a recognizable systematic application of thematic analysis, and further caution that unclear application of the method ought be avoided.

I began with familiarization with data, as the essential first step in thematic analysis (Nowell et al, 2017; Braun & Clark, 2006), which occurred both as I completed and transcribed the interviews, and also included a first read of the data, following the completion of transcription, where I recorded initial notes and observations I have. The next step involved coding the data. Coding refers to the process of labeling segments of text, either by attributing meaning to them, or by identifying patterns that they adhere to (Nowell, et al, 2017). Having read through the data, I engaged in this process by reading the data line by line, highlighting lines of text by colour, and attributing named characteristics to each colour I note. This thematic analysis takes an inductive approach to data analysis, allowing codes to be both descriptive and interpretive. Descriptive codes capture demographic data or writing codes as described by a participant; for example, where a participant indicated directly and explicitly that they are afraid of reincarceration and I coded this as fear of reincarceration. Interpretive codes- involve some meaning making or analytic inference on my part, such as if a participant described living alone and avoiding meeting new people, which I coded as 'conditions promote isolation'.

Following coding, I refined codes into themes. This process involved uncovering and drawing connections between various codes to understand broad patterns and commonalities across participant experiences (Nowell et al, 2017; see Braun & Clarke, 2006). I utilized an inductive approach to theme generation, aligned with my approach to coding. Inductive analysis is a process that seeks to code data without use of pre-existing code frames and in ways that can extend beyond researcher's prior knowledge and assumptions about the findings In this sense, thematic analysis seeks to be 'data-driven' (Braun & Clarke, 2006). The fourth phase of data analysis involved reviewing and refining themes. This phase helps to ensure validity within thematic analysis, and also supports the deepening of the analytic process (Nowell et al, 2017).

Refinement processes also supported me to reflexively consider initial meaning making I had drawn, and to begin to see my findings within the context of my broader research goals. In this process, I began to draw more clear connections between my participant experiences and the wider socio-political backdrop within which they are situated. During this time, I revisited my theoretical framework and introduced an Agambian lens to my understanding of life on parole, and read the Van Zyl Smit and Appleton text.

While my procedures generally follow the recommendations of Nowell et al. (2017) and Braun and Clark (2006), there is one significant divergence. Braun and Clark advise that themes with insufficient amounts of data must be collapsed into other themes or removed. Departing from this, if a code (or small group of similar codes) presented as a significant experience in relation to this inquiry's research questions, but was not represented enough to constitute a theme, I did not exclude it, but considered its unique significance. The purpose of this strategy aligns with the theoretical underpinnings of feminist standpoint theory, which rejects quantification as a primary unit of significance, placing equal value instead on understanding the collective experiences of oppressed groups as it does to understanding 'outlying' or unique manifestations of experience (Collins, 1997; Smith, 2006).

In the fifth phase of data analysis, I assessed each theme for significance in relation to my research questions, and finalize names for themes, then selected key themes among them for presentation in my findings. According to Nowell et al (2017), and Braun and Clark (2006), this is the phase where researchers determine what is most important about the data, and deepen analytic perspectives as to why. Finally, the last analytic phase in thematic analysis involves producing one's findings. This occurred through the production of this thesis, where findings are articulated by introducing select themes identified in the prior phase as salient to the research

topic, and substantiating each by illustrating portions of the data that constitute them (Braun & Clark, 2006). Direct quotes and blocks of text substantiate and make visible the significance of each theme, which are sometimes replaced by summaries of text blocks and participant accounts to both protect participant anonymity and for clarity of conveying message.

Positionality and reflexivity

Researchers are no doubt instruments of research, and recognition of this in research process has been long advanced and grappled with especially within feminist and qualitative traditions (Sweet, 2020; Lal, 1996; Bourdieu & Wacquant, 1992), and rightly so. This literature emphasizes the strong analytic value in meaningfully considering who we are and the many qualities we represent in the social world in relation to how such locations direct our approach to our research. However, the reflexive aim of centering ourselves as tools of research can also be complicated by socio-political tensions in the wider social world within which research exists. Specifically, the value of disclosing one's reflexivity in a demarcated manner as a 'positionality statement' is questionable has been complicated by scholars such as Paige Sweet (2020). Plainly, the emphasis of such a format, in a public disclosure of personal locations and identities, risks becoming a performative action. To this end, Sweet (2020, p.925) calls for deeper engagement with where knowledge comes from, and for a shift away from "identity-based rehearsals of reflexivity", noting that increasingly, "the call to be "reflexive" insists on many things but coheres around little".

Importantly, public disclosure of positionality can become a site of risk and harm with adverse consequences for marginalized (especially racialized, female, gender diverse and criminalized) social researchers. Certainly, in the year this thesis is authored, social locations such as race, gender, and class continue to be divisive and weaponized against individuals and

communities. All researchers, but especially researchers who have not entered the academy via traditionally privileged pathways, and those whose social identities have ever been weaponized against them, should not have an expectation of disclosure of personal information placed upon their work, for this would be an expectation originating in sites of privilege, with blind spots to the impacts it can produce.

Meaningful consideration of the factors that shape our priorities and guide and influence the ways we come to see our data is an important skill to integrate into one's research process, and reflexiveness regarding one's positionality may be most helpful to be approached as a practice that occurs throughout research (Collins, 2002), rather than as a statement one assembles in its latter stages (Sweet, 2020). In this thesis, I have attempted to do just this. Throughout the research process I have reflexively engaged with the many positionalities I occupy, beginning with asking myself the question 'am I the right person for this research,' and then by continually asking myself throughout the research process 'in what ways does my positionality and experience inform and shape this topic and my understandings of it?'

Chapter 4

Experiencing parole for life

My approach to the presentation of this study's findings are to offer them in both a chronological and logical order that aims to cumulatively inform, beginning with advancing understandings of who and how people receive life sentences, followed by a glimpse into the prison years which necessarily precede life parole, followed by putting forward the most impactful aspects participants shared about being on parole for life, through the presentation of salient themes. The final portion of my findings focus on consideration of how individuals

accept, challenge, and generally think about and interact with their conditions of being on parole for life, building an analysis of the legal consciousness of life sentenced people in Canada. Dually, this portion takes advantage of the epistemic privilege of participants to emphasize their insight into needed changes, toward policy recommendations, and systemic change making possibilities. Woven into this presentation of findings, I integrate relevant information and insight into the socio-historical and legal contexts that led these individuals to being on parole for life.

The experiences of the people in this study are underpinned by narratives of isolation, insecurity, fear, complete regulation of their movement, actions, and relationships, and by a life lived beneath a subjugated and intensely precarious social status. In my role as researcher bringing the experiences of life sentenced people into the literature, I can not underscore enough how much each participant came throughout in their narratives by qualifying their experiences within a spirit of gratefulness that they were not in prison. Indeed, despite the negative character of outcomes of parole for life, participant's offer complex and spirited accounts which indicate their persistent efforts to make the best out of life that they can, from where they are:

> It's very difficult because I'm the kind of person where I don't want to wake up every morning sad, so I tell myself, you know what- today is better than prison...Yes, mentally, emotionally, physically…With the segregation and the things that I've witnessed in the joint…the killings and the shootings from the guards and you know, the riots and…there's been some things that echo in my memory and circle my heart.

Very young people are given life sentences in Canada

While the sample in this study is too small to generalize, one of its most startling findings is how young most of the participants were when they were arrested. All but three participants were under twenty-five years old at the time of their arrest, sixteen participants were 25 years old or younger, 13 participants were 21 or younger, one participant was arrested at eighteen years old and five participants were seventeen years old. The generally young age of participants in this study's sample is directly reflected in the account of one participant, who shares, "*I went in at 23. And a lot of the people that I was talking to inside were a lot younger. These guys were under 25, like 15 to 25 years old when they were arrested. People go in very young and they come out much older."*

Most countries prohibit giving life sentences to children (Van Zyl Smit & Appleton, 2019, but the high percentage of youth sentenced to life in this sample is confirmed by a forthcoming study by Parkes, which suggests that Canada routinely gives life sentences to people under 18 years old. Parkes shares that there is a lack of publicly available information about how many young people are given life sentences in Canada, so the exact numbers are not possible to glean, however between 2008 and 2022 her research uncovered 62 instances of youth, aged 14-17 years old, being given adult life sentences (Parkes, forthcoming, p. 22). This same study found that while 62 children were sentenced to life, there were 102 instances in this same timeframe when crown council sought adult sentences (of which in 62 of theses instances, an adult conviction was achieved). Of these 102 instances, 29 individuals were Indigenous, 19 were Black; in many cases, Parkes was not able to find reference to the person's race, so the racial composition of young people sentenced to life in Canada remains undetermined.

It is because of the known harms incarceration causes for young people, especially attributed to their ongoing social, physical, and cognitive development (Van Zyl Smit & Appleton, see page 105; see also Parkes, forthcoming), that international human rights law and most countries national legislation strictly regulates the incarceration of children and prohibits extreme punishments from being imposed upon them (Van Zyl Smit & Appleton, 2019). That 68% of the people in this sample were twenty-one years old or younger, and 26% were not legal adults during the events that led to their convictions should be a salient consideration in policy direction. As subsequent findings will demonstrate, the priorities of young people are generally social, with people wanting to date and fit in with their peers, is not conducive to expectations of people in prison and on parole. The processes and expectations of prisons and parole unconducive to the social needs and priorities of young people, but even beyond this - the sheer amount of time that young people who receive life sentences will spend on parole should be a salient policy consideration, especially considering how restive parole conditions are, as subsequent findings will demonstrate.

Evidence of inaccess to justice

When I asked individuals about their time in the prison system prior to being granted parole, many reflected back to their trial processes and to the nature of their convictions. In doing so, they described passive participation in judicial processes, sharing feelings like they "*never stood a chance*", or feeling pressure/being encouraged to plead guilty: " *I pled guilty"* shared one individual, elaborating *"I mean, once I was arrested, I pled guilty. And then I thought that was good, because that eliminated a long trial".* Another participant offered: *"they tell you you're looking at life, you know, but they say, 'its ok,' to take a deal, you know, 'because you will be out in 10 years and then you will get to move on with your life'…"*

Multiple participants expressed not fully understanding the consequences of what receiving a life sentence meant, and some now reflect that their lawyers likely did not understand the nature of Canada's penitentiary system, either: *"I don't think half of those duty council lawyers know what the fuck a life sentence is, you know, they don't know or they don't care anyway, but I don't think the one I had knew anyway because he told me the system was gonna be good for me."* One woman, who was 17 years old when she was sentenced, expressed how she did not understand what life parole was, namely, not even that she had a parole eligibility date, until after she had already been in prison for some time:

> I didn't even know…honestly…as a lifer…that I could apply for, that I could even get out…because when I was sentenced, I thought life was like, the movies, like—you're gonna die in prison—because I was so young, right? Young and naive. So when I met [name of Indigenous Elder] when I was 18 years old at [name of prison], she was the one that told me that I was eligible, that I could get out, because she's like, "*Oh, when are you getting out*?" And I was like, "*I'm never getting out."* And she's like, "*What do you mean*?"

It is a lawyer's duty to inform clients about the consequences of conviction for a specific sentence prior to a trial or entering of guilty plea and to obtain the best possible outcome for their clients (Hutchinson, 2006) and this expressed lack of understanding about the severity of life sentences is troubling, particularly given that the bulk of participants in this study are convicted of second-degree murder[16].

[16] Under the law, this conviction should only be found when it is proven beyond a reasonable doubt that the person convicted of it was aware that someone was going to lose their life. Kent Roach's text on wrongful convictions reinforces these experiences, in that he puts forward several instances where lawyers promoted guilty pleas when the circumstances of a death were unclear, and that these instances were most often associated with a demonstrated record of racist and biased views held by the lawyers toward their clients (Roach, 2023, see chapters 1-3).

While the nature of people's convictions was not the focus of this study, several participants offered that they had been involved in the death of a person, but that they did not foresee the death, including multiple people who were convicted of spontaneous violence, and many people who were intoxicated during the events that led to their convictions. Had they not plead guilty and gone to trial, a manslaughter verdict could have been reached, and manslaughter does not automatically impose sentences of life as a mandatory minimum punishment (although life sentences can be imposed as a maximum punishment; Parkes, 2021). The sentiments of participants show that people were not fully aware of the consequences of pleading guilty, which align with Canadian legal literature outlining barriers in access to justice, namely that justice processes are too complex and overwhelming for many people to understand (Flader, 2019; see also Farrow 2014; Department of Justice Canada, 2000).

People on parole for life are impacted by years and decades in prison

I asked participants select questions about people's time in prison[17] to gain insight into the circumstances that shaped their lives prior to parole, as well as to gain insight into the circumstances of working toward parole from inside prison with a life sentence. Participant accounts of what life in prison as a life sentenced person is like illustrate that the act of getting through the years and decades in prison, prior to being granted parole is an extremely difficult task:

> To get out I um, had to really look the other way from everyone, and isolate myself really. You can't be involved in any little thing, or that's it…it's over. The one time information about me went forward they showed up at my cell and…escorted me from the minimum into the medium security…and that was without any of it being true. It

[17] See Appendix A, this study's interview guide for a list of questions that guided the interviews.

> took me uh, almost three years to get through that and get back to minimum before I even got their support again to go up for parole. And I was um, was really trying my hardest to keep my nose clean,…so you can imagine how it is for a lifer…living like that in prison for however long, for me, for 16 years.

A commonality among responses was that people on parole for life are acutely aware that not everyone gets parole, and participants reflected about how many life sentenced people give up during the years before they become eligible for parole, and do not make it to the point of living on parole:

> Well me, I don't have any mental health or anything. I don't have addiction and that is a big thing in the Penn's. I didn't even play cards at the end you know, because those gambling debts…it all just adds up. So I think that's why I was able to get out and stay out, you know, because a lot of us don't stay out either. I'll know a guy gets his parole for a few weeks or a few months and then he's right back in, because he's spent the last 20 years in the Penn, he can't make it out here.

Participants who were subject to a life sentence when they were older spoke to how their maturity assisted them to understand the rules, processes, and long-term consequences of the prison system that they entered in ways that younger people did not. Participants who went into prison older than 25 shared how challenging it was to watch young people in prison succumb to a host of pressures flowing from the social needs and priorities of young people (Brendtro et al., 2019; Goldman-Mellor, et al, 2014), and contrary to the strict behavioral expectations of prison authorities:

> So many guys don't get out, of course, I see it all the time. They break or, they get a [disciplinary] charge and get set back 5 years, they can't take it. It's tough, you've gotta kinda keep to yourself and just look forward every day, but lotsa the guys, especially lotsa the younger guys can't hack it, it's a lot of pressure on a guy.

Given that the scope of this study is focused on the experiences of parole, not periods of incarceration (albeit that siloing consideration of the two is artificial as the experiences of one informs and directs the other), the details and implications of time spent in prison for life sentenced people will not be further explored. However, participants offered accounts of tremendously difficult years and decades in prison, and a distinction in difficulty from non-life sentenced people relating to how hard it is to gain parole. Participants offered that prison was emotionally, physically, and mentally difficult, and that they were only able to gain parole through the forfeiture of their social needs, overall. At its core, they described learning that isolation is a survival strategy during their years incarcerated. Further dedicated research into life sentenced people during their years in penitentiaries will be crucial to a meaningful understanding of the sentence in the Canadian context.

Starting life on parole

For the participants of this study who overcame the conditions and challenges of the penitentiary and gained parole, the impacts of going into prison largely in their youth, and of spending their formative years in prison continue to shape their psychological and emotional states, along with their social priorities upon release. They shared common barriers to re-entry

that are captured elsewhere throughout established general parole[18] literature, such as not being able to easily function in society post incarceration:

> for myself, I had went in at such a young age, I didn't even know how to open up a bank account. All these intimidating things, it was really hard. So...um, how to interact with normal society people or like, you know, it was so intimidating! There's all these intimidating things and just kind of going on a bus was really hard, just going on the train. I got really paranoid. I didn't trust anybody. So yeah, I had really bad anxiety. And so, I was challenged with all these things when I first got out. And so yeah, it was really hard.

Beyond the challenges of not knowing how to function in the community, participants, especially those who went into prison as teenagers and came out in middle age, expressed that their human and social needs were (and are still) in conflict with the conditions of and requirements of being successful on parole. Participants expressed, for example, a strong desire to seek out and experience those formative parts of life they had missed due to their incarceration, even though their formative years had largely passed:

> When I went in at, you know, such a young age too, so I was only a teenager, I come out and of course I'm like, I want to catch up to the fun years of like,... partying, being boy crazy, like you know, dressing up...shopping, like… the money, the technology nowadays. It's crazy! So yeah, I didn't last that long. I lasted about eight and a half months on parole and then I went back in [to prison]…

[18] General in that it does not focus on life sentenced people.

For other participants, the social pressure (and carceral requirements for them to) to gain a normative social experience (to find a job, establish a family) lead them into quick decisions like accepting the first relationship and job they found, and over time lead them to becoming 'trapped'. One participant, 'Benjamin', a man who came out of prison in his mid 30's following a conviction as a child, reflects that "this is common for guys on parole". Today Benjamin lives in the community as one of the only participants in this study who lives in a nuclear family and offered rich insight into the experiences of his peer group comprised of other men released on parole, suggesting that many people feared ending relationships or leaving a job because stability is associated with success in the eyes of parole officers. When people experience a breakup or job change, Benjamin informed me that this becomes understood as risky behavior and thus, an opportunity for increased monitoring of people on parole. Loss of a job can lead to reincarceration, and as the findings below will explain, relationships are a primary source of information for parole officers, so people on parole avoid entering into significant life changes for fear that it will send them back to prison.

Benjamin's insight offered that the ability to be flawed and make mistakes—which is foundational to the human experience regardless of social status—becomes impossible as a person on parole. Rather than being able to date many people and transition from a few different employment positions to learn what one really desires in a relationship and in life, people feel pressured to settle into, and remain in the first relationship and job they find. Experiences such as this raise important questions about the implications of punishing someone over the duration of their lifetime, and what the ethics are of placing a human being for years in a prison, then into a community where all of the milestones and rites of passage in life are visible for them to witness

in the lives of their peers, but inaccessible for themselves to experience, lest they end up back in a penitentiary.

The conditions of parole-for-life are working against peoples' wellness

Across the interviews, two pronounced aspects of being on parole for life surfaced repeatedly as sources of significant harm that have directly and consistently shaped the experiences and outcomes of participants lives: the regulation of relationships through a processes known as 'community assessments', and geographic restriction to a small area imposed through a 'travel radius'. These two elements of parole-for-life will be explored and unpacked, and thoroughly examined in the subsequent discussion section for their implications across multiple considerations. The effect of both of community assessments and geographic confinement to an area produce an invisible community isolation and fracturing from their families and from the community broadly, both of which are outcomes that work directly against the listed goals of the prison system.

As a point of reference, it is important to keep the following socio-legal context forefront: Parole, and especially parole conditions were developed to be temporary and proportionate to perceived risk, and this remains how they are written in the law (Parole Board of Canada, 2024). The specific structure of how parole conditions are to be imposed will be outlined in the discussion section of this thesis, however notably, the participants in this study describe having been kept under the same parole conditions – reductions in severity or presence were rare - and describe having been told by their parole officers that their standard parole conditions are not

possible to remove[19]. Their realities have been shaped by this direction, which is especially significant given that most participants in this study have spent years and decades on parole.

Geographic confinement, for life

A requirement for people to remain confined to small geographic area for their lifetimes, and an inability to leave this area without gaining a 'travel permit' was described extensively in every interview, in relation to being one of the most difficult aspects of being on parole. In essence, anytime an individual wants to leave the parole jurisdiction they are assigned to, a jurisdiction that is measured through territorial boundaries for their lifetimes, they are required to undertake the process of gaining a travel permit. People often refer to these jurisdictions as "travel radius" or "travel boundaries": [Anytime I would want to leave this city]… "*I would have to get a travel permit. I would have to let my parole officer know like about a week in advance where I was going, how long I was staying, method of transportation, that type of thing."*

The average jurisdiction from what participants reported, seems to be about 30km. Generally, these areas have translated into the limits of a particular municipality where an individual lives; confinement to ones city, for a lifetime. In more rural areas, travel radiuses seem slightly broader, whereas in condensed urban centers such as Ottawa or Vancouver, people are restricted from accessing portions of the greater metropolises that are held under different territorial jurisdictions, but which are attached by urban infrastructure. For example, in Ottawa, participants expressed being restricted from crossing the bridge into Gatineau, and in Vancouver, people are restricted from crossing a bridge into North Vancouver, etc.

[19] Specifically, participants in this study describe having been told that their conditions are in effect for the duration of a term on parole. This direction exists in conflict with the law, specifically 131(6) of the Regulations, which states that any person can have any condition removed or varied (Canada, 2024).

Anytime a person wants to go outside these very small and confusing radiuses, for any reason, they must seek permission from their community parole officers and obtain a 'travel permit' from them. The process for obtaining a permit is described as difficult, often involving parole officers seeking contact and confirmation with one's family members and employers:

Nyki: And you said that you have a parole jurisdiction that you're not allowed to leave?

Participant: This is one of the important problems. So the area is generally about 25 miles, and if you go out of that area, you need a pass.

Nyki: Do you have to apply for a pass often?

Participant: Yeah, well, I do anytime, every time I want to leave. You know, I used to go to see my sister in [name of city], every time I would go, I needed a pass.

Nyki: Can you explain what the process of getting a pass is like?

Participant: Sure! Um, I would say I want to go to my sister's and they would ask for the dates. And they would say, "*we need her address, we need her phone number. We're going to contact her."* Okay, so then getting the pass from them, you would have to go down and physically get it, that was the last step, and I was told to carry that pass with me, so...in case I was stopped by the police. And then subsequently when I would come back, uh, say it was for three days, I would have a time that I could leave, then a time that I would have to be back in this jurisdiction. For a while my parole officer was phoning my sister after the pass just to confirm I had been there...and how the pass went.

The above quoted participant, who has been on parole for 24 years, described how he no longer goes to visit family or individuals outside of his boundary, he said it became more stressful then beneficial, both for him, and for his sister. He (and several other participants) offered that the process of having to apply every time they want to leave the city they live in, following the community assessments process, is emotionally taxing both for themselves, and their loved ones:

> **Participant:** My wife is pretty nice. Like, you know, I think she should be part of this research too… So anyway, she knows my whole situation you know. I told her everything, and she was like, "*Okay, that's fine."* That's not the hard part for her, my past. But she's always like, "*okay, like, I know, you're on parole and you're a lifer, but like, you've served your time, you've done all this. Like, why can't we just go to Toronto now, like, you know, why do you have to tell me that you need to... Like, I mean, you're in the community, like, they expect you to, how do they expect you to live?"* So it's hard for her in the sense that everything's got to be pre planned. She can't just take me like, she can't just be like, "*Oh, it's Thursday night, let's just go to Toronto for the weekend".* Because then I would be like, " *okayyyyy, Not so fast. I gotta...."* and then she will just be like, "*what the hell, like, what is this?"* you know? So she can, she finds it very hard to understand that somebody serves all that time, you put them in a community, but you still ask them to do all these little things that are like, pretty much unnecessary, because ....look, straight up, if I want to do wrong, like, I'm going to do wrong.
>
> **Nyki:** Yeah.

> **Participant:** So like, I'm out, on the one hand, I'm lucky to be privileged to be out and be in the community. But I also want to live, you know? So yeah, it's so miserable for my wife because she used to travel a lot before. And now that's kind of like affecting her. I have to keep like saying, *"Okay, you know, I'm gonna try, I'm gonna try,"* but how do I say like, it's a guarantee?

Participants disclosed that being geographically confined to a city through having a travel radius is one of the most harmful elements of being on parole. This has contributed to all participants losing contact, or having significantly weakened contact with family and community and has led individuals to constructing routines marked by very small social networks, if not complete isolation.

The intrusive and uncertain nature of having to obtain a permit leaves many participants describing that they avoid it at all costs. For many, especially for the participants who have been on parole for 20+ years, this means that they intentionally build routines within their city limits, so that they can feel more free, even at the expense of maintaining contact with family and having strong social circles and safety nets. However, even with constructing their routines in ways that reduce system engagement, significant life events, surface as points of tension. More specifically, participants often referenced the tension surrounding weddings and funerals, where people feel compelled by family to attend these events, but were prevented from doing so by the associated approval processes. People describe that in many cases, their families do not fully comprehend the complicated process of having to obtain a travel permit— especially people's extended families—and that this has led to further disruption in familial bonds, as feelings are hurt when people on parole for life feel ashamed or afraid to initiate this process, as evidenced in the following excerpt:

> I just want to go to this wedding…It's my cousin… he doesn't know anything about parole…His wife doesn't even know I have a life sentence. My PO wants them to do a CA[20] for me to go, so now he's got all this stress and I've got to ruin her experience? For one day? I want to go so badly but all those things are in the back of my mind, so I don't go of course…you can't help…wondering, what would it be like if I could just go drive a few hours when I need to…what would my life look like?

In addition to its devastating impacts on people's abilities to develop community networks and maintain relationships with their families, the process of having to obtain travel permits adds indirect risks and implications for people on parole to become at risk of losing employment and being further socially isolated. Notably, there are discrepancies in the parole jurisdiction/travel permit process related to an apparent ability for parole officers' to broaden the area that an individual can freely move within, when related to work. Several participants have accessed 'standing travel permits' when their employment required this. However, they note that should their employment requirements change, they would lose this freedom, and that as the parole officers who are assigned to them change, so do interpretations of the parameters of standing travel permits.[21] The interviews show that many parole officers attach an unwritten condition to standing travel permits for the individual on parole to text, call, or email their parole officer every time they are entering or leaving their permanent travel radius and entering into the area they have a standing permit for.

[20] The CA (community assessment) is the second most pronounced procedural source of harm impacting people on parole for life and will be subsequently unpacked.

[21] As the following chapter will explore, there is nothing in policy articulating standing permits, however, there is nothing in law preventing parole officers from augmenting and broadening the fixed areas people must remain in either, complicating its widespread and most restrictive implementation.

The practice of people only being able to freely move within the limits of their city is experienced a punishment, and its impacts need to be formally contemplated as being a punishment, rather than it being assumed that perpetual geographic confinement is a neutral or appropriate systemic practice.

Community assessments are isolating individuals and fracturing families

The second aspect of parole-for-life that creates a consistent and widespread negative impact is the process called community assessment (CA). The issue of community assessment was often raised by participants in relation to travel permits, but was also raised independently across the interviews. A community assessment refers to an administrative process in which people on parole are expected to introduce their friends, family members, and potential romantic interests to the parole system. This process occurs without them present, and serves to disclose the correctional file of people on parole to community members, to screen and surveil community members, and to create lines of communication between the parole system and the community members of people on parole. CAs expressed as intensely emotionally triggering and psychologically disturbing for people on parole to experience.

Participants are being told that they are required to engage in these CAs for their lifetimes, similar to travel permits. A community assessment is being instructed as required by parole officers every time they want to visit a family member or person outside of their travel radius; thus, the completion of a CA is implicit within the travel permit process (unless people on parole for life can afford to stay in hotels which raises differential access to family in relation to economic privilege). Importantly, CAs are also being expected as a requirement when people on parole want to begin an intimate relationship.

All participants emphasize tensions and harms that result from being subjected to community assessments, but to introduce the experience, consider one participant's experience:. 'Shane' is a life sentenced man who is now in his 60s. He has been on parole for over 25 years. He shared with me that in his earlier years on parole he did attempt to establish a family, but that over time, he came to accept living alone. Shane shared that the expectation for any time he tried to meet a new partner, that he would have to disclose the details and circumstances of his historic conviction. He expressed this very stressful especially given the multiple decades that had passed. His parole officer would also ask to meet with the potential partner, without him present - which is a curious practice- to ensure she understands Shane's parole conditions and his past. Shane shared that he had one relationship that lasted about a year, but he did not like putting the woman through the process of involving her with the parole system. He told me that "*I can imagine it's quite difficult* ***[for a woman he wanted to date]*** *like, I would really myself be reluctant you know, to put myself on the other side of the fence to you know, and to be with somebody who committed the type of crime that I did*". Shane further offered that subjecting a woman to the community assessment process has prevented him from pursuing relationships, especially now that he is older. He says "*for me now at this point, I can't subject a woman to all that at this point, I really, it's just, it's a bit too much for me. So I'm kind of very kind of very content being single at this point in my life*."

Shane is not alone in this experience. CAs are described by participants as lengthy and invasive. Not only do they require the forfeiture of privacy on the part of people on parole, but they also involve the community members of participants to agree to background checks conducted on them (at the complete discretion of parole officers), for parole officers to enter and evaluate their homes. Additionally, the process requires that they participate in lengthy

interviews aimed at 1) evaluating their 'suitability' to be in the person on parole's life, and 2) disclosing the correctional file information about the person on parole, and 3) requiring the community member to familiarize themselves with the individual's parole conditions. One participant even noted that their parole officer asked people to commit to reporting and 'turning in' the individual, should they become aware that a condition was violated. The impacts of community assessments came up at length across the interviews as a significant barrier to people maintaining family connections and finding place in the communities they have been released into. Moreover, following the completion of the community assessment process, several participants shuddered about how parole officers would continue to engage with their partners, friends, and family without discussing this with the person on parole.

Perhaps as an outcome of such conditions, fourteen of the nineteen people interviewed are single and live alone. Only one is married, and two live with children. While each participant's narratives of why they are alone are slightly different, all indicate that the process is socially and emotionally harmful:

> It's, it's just challenging to, at the same time to try to live a life and make contacts and you know… on one hand, you're asked to be, you know, pro-social, and, you know, make good friends. And, but then, in many ways, I feel like you're limited because, like, you're not open to people, because in the back of your head, even if you were, you always think like, you know, *'I don't know this person or like, I'll have to let my parole officer know'*... So it's a lot of fear…it's been a lot more challenging, you know, things to it than I anticipated, than I thought about before I got out.

Many participants do not want to put people through the process of having to engage with the parole system:

Nyki: How easy or difficult is it to meet people and start relationships when you're on parole for life?

Participant: It's actually a bit embarrassing. I have kind of avoided even getting into relationships because then people's privacy, you know, their own private life is gonna get invaded, because, you know, if two people in the world have interest in each other, that should be that, but then, I don't really have any privacy. And if they wanna be in my life then, well neither would they…

Many described how they have instead built lives and routines where they live alone to compensate. All participants disclosed the social difficulties around having to tell a new person in their life - who likely has little to no knowledges of the prison system, of the details of their historic conviction, as well as educating them about the scope of the parole system. Participants find being released after long-term incarceration challenging enough, and many described a strong desire to 'focus on their futures', not their time in prison. They describe yearning to feel normal, but that the community assessment process disallows this:

Participant: I think I was about 33 years old at the time, I had been inside prison for all my twenties. I wanted to date, I still do. I'm a woman, and um, people tell me I'm attractive. I want to be loved of course, but… I didn't know what I was doing (laughs). I went on match.com and on the 2nd date I went on, I liked him….My parole officer had to communicate with him without me and they set up a time to meet at his place. The parole officer asked him if he was alone during the interview, she wanted to make sure I wasn't there and couldn't hear. He told me that she asked him all these questions about his own life, and then told him about all the information on my file, about people I have dated since I, since I was a teenager. He asked him if he ever feared me or had

any concerns. This was really confusing for the guy I was seeing, he came to me after and said that the process was horrible. He, he uh, asked me why they asked if he was afraid…like it was for a reason. It makes sense that he thought that, but I'm um, I'm you know, not convicted of being dangerous. I'm convicted of being there, just being there at a house party where someone got killed, you know, you know, I was just a drunk kid at a party.

Nyki: I'm sorry

Participant: It is what it is, you know…But whatever, yeah, so going back to why they asked him that, I don't really know why, why they asked him that. But yeah...that's the whole messed up thing. So…then the parole officer wrote the big report about it up, and said that I didn't tell him enough about my conviction or time in prison. But, so, first of all, I barely knew this guy because I had to do the CA right away, right, and like, we don't sit around talking about prison, we're trying to focus on the future. Plus, people's prison files aren't, that is not an accurate representation of who I am. Every guard wrote everything they wanted in my file, and lots of those guards weren't educated, or they didn't like me or both, but so that, that information doesn't make it to my file. Now all these years later, what, some P.O. is sharing this file information written by god knows who, with a guy who I am just trying to date like, as if I'm some dangerous criminal. It was really really terrible.

Many participants offered that the process is not just unsettling for them, but is also off-putting for their families, and for individuals in the community who they are trying to form relationships with:

Nyki: Do you know if, if your family ever shared if that process, like if that was impactful? Or how that felt for them to go through that whole process?

Participant: Yeah, they felt like in a way, it kind of felt like, you know, their privacy was invaded. I didn't like the fact that they had to ask my family questions, and go into their home, you know, or, like our childhood home to have, like, for it to get approved. So it's like they're, I'm invading their privacy, you know, so they didn't like that. But they did it because they wanted me to come home. So yeah, it was they felt invaded.

In some instances, when friends and loved ones of life sentenced people learn about these requirements, they declined to participate in the process, and resultantly, ceased to be meaningfully in participant's lives. This outcome was especially prevalent among racialized participants, who describe their family members expressing love for them, but being unwilling to have parole officers contact them and enter their homes:

Participant: Not everybody wants to, not everybody wants to talk to a parole officer. You know, some people, maybe they like you, for you. But if you're telling them, you know, "*there's also these people involved in my life, and they're not going away anytime soon."* It's like, maybe some people don't want that. And it's understandable, right? Yeah. I literally have family members that are like that. My sister and my mom like, you know? They just didn't want to, they don't want nothing to, they don't want nobody have their number. They don't want. You can tell them, "*talk to my [parole officer]*. "They'll tell you, *"No, I don't I don't need to, like, I'm not on parole. I don't need to talk to your parole officer*". They're like um, *"I'm talking to you. You know, you can tell your parole officer that you talked to me, But I'm not talking to them."* So it's difficult, you know?

Nyki: And what would happen, would you still be allowed to have these people in your life? If they say no?

Participant: I mean, they are family. Like my sister. She doesn't live here. Yeah, but she lives in Alberta, but I mean, we can still talk on the phone and stuff like that. But if I was to tell her you know, like, if I was I was thinking of visiting at some point, I would actually have to get my own Air BnB and stuff like that, you know, because I know they're gonna be like, *"okay, if you are sleeping there, now we're gonna do a community assessment."* And I already know my sister is she's gonna be like, like, "*I don't, I I'm just trying to see you like, I don't want to... I don't want these people come to me and talk to me and..."* you know?

Nyki: Yeah.

Participant: So I mean, I have to respect it, I can't force my problems onto her. She doesn't want nothing to do with anybody, you know. So there's, there's a hesitation there when I want to see her, in the back of my mind. So it does affect relationships.

"Trauma dumping and red flags": how community assessments make people vulnerable

Related to the formation of new relationships, multiple female participants expressed fear that parole officer engagement in their love lives introduces a power imbalance in new relationships, as potential partners gain power over their freedom via direct communication with parole officers. Because in the community assessment process, the parole officer asks for a commitment to be in contact with a potential partner in an ongoing manner; the new partner will be asked to provide information to the parole officer about the person on parole. The act of parole officers randomly calling partners and asking if they "have any concerns" adds an

additional layer of intimidation for selected participants who offered that they were survivors of intimate partner violence, as they saw this channel as an avenue for them to be harmed by partners to exert unchecked control. For example, if a partner lied and made up something about a person on parole, their parole could be suspended and/or revoked. More concretely, there is worry about partner's ability to threaten their freedom through these channels. As one participant notes, "*you have to be so careful who you let into your life. You have to keep your social circle small."*

One participant, in reflecting that the expectation to tell someone, upon first meeting them, a detailed account of historical events dating back to decades earlier in her life when she was a teenager puts her at risk of attracting " *the wrong type of person*", because "*trauma dumping*[22]" as she offers is "*It's not received well in today's dating culture."* Socially, she shares how this is perceived by potential partners as "*trauma dumping*" and that in healthy relationships, you do not begin a relationship by sharing "*your trauma".* She expressed how these requirements imposed through community assessments make her feel like she will just be a "*red flag"* to the people she is interested in, while she has always been able to lead productive and healthy relationships. The community assessment process discourages her from even trying to be in a relationship:

> **Participant**: My new P.O. tells me that I uh, that I….I can't have anyone spend the night without doing a community assessment. I don't have any type of relationship condition, actually relationships have nothing to do with my conviction. Actually, in all my paperwork, relationships are always listed as something I am good at, as a

[22] When this participant refers to trauma dumping, they are using a colloquial term to describe over sharing about impactful and traumatic experiences at inappropriate times in a relationship, especially too soon in a new relationship. See the following article for further context: What Is Trauma Dumping? (clevelandclinic.org)

> protective factor…in their words. But, my P.O. said that this is a rule. I asked for it in writing, and um…she has never provided me with anything. I am scared to push it at all, she could revoke my parole. Yeah so I did try to push a little, I told her CAs are only for like, if I am going to marry the person and we're gonna move or something maybe, but…I don't want to do it without knowing someone……what kind of start is that gonna be? I am shy…but she [parole officer] doesn't care…I get so lonely…but…being free is more important than being lonely. But I am alone. I never imagined it would be this way. And being alone, it…I am running out of my reproductive years, it's so scary to think about it…I would love a family. What can I do?

Regardless of how long a person is on parole for (many participants in this study have been on parole for 20+ years), each person is being told that they must *always* complete community assessments in order to have contact with people in their lives. This level of invasiveness and assumption about a person's ability to form a productive relationship is not being modified, reduced, or removed over time. As participants age and years and decades separate them from both their historical convictions, and from the years they spent in prison, the practice of intensely regulating the relationships of all people on parole becomes more pronounced in its impacts. As one participant shared:

> "I am 42 years old. It's been more than 6 years of me being in the community, you know, making a good life for myself. I am not who I was when I was 18, I am not making the same decisions, you know, I am, I am an adult and can make decisions about who my friends are. If the system can't trust me that much, then what are we all doing here, really?"

Fear, asymmetry, and remorse: the subjugated identity of being a parolee-for-life

While political rhetoric and media discourse seek to create fears of life sentenced people amongst the general public - casting this population as an archetypal folk devils, as dangerous people that the public should be afraid of, people on parole for life have lives characterized by living in fear, themselves. They are living in fear of being judged by peers, fear of being sent back to prison, fear of dying alone, and fear that relationships will harm them for others. Fear of reincarceration permeates all of the interviews:

> **Nyki:** Do you feel like you're safe in the community? Do you feel that there's any risk you'll ever go back?
>
> **Participant:** I try not to, but it's on my mind every day, like, I mean, not every second, some days I forget, stuff like that. You just want to get in the car, like I went to the car, I went to shop just before I talked to you up at Walmart, so I'm, you know, I'm, I gotta do the speed limit, I gotta do this, I gotta do that. I don't want to go a couple kilometers over just in case I get pulled over. And then I get an asshole local cop, you know, who could have been having a bad day or whatever…and then all of a sudden, there I'm back in the clinker, you know….

No matter how much time passes, people seem to live in fear of reincarceration broadly, and many have ongoing and intense fears of police, "*I see a cop car, oh my gosh, I shake. You know, my employment now…I'm a manager at a [type of] store. And we get a lot of, we get a lot of cops, it's not in the best neighborhood...It really plays with you with your emotions and everything. I find it's not good for your mind. Because every time they come in, I shut down completely."*

Driving seems to be a primary site of surveillance and contention for people on parole for life, with many describing that police can see their status of being on parole, the nature of their conviction, and their parole conditions simply by driving behind them and looking them up on their computers:

> **Participant:** Does parole affect me? Sure, sure. It's affected everything I do every single thing, every move I make, every…time I get in the goddamn car. Like...I drive a Cadillac I bought a brand new Cadillac this year. And if a cop gets behind me and you know, he's punching in the plate, and so I wait for it, and all of a sudden, your hands are glued to the steering wheel, you know, you don't want to touch the line or something because you know, he's gonna pull you over and then wrench you down. And you know, granted I've had some bad ones and I've had some, some fair ones, you know that some have been decent, but the majority of them are assholes.
>
> **Nyki:** Do a lot of cops pull you over once? Once they know you're a prisoner, or?
>
> **Participant:** Yeah, well, it appears that way. Like, I don't know, their computer system, but I would imagine that the computer would mention that I am on full parole and what it's for… and they have pulled me over on numerous occasions for things that I did not do, like, they'll say "*you are waving in the lines"* you know, but the cars I have, for fuck sakes, they have sensors on them that, if you were to hit the line or get close to the line, your sheet would start shaking. Or the other one, there's a beeper that goes off so, you know, you are not gonna hit no fucking line, or nothing, you know what I mean? But they'll sit there and say, well, "*you're weaving, you're doing this, you're doing that"*...they're just lying…they just want to size you up and take a look and see if they can come up with something else, you know, and try to get your goat

> and see if they can do something, and then all of a sudden 2, 3, 4, 5, I've had upwards of eight cruisers come in, unmarked cars and everything come in when I've been pulled over…. Then at the end, he even did a search of warrants and queries across Canada, phoned the parole officer…at the end I said, "*so why did you pull me over?"* He goes, "*I don't have to give you a reason".* And then he let me go after an hour and uh, 45 minutes, and what, seven eight cruisers and unmarked cars. I was on a series 400 highway so they were parked in the grass in the middle of the median…the whole nine yards.

Several participants describe commonly being pulled over, "*it seems about 50/50, if they're gonna stop me or not*" offered one older man on parole for life. Another participant offered that the police had pulled her over the day prior to our interview. She is an Indigenous woman and offered that she wasn't certain whether she was pulled over because she is Indigenous, or because she is on parole. She shared that the police officer immediately called his supervisor and told her that "*he's never dealt with anything like this before*". This woman has been on parole for 16 years without any issue. She offered that the police officer was ultimately "*not too bad*", and let her go after asking for all of her parole documentation and to see the Correctional Service of Canada identification card that every person on parole is required to carry at all times. However, the experience of her status as a person in the community being randomly contested through police interaction had a traumatic impact on her, and she shared with me that she had spend the remainder of the day in her bed, experiencing a fear and trauma response. When we had our interview the following day, she was still emotionally impacted by the experience.

Many participants used the word fear in relation to the discretionary power that their parole officers have over them. Fear of the power over by parole officers is a persistent experience that people describe living with, *"you always feel like this person has the ability to affect your life in a negative way"* shared one participant. *"It's just…living, living with fear, that somebody, another human being has THAT much power over your life, you know? …it's just that feeling, that this person is an authority over you, and if they really wanted to, they could screw things up for you. That's, that's a fear that you always have."*

Participants disclosed many strategies for managing this fear. Participants organize their lives by trying to create senses of safety from the control that parole officers have to reincarcerate them, in what ways they can. Many participants referenced isolation as a strategy to be, (or rather to feel safe), in similar ways that they describe surviving their years in prison:

> I don't really have a lot of friends, I have to keep my circle small and really trust the people I have in my life or else they could be sending me back to prison. So I just do my own thing, I have a circle of women lifers too and we support each other, we get each other, but other than that I don't really have any friends.

One participant actually moved to a different city to escape a parole officer who he feared would send him back to prison:

> **Nyki**: So you contemplated moving where you live, just to have a different experience on parole?
>
> **Participant:** Yeah, like I said, the [parole officer] was showing up on my work. And I was literally doing nothing wrong. You show up at my work? I'm like, what are you doing, showing up on my door? Like, you're literally at the door of the warehouse.

Just standing like this. I'm like, "*sir, like,…what's like, what's up*?" Like, I couldn't understand what his problem was. I almost thought for a second, is this guy normally from somewhere? I'm not sure. Like, he just was really bad. And I even like, I even tried to talk to him, you know? But honestly, it was a really bad experience. I thought for sure this guy's gonna say something, you know, like, 'Oh, this guy has a bad attitude'. Because he said, "*Your work has to be notified*." I said, *…what kind of work do you think I'm doing. I'm in a warehouse, packaging boxes. Like just packaging boxes."* And he was like, "*oh well, you don't know, stuff happens, 10 years ago a lifer did something here? A lifer…"* I'm like...I have to be careful. And then everything from there on, I documented.

Nyki: What happened. How long did, how did you end up with the different parole officer?

Participant: I moved, I moved from [name of city]. I moved from my home.

Nyki: Because of that?

Participant: To be honest, yes. I had to make up a reason to tell them, you know, but it was that. If the guy wants to, to keep coming to [my] house and scaring my family. Like why do you want to come to my house every other month? Like, do you think my family is comfortable with you coming into my house?

Many participants indicate that ongoing fear of parole officer's power over them is connected to the fact that, no matter how hard they work to build trust with their parole officers, their parole officers changed multiple times, and shared that the behaviors and approaches of parole officers, even the rules of parole, change with each individual. This

leaves people unclear about expectations, living in states of uncertainty and apprehension for when a new parole officer may come along and alter their quality of life:

> **Participant:** Well, it's it's changed to a degree where it's okay [after 18 years on parole], it's become a little more relaxed, like certain parole officers have become a little relaxed, and they have given me credit for being out as long as I have, but then you get uh, my last one…who initially came in with you know, we'll say, you know, with this 'theory' of who I am, and, you know, came in saying she was gonna 'lay the law down the law' and this and that, you know, she didn't give me credit for nothing. Now, *finally,* she sees …that what I did tell her the first time I met her is, is what the real deal is, and well, what she's heard from other parole officers about me. And so she has lightened up a little bit yeah. Yeah. Like, how couldn't she really? Let's be honest.
>
> **Nyki:** And now that you're on parole…is it different from how you imagined it would be when you were still inside [prison]?
>
> **Participant:** I mean, I kind of, I kind of, I can't imagine…I kind of imagined it. [It's] the same in a lot of ways…you still got to report to people, you still have your parole, and you have to…I've come to a point where I accepted that, like, I'm always going to be supervised. Yeah. So I did, I did imagine it. But it's, it's just challenging to, at the same time to try to live a life and make contacts and you know, on one hand, you're asked to be, you know, pro-social, and, you know, make good friends. And, but then, in many ways, I feel like you're limited because, like, you're not open to people, because in the back of your head, even if you were, you always think like, you know,

'*I don't know this person or like, I'll have to let my parole officer know*'... So it's a lot of fear.

I kind of had an idea. But I actually never lived in the community on parole. And there was a lot more challenging, you know, things to it than I anticipated…"

In addition to living in isolation, and with multiple types of fear underpinning people's day to day experiences, many participants (although not all, as some contest that they are not guilty of what they have been convicted of) describe that remorse has been central to the way that they have navigated their lives since contact with the carceral system.

Remorse, fear, and the legal consciousness of people on parole for life

I admitted my crime, I never went to trial. I didn't know… I can tell you whatever, right? I tried to kill myself after I committed my offense. And when they picked me up off the road, I was laying in the hospital and I told the doctors nurses who were there what I done right away before the police were ever involved or anything. And so basically, I convicted myself…

Many participants offer feeling an incredible sense of ongoing remorse for being involved in a situation where someone lost their life, a sentiment that was expressed most strongly in relation to the last question: "if you could change anything about parole for life, what would it be and why?" This question provided great insight into how life sentenced people understand and interact with the legislative and policy framework that governs their lives. Quite simply, when posed with this question, the first reaction of many was that they never felt deserving of a better quality of life. One participant, reflecting on the *"invisible handcuffs*" he wears by his remorse, not his parole conditions, stated *"I have never really thought about*

changing anything, because even though there are days where its hard, I just remember the pain and destruction I caused." Indeed, the fear and remorse explored in here provide an apt foundation within which to situate people's absence of legal engagement with their circumstances.

A person's legal consciousness—that is the way they understand and interact with 'the law'—is shaped not by what possibilities actually exist in law, nor by what mechanisms to address violations of law, but instead by their social embeddedness: by the social, political, economic, institutional, familial, community, and cultural contexts that they live in. Most of the people in this study have not sought to change their conditions on life parole, with the exception of some self advocacy where some participants worked to have certain special PBC conditions removed, over time. In these instances, participants described convincing their parole officers to support applications to the Parole Board of Canada to have certain special parole conditions removed . The absence of action for people to address the most impactful conditions of life parole which they experience (geographic confinement and intense regulation of all relationships) has likely occurred in part because parole officers are informing individuals that only special PBC conditions can be removed. In addition to this misdirection that parole conditions cannot be removed , participants' acceptance of their restrictive life long conditions appear to be reinforced by fear of incarceration or feelings of deserving these punitive conditions because of remorse, or both. However, the law states that all conditions can be removed over time[23]; therefore, the reasons for why participants have lived for near lifetimes on parole without understanding the legality of the sum of their conditions is an important subject of analysis.

[23] The CCRA and Parole Board Decision Making Manual mention that only three of all standard parole conditions should not be removed: "The Board should not relieve an offender from compliance with the following conditions:

It should be noted that one participant has been an outlier in regards to the use of legal processes on parole, and they shared about how they have worked to use legal processes to redress issues they that have experienced. Notably, they describe how the first decade of their parole was without need for use of legal processes or self advocacy through using the law, but that they experienced a traumatic event that they deemed to be quite unjust, and following this event, they began to undertake more legal advocacy. This advocacy was aimed at addressing one specific unjust experience the participant had been subjected to, and did not include a broader attempt to absolve themselves of the parole conditions that have shaped their life.

An understatement of significant social contribution

The focus of my interview guide was on the specific characteristics of the conditions of life parole, if and how they have changed over time, and if and how they interface with the salient components of being alive- such as having access to family, community, and the ability to navigate rites of passage and important life milestones such as marriage, divorce, career changes, aging, etc. Although the dominant themes across the interviews highlight how limited the social lives of participants have been because of the conditions of the life sentence, there were many additional strong themes and elements of their stories that surfaced, but were not included to account for the scope of this thesis. For example, economic hindrance was another common experience for the people on life parole, many of whom described exclusion from their dream careers, pay and position ceilings that they would otherwise not have, and being stuck in jobs

a. obey the law and keep the peace, b. report immediately to the Parole Officer and thereafter as instructed; and, c. report immediately to the Parole Officer any change in the address of residence (CCRR, 2024).

that they are unhappy in for fear of change, within their social status of parolee where stability is so salient.

Within participant accounts of how life parole's conditions have impacted their ability to professionally develop, I learned of many rich economic and social contributions that they have continually made during their time in the community. These contributions are summarized herein, and demonstrate the strong potentiality for life sentenced people to meaningfully contribute to society. Such contributions challenge most available media accounts about life sentenced people who gain parole in Canada that suggest life sentenced people are risky and dangerous, and are generally undeserving of life in the community (see Kish and Humphrey, 2024).

Many of the interviews were conducted virtually, but for some I was able to visit the homes of people on life sentence parole. In the apartment of one participant who has been on parole for over 30 years, I was generously shown a collection of accomplishments, recorded through photographs, newspaper articles, and other artifacts. This person had spent his 20's and first half of his 30's in prison, where he taught others to read and write and led a penitentiary newspaper press. He published frequently from inside prison and upon release, became an influential figure in the capacity of advising non-profit organizations who work in the prison sector. Most of his contributions in this capacity have been unpaid volunteer work, not benefiting him directly but creating significant positive influence for a number of well-reputed and recognized registered charities.

A significant number of participants continue to use their time in the community to help others in the prison system: several volunteer and work to assist others to navigate re-entry, while more than one participant goes back into prisons to provide emotional support to people

who are still incarcerated. Much of this work is carried out as unpaid labour, with participants doing so in addition to having full time jobs that they described as menial, frustrating, and/or void of potential for advancement. Many Indigenous people in the sample are recognized cultural leaders, one is recognized in her community as an Elder, among other distinguishments. A younger Indigenous woman on life parole spends much of her time holding culturally grounded support circles for other Indigenous women impacted by the prison system. Another female participant has made supporting others her full time work, and spends her days supporting victims and survivors of crime. These experiences suggest a deep sense of empathy and care across people on parole for life, and whilst there is a curious passive legal consciousness among the people in this sample and absence of legal advocacy for themselves. The altruism and volunteer work expressed across participant accounts suggests that there is a high level of social consciousness, social responsibility, and social commitment to others felt among this population[24].

Participant reflections on needed changes to life sentences: *"Its just bad policy, from an economic and a logical point of view"*

At the end of the interviews, I asked participants to think about what they would change if they could change anything about the life sentence. Importantly, while most participants admitted that this question first caught them off guard and that they had not previously considered that change was possible, when faced with the prospect of being able to change their conditions, they began to open up and provide rich insight into potential policy directions rooted

[24] For further insight into life sentenced people in Canada who have committed their lives to significant altruism, consider reading about the life of Glen Flett, a life sentenced man and co-founder of the Long-term Inmates Now in the Community Society. The transformative justice Society has had national impact, was co-founded with Glen's life partner and scholar, Sherry Edmunds-Flett, and continues to support survivors of serious crime and people with long and life sentenced, and beyond today. There are numerous historical records available about Glen and his life's work, one of which can be found here: Learning to forgive: How one woman became friends with the man who murdered her father - The Globe and Mail.

in their epistemic privilege - in their lifetimes of having experienced the impacts of life sentences. Changing the requirement to keep people on parole for decades and until their deaths was the primary aspect of life sentences that participants offered should be changed. Participants stated that parole becomes "*useless*" and "*counterproductive*" in the years that follow their successful reintegration. Many participants expressed phrases such as "*what's the point*?" or "*there is no point*" in relation to their parole officers keeping tabs on them 2 decades after their release from prison. Many note the high salaries of parole officers in Canada and reflected that their status on parole was being continued just to "*keep someone in a job*". Many participants who have been on parole for 5 years or longer, and who are required to see their parole officers once every two or three months describe the process as strange and alienating. One participant reflects "*basically a stranger comes into my house every three months and makes small talk with me. We talk about cats mostly*." Three months is currently the longest period permitted for individual parole officer reporting requirements. Prior to the policy direction away from use of parole reduced status in the mid 1980's, it was not uncommon for people with life sentences to report once a year, as the participant in this study who has been on parole the longest recalled.

Chapter 5

Discussion

The purpose of this discussion chapter is to contextualize findings within the broader socio-legal-political context within which they exist, to grapple with the implications of participant experiences, and to outline the need and potential for legislative change. This chapter is divided into three sections: first, I begin by summarizing the theoretical frame I have

understood my findings through, highlighting the significance of these frameworks. Then, I outline the legal framework that parole conditions are situated within, unpacking the socio-legal contexts of both community assessments and travel radiuses, as these are the most salient elements of parole that are creating adverse impacts across multiple domains of people's lives. In doing so, conflict between law and experience is emphasized, as is the way that parole and its conditions have expanded in scope over time. A focus on the individual and social impacts of the life sentence follows, by exploring what it means to impose static punishment upon people over their changing life courses. Discussion shifts to focus on legal consciousness of life sentenced people on parole to examine why, in the face of conditions that violate and transgress the limits of law, people do not use the law more to challenge their circumstances. Discussion concludes by emphasizing the value of drawing upon the insight of lived experience to inform policy direction.

Situating parole for life as a status of exception

In *Life imprisonment: A global human rights analysis,* Appleton and Van Zyl Smit (2019) highlight the emergent body of evidence which tracks parole within "the new penology" as a site of social control and surveillance in the community, marked by increasing technological mobilization of parole's apparatus. The rise in life sentences occurs in Canada in parallel to the globally changing nature and meaning of parole, and while literature (see also Allspach, 2010) grapples with parole's changing carceral and social control functions, there has not been analysis that positions parole, or specifically parole-for-life, as a state of exception, in Agambian tradition.

As introduced in the theoretical framework chapter of this thesis, it can be quite helpful analytically to first understand life sentences as a biopolitical phenomenon, in order to fully

understand the significance of seeing parole for life through an Agambian framework. Biopower is characterized by power that centers the state's concern with the management of life. Life sentences are just this, an example of the state's ability to manage life, operationalized through the perpetual regulation of individuals' actions, relationships, and opportunities. The rise of the management of life through life sentences can be generalized to follow the state's previous concern with taking life through the death penalty. Moreover, the experiences of people in this study who live on life parole demonstrate how the state is concerned with the management of their lives in ways that broadly facilitate social conditions that allow for and even encourage their death. Though the conditions of parole for life work against people's wellness, they persist. And biopolitical power always adheres to racist logics, strengthening itself from certain marginalized populations whose individual lives are denied value, which has certainly occurred in Canada given that alarming numbers of life sentenced people are Indigenous. Participant experiences demonstrate how the administration of the conditions of life sentences are allowing people to perish invisibly beneath them, especially through isolation . Yet while biopolitics can broadly ground our understanding of the culture and macro logics that are represented in life sentences, in order to understand the social implications that result from their presence in society, we must centre the work of Gorgio Agamben (2005).

Agamben's framework clarifies what is happening socially, legally, and politically within and from the phenomenon of parole for life. Life sentences allow for the state to manage one's life for the duration of that person's life, and in totalizing and unchecked manners. This legal purview can be considered as an exceptional application of law- most people in Canada are not subject to such conditions. The conditions of life sentences create a legal space that reduces full citizens, through the label of 'offender' into bare life: a legal class of person that reduces the

human being from their ability to live a meaningful existence with full social and political participation.

Agamben's (2005) analyses especially expands from Foucault's by offering that conceptualizing a linear distinction of a shift from sovereign into biopower is faulty. Agamben demonstrates this by problematizing Foucault's work that offers that exceptional legal states represent *outlying* examples of a government's potential to grab total power[25]. Agamben offers instead that instances of legal exceptionality, or of 'states of exception' as he phrases them, serve not as outlying instances, but actually as the "hidden nucleus" of Western power (Lechte, & Newman, 2013, p. 51). As Anthony Downey (2009) captures:

> The central paradox of the rule of law under sovereign power [is] a state of exception – martial law for example…the suspension of law so that the rule of law can be reinstated down the line. The problematic, as Agamben puts it, is when the 'state of exception' – the suspension of law and all that such prorogation entails – becomes the rule (see Schmit, 1985; p. 112)

A state of exception is characterized by environments and time periods where there is a suspension of the normal rights of individuals and the limits of the law. These suspensions of the limits of law are legitimized in response to the perception of an 'exceptional' threat (Agamben, 2005). States of exception have traditionally been considered in relation to the suspension of rights over physical spaces and geographies. However, thinking about a state of exception being imposed upon a person through an exceptional legal status assists specifically in answering my third research question, the questioning of what parole-for-life is *doing* in society.

[25] Famously, Foucault illustrates the conditions of Nazi Germany to demonstrate how total state control can manifest as an outlying social experience.

Thinking of people on parole for life as living under the conditions of *states of exception* helps to illustrate how life sentences are creating a new legal class of person, the perpetual offender. People on parole for life live beneath an exceptional legal status that is out of the public gaze. They are living without the constitutional and legal rights that criminal law pretends they are still guaranteed, such as the right to fair and due process, freedom from cruel and unusual punishments, and freedom of movement and association. While law on the books claims that life sentenced people have these guarantees, the experiences of the participants in this study demonstrate that they do not. Because of the exceptionality of the conviction -that generally of 'murder', otherwise unfathomable treatment – such as invisible confinement to a small geographic area for one's lifetime, becomes the norm. The absence of research, policy attention, and the acceptance of unjust conditions by life sentenced people can all be traced back to the exceptionality of the sentence (Kish & Humphrey, 2024). Absent attention to their conditions, life sentenced people are subjected to intense and often arbitrary surveillance, and increasingly, this total power over them is also being imposed on their families and communities. Exactly as Agamben (2005) warns, states of exception have a tendency to become the rule. Without attention to or concern for the invisible rise of life sentences, the scope of state power over both individuals and communities expands and increases. More obfuscated than traditional applications of states of exception where people are completely stateless: the life sentenced person, in the sentence's current configuration, remains a quasi-citizen who lives at the whims of the state's decision making, but without meaningful possibility to redress the state for harms produced through this arrangement. In this way, life sentenced people live under a *status of exception*.

While people under life sentences have clear legislation regulating the conditions of their confinement, the participant accounts described in this thesis indicate that in practice, there is a complete and arbitrary power enforced over them, evidenced through the applications of travel permits and community assessments, and by the systemic misinformation regarding the purported inability to remove or change administrative and standard parole conditions. Agents of the organization responsible for administering parole, the Correctional Service of Canada (CSC), would advise that people who feel they have been legally wronged may seek redress in any decision made by them through their internal CSC grievance system; however, as participant accounts demonstrate, people across the country who were released during different years and decades have all been informed that the intent of life parole is to statically restrict, forever. This intent is publicly confirmed in the Parole Board of Canada document 'Myths vs realities', which proclaims that "lifers will never again be fully free" (Parole Board of Canada, 2024). And while the way that life sentence parole is currently being administered is reaching wildly beyond the limits of the law, people who live on parole for life experience such intense subjugation over time and are in such constant fear of reincarceration that they generally accept what the parole system directs. This has likely led in part to an expanding scope of the perceived authority of the system, to such an extent that people have lived (and died) under statically repressive conditions that overtly violate multiple laws and constitutional principles.

Agamben's (2005) understanding of the reduced social conditions in states of exception, legitimized by 'extreme events' that permit the suspension of law, is indeed most helpful in understanding what conditions life sentences produce and reinforce societally, and how they are changing the fundamental principles of the relationship between individuals and the state. Returning again to Agamben's (2005) premise and key divergence from Foucault that this

display of power is actually the crux of sovereign power, he cautions that the increasingly diverse and displaced manners in which biopower presents should not diffuse focus from sovereign power, nor from its implications[26]. As Frost (2019, p. 6) notes, the 'conditions of possibility' facilitated through states of exception (in this case, perpetual punishment) have implications beyond the population of people on parole for life. Should assignments of deviance and risk continue to be able to render individual rights and liberties moot, and should moral conclusions about populations subjected to carceral subjugation—be they by the public, law makers, or by the people under sentence themselves—continue to provide the rationale for the erasure of liberty, then the notion of freedom may be already lost, and the ability for law to be just, lost as well. The creation and increasing normalization of statuses of exception, represented in the emergent population of people on parole for life who can be (and are) perpetually subject to an invasive, arbitrary and unconstrained state power speaks to a frightening carceral future—if the present is not concerning enough.

In sum, life sentenced people being subjected to a lifelong status of exception, and the increasing normalization of this, as evidenced by the rising rates of life sentenced people and increasing surveillance of their social networks, does indeed mark a 'hidden nucleus' within the expansive carceral era. The perpetual offender demonstrates how labels of deviance can redistribute the relationship between individual and state, not through power which directly takes the life of the 'offender', but through power which mobilizes this status against them,

[26] For clarity, the increasingly diverse and displaced manners in which power manifests through the administration of criminal convictions is seen through the increasingly networked, multi-institutional approach to incarceration, where many arms of state work independently through cooperative agencies. This includes an increasing reliance on the administration of invisible incarceration in the community especially through technological apparatus, carcerally mobilized 'helping' professions such as social workers, and as shown here - through community members of people on parole who are also mobilized by the state via community assessment processes. This version of incarceration replaces traditional walls and bars and embodies the conditions of biopower.

inflicting life long punishments upon them that facilitate their slow perishing, and also affording the state power over individuals and communities which it never could otherwise make a legitimate claim to. Perhaps this is why scholars such as Debra Parkes (2021) urge researchers to 'begin analysis' in the understanding of life sentences. The rise of these sentences, the unchecked manner in which they are permitted to be administered, and the concentrations of their imposition on racialized people and very young people is indicative of a very concerning power that that only requires an associated label of risk or deviance.

Situating parole in the law

Section 161 of the Corrections and Conditional Release Regulations (CCRR) outlines a number of standard conditions that are imposed upon every person on parole at the time of their release. These standard conditions are listed below. It should be noted that the word offender is not removed from this section to emphasize the character of parole:

> 161 (1) For the purposes of subsection 133(2) of the Act, every offender who is released on parole or statutory release is subject to the following conditions, namely, that the offender
>
> (a) on release, travel directly to the offender's place of residence, as set out in the release certificate respecting the offender, and report to the offender's parole supervisor immediately and thereafter as instructed by the parole supervisor;
>
> (b) remain at all times in Canada within the territorial boundaries fixed by the parole supervisor;
>
> (c) obey the law and keep the peace;

(d) inform the parole supervisor immediately on arrest or on being questioned by the police;

(e) at all times carry the release certificate and the identity card provided by the releasing authority and produce them on request for identification to any peace officer or parole supervisor;

(f) report to the police if and as instructed by the parole supervisor;

(g) advise the parole supervisor of the offender's address of residence on release and thereafter report immediately

(i) any change in the offender's address of residence,

(ii) any change in the offender's normal occupation, including employment, vocational or educational training and volunteer work,

(iii) any change in the domestic or financial situation of the offender and, on request of the parole supervisor, any change that the offender has knowledge of in the family situation of the offender, and

(iv) any change that may reasonably be expected to affect the offender's ability to comply with the conditions of parole or statutory release;

(h) not own, possess or have the control of any weapon, as defined in section 2 of the Criminal Code, except as authorized by the parole supervisor; and

(i) in respect of an offender released on day parole, on completion of the day parole, return to the penitentiary from which the offender was released on the date and at the time provided for in the release certificate.

In addition to these conditions that are applied to every person on parole, the Parole Board of Canada, at the time of a person's parole hearing, can impose additional special conditions that correspond to a perceived unaddressed risk. Common special conditions include to refrain from drinking or purchasing alcohol, to be barred from establishments whose primary income is from alcohol sales, to report all intimate relationships, to report finances, and to avoid geographic areas where registered victims of crime reside.

Contrary to what parole agents have communicated to all individuals in the study throughout the duration of their time on parole, there is a legislated process for varying or removing all of the above conditions. This process is both written into the CCRR, as well as the Parole Board of Canada's Policy Decision Making Manual (section 6.1, p. 3-4, 2024), of which section 6.1 paragraphs 9-23 outline. Specifically, para 22 of section 6.1 reads: "in accordance with paragraphs 1336a and 131.14a of the CCRA, the Board may vary or relieve [a person] with any of the standard conditions of release"[27].

The ability to vary and remove standard conditions supports the potential for relief of geographic confinement, which aligns with the law and its constitutional obligations, as well as the purpose of parole. However, what is to be done when the law exists on the books, but not in action? The ability to remove and vary standard conditions of parole directly contrasts with the lived experience of the participants of this study, who all shared that they have been directed that it is not possible to have standard conditions removed. Further, the asymmetry of power between parolee and parole officer is such that contesting official direction becomes a site of risk of reincarceration. Thus, what parole officers tell people generally directs the experiences that

[27] For ease of reference: Decision-Making Policy Manual for Board Members 3rd Ed No 3.pdf.

follow, regardless of the legality of what they are told. The systemic (mis)direction about the static nature of parole conditions being imposed upon people in Canada has profound impacts on the lives of participants, most specifically through condition 1(b) which keeps people within a fixed geographic area. Importantly, to complicate this, as the condition is written into the law, there is no obligation for parole jurisdictions to remain static. The condition does not specify that the jurisdiction cannot be broadened over time, and so why this has been interpreted in the most restrictive manner, to keep people within the limits of the cities that they live within, for their lifetimes, is unknown, however points to the lack of policy attention given to the administration of life sentences.

As a reflexive note, in preparing for this research, I engaged in multiple conversations with staff across all levels of the Correctional Service Canada, who all told me that standard conditions cannot be removed. Indeed, the information that standard conditions cannot be removed is so systemically entrenched that I was only able to uncover it in seeking legal advice from a constitutional lawyer about legal issues resulting from the static nature of conditions. I disclosed to the lawyers that people are being kept on statically repressive conditions until their deaths, and they showed me that there is a clear legal process to have them removed, pointing me to paragraph 22 of the 2024 Parole Board of Canada Policy Decision Making Manual that is cited above, which directly quotes the CCRR. It was disheartening to learn that community parole officers nationally have misinformed all of the individuals in this study for the duration of their time on parole about the ability to have conditions change and be removed over time, albeit that it appears by my assessment that they believe this information to be factual.

The discrepancy between law and practice seems to date to the 1980s, to an unknown event which is referenced both on a government online resource entitled *History of Parole in*

Canada, which details as much, and was dually confirmed through the accounts of a few of the older participants who offered have historical knowledge of an event in the 1980s where 'something happened' with an individual life sentenced person. This singular event led to systemic policy direction that made life parole more restrictive for all, and led to the system's agents ceasing the practice of gradually removing most conditions over time (Parole Board of Canada, 2024). This policy culture seems to have only deepened and expanded since this time. Flashing forward to today, the impacts are profound, and the legal and social historical milieux that has created widespread adverse impact are convoluted and difficult to trace and unpack.

Despite the convoluted nature of this history, a systemic acceptance of overtly harsh 'tough on crime' practices have slipped into all Canadian punishment processes beneath the legislative authority of the CCRR. There is a lengthy documented carceral history in Canada, which often marks the era when Canada last abandoned its claims to care for the wellbeing of incarcerated people as the 'punitive turn' (Duguid, 2000; O'Malley, 2014; Pratt, 2005; Webster & Doob, 2015;). The punitive turn can be a helpful lens to understand presently violent attitudes about incarcerated people, as for some decades prior to this turn, understandings across political parties and over time held (at least publicly) that crime was largely socially caused and responses to it should be evidence-based (Parkes, 2019). However, turning back further still demonstrates that tensions in the administration of incarceration are nothing new, and indeed practices that demonstrate disregard for human life have been a defining element of the penitentiary system throughout its existence.

In *Disruptive Prisoners* (2021) a history of Canadian penal reform told through the data of prison newspapers, authors Clarkson and Munn highlight how the 1940s to 1980s were decades characterized by a liberal turn in incarceration, summarized as 'the new deal' in prison

reform, and represented by reforms such as the Archambault Report[28], which heavily focused on the social support and re-entry of people in prison, and which arose in response to pervasively dire penitentiary conditions. This earlier period of progressive reform was publicly associated with such political slogans such as "Prisoners are People" (Clarkson and Munn, 2021). However not only would such slogans be unlikely to be uttered by law makers today, but Clarkson and Munn highlight a point which Parkes (2019) emphasizes, that even those periods of prison policy making in Canada were actually quite riddled with tensions themselves, with undercurrents of harshness, incoherence, and punishment objectives. These longstanding troubles have led to even Canada's most progressive carceral eras being criticized for operating with a 'liberal veil' (Parkes, 2019), which should give rise to question of the viability of any system of incarceration to be coherent, and ought to point us socially away from the practice of incarceration in all possible instances.

Regardless of continued evidence into the failures of the penitentiary system, the use of it has only increased over time; and, from the early 2000s wee see a decreased focus on people's rights and liberties, and the domination of risk management discourses. A guiding assumption inherent to incarceration today is that people who become incarcerated are not done so because they have done something illegal, but because they are inherently deviant (Kish, 2021; Webster & Doob, 2015). And it is buried within Canada's long, troubled and 'incoherent' (O'Malley, 2014) relationship to how it administers incarceration that the rising use of life sentences have developed unchecked and unproblematized.

[28] Kolb, C. E. M. (1982). *Riot and deaths at Archambault Penitentiary, Sainte-Anne-des-Plaines, Canada, on July 25, 1982 : a report to the International Human Rights Law Group*. Foreman & Dyess, Washington, D.C.

Limitless perpetual punishment provides the state with the 'conditions of possibility' (see Frost, 2019, p. 6), a total power potentiality (and actuality) over certain peoples, where all that is needed to accomplish this is a criminal conviction. This phenomenon is blossoming within a wider socio-political reification of carcerality, making total power ripe for expansive application, even though on the books of law, and at surface glance of people on parole for life, such total power does not appear to exist. Yet, it exists, it is expanding, and frightening as its current state is, its overlap with Canada (and global) shifts to technologically 'modernize' carceral landscapes promise ever more complex versions of such power, even when priorities of liberty, limited, restrained and least onerous sanctions be continually championed. Importantly, however, such priorities seldom appear in literature or in public discourse at present. Current public discourse appears to be punitive, and it is likely that many people in Canada are unaware of what a life sentence actually means in Canada, let alone know that conditions of parole result in an increasing amount of people who are living in the community perpetually confined to a geographic area, who cannot access other people or places without permission from the state for their lifetimes.

To emphasize the questionable legality of Canada's application of the conditions of parole-for-life, Van Zyl Smit and Appleton's discussion (2019) about the global culture of post release conditions for life sentenced people assists. In many countries globally, parole for life is not imposed perpetually, and is responsive to the behavior of individuals on it. Take, for example, the EU where there are clear evidence of procedural safeguards and legal limits. Indeed, these applications would prohibit the way Canada is imposing parole for life:

> At the European level…the Recommendation on Conditional Release (Parole) promotes the imposition of individualized conditions…[and] emphasizes that the

> nature, duration and intensity of supervision should be tailored to the individual, allowing for the possibility of making adjustments during the parole period. It stipulates that conditions or supervision measures should be imposed for a proportionate period of time, and that indeterminate supervision measures should only be applied "when this is absolutely necessary for the protection of society," and with appropriate procedural safeguards (p. 276).

Legally situating community assessments

Community assessments (CAs) provide an apt example of the scope creep of parole in Canada over time. The history of community assessments demonstrate that they are practice that were never intended to be used perpetually. While CAs are being imposed in manners outside of the scope of and contemplation of the CCRA, the practice of community assessments seems to have originated, much like many tenets of parole, during a progressive period related to incarceration in Canada, as a fairly innocuous practice (relative to carceral logics broadly), or at least, as one spirited within a pursuit of decarceration. Community assessments began as 'community investigations', a pre-release tool used by advocates of parole to demonstrate that people would be better off in the community working and with their families, than they would be in penitentiaries:

> In 1959, during its first year of operation, the Board granted 994 paroles, the greatest number ever up to that date. This represented a grant rate of 42 per cent. In 1960, the grant rate shot up to 62 per cent, falling back to 27 per cent in 1961 and 25 per cent in 1962. The candidate for parole was assessed on the basis of factors that might affect his behaviour after release. The Board had a file on each inmate compiled by a parole officer**. A "community investigation" would also be conducted, which included**

> **information about the inmate's release plans, his relationship with his family and his prospects for a job** (Parole Board of Canada, 2024, para 124, lines 3-4; emphasis added).

Their present application demonstrates an invasive, obstructed version of their original form, with no traceable public account that justifies their evolution. Today, the use of CAs has evolved from information gathering for the purposes of parole into a practice that imposes the lenses and goals of the correctional state into the relationships of people subjected to it. CAs are presently being regulated through Correctional Service of Canada Commissioner's Directives (CSC CD) 715-3. The rationale for CAs is broad, while also only vaguely referencing people on parole in one paragraph:

> Commissioner's Directive 715-3 Community Assessments:
>
> (2) A Community Assessment is required when:
>
> a. there is a new significant source of community information and/or support which needs to be assessed for release planning, including a temporary absence and work release location, **or when the offender is in the community**
>
> b. existing file information needs to be updated
>
> c. day parole to an other location is being considered
>
> d. cancellation of the suspension is being considered and the offender's release plan is in another area
>
> e. information is required for an international transfer

f. a victim wishes to provide information which would impact on the management of the case and it is agreed a Community Assessment is required (CSC CD 715-13, para 2, lines 1-10; emphasis added).

There is no policy direction for if, and how community assessments should be used over time, demonstrating a complete absence of policy direction for people with life sentences, and accounts for the tensions and suffering described by participants through the expectations that they complete community assessments on everyone in their lives, forever. The policy continues to outline the scope of community assessments, which has also broadened significantly from when the practice first began. Paragraph 11, for example, describes the permitted use of background checks upon the family members, friends, community contacts and potential new relationships of people on parole:

11. As part of the information gathering process, the decision to conduct a Canadian Police Information Centre (CPIC) check should be made on a case-by-case basis. When deemed necessary, the Parole Officer will obtain written consent from the community contact using the Consent CPIC Clearance Request (CSC/SCC 1279-01).

12. The contact will be informed of the purpose of the CPIC and that participation is voluntary. However, a refusal could impede the Parole Officer's ability to determine whether the contact is an appropriate support for the offender.

13. The completed Consent CPIC Clearance Request (CSC/SCC 1279-01) will be forwarded to the Security Intelligence Officer and/or police to verify whether the contact is known to police or identify the existence of a criminal record (para 11-13).

At the end of CSC CD 715-13, there is an annex that directs parole officers about how to complete a community assessment. This annex provides insight into why participants are offput by the CA process. Regardless of whether these are conducted for those newly on parole for life, or for those who have been on parole for lengthy periods, the expectations of what a new love interest or friend is expected to know of their histories certainly misaligns with most common understandings of the level of and nature of information shared in a new healthy relationship:

B…Provide an assessment of:

- the criminal behaviour and factors likely to contribute to the safe reintegration of the offender in the community:
- offender's employment history (pattern of employment and job satisfaction)
- offender's substance abuse history
- offender's attitude towards accepted social values and their views on living a law-abiding lifestyle
- influences associates may have over the offender
- offender's personality (e.g., impulsive, empathetic, sensation seeking, manipulative)
- pattern such as aggression, assertion, coping mechanisms or frustration tolerance
- offender's sexual dysfunction
- offender's mental health
- the offender's childhood, including whether the family unit had a negative or positive influence on the offender

- the offender's experience as a residential school survivor (including whether or not the offender was inter-generationally impacted)
- the factors that represent the offender's strengths likely to contribute to their reintegration
- the interest of the community in participating in a community hearing and/or restorative justice process (CSC CD 715-13, Annex B).

The categories that parole officers are directed to gain insight through within the community assessment encourage the loved ones (and potential partners) of people on parole to pathologize the person on parole, to 'see' them through carceral lens. The system is asking people completing community assessment to understand people on parole as offenders, a static, permanent label assuming inherent deviance and need for change (see Kish, 2021). Moreover, the nature of this information seems both wildly outside the scope of professional knowledges that most loved ones (and future partners) of people on parole would be expected to hold.

Moreover, all of the information gained through people completing community assessments, who come to be understood by parole officers as "collateral contacts" (CSC CD 715-1, 2024) become sites of information for parole officers about people on parole. Parole officers offer in many cases require ongoing contact with these people, translating family and relationships into a site of risk to people on parole, which many people on parole fear and avoid, as evidenced by participant accounts through sentiments, such that "it is more important to be free than to be lonely" .

The only other mention of community assessments in policy occurs in CSC CD 715-1 'Community Supervision', the brief CSC policy which outlines direction for how to administer

parole. Community assessments come up only in relation to the process for obtaining a travel permit to leave one's parole jurisdiction:

43. A travel permit is required for all travel outside the established boundaries. Prior to approving travel outside the established boundaries, the Parole Officer will consider case specific factors that can include but are not limited to: purpose and length of travel, offender's current risk level, existence of high risk situations and/or triggers, progress and stability under supervision, security intelligence information, victim concerns, PBC decisions and applicable comments, and strategies to manage risk during the travel period.

44. A Community Assessment is normally completed prior to approving travel to a community contact unknown to the Parole Officer. Prior to the offender travelling, the Parole Officer needs to reconfirm the availability of the contact before approving the travel permit. If a Community Assessment is not completed, the rationale for approving the travel permit without a Community Assessment will be documented in a Casework Record (CSC CD).

It is evident that across these policies, there is nothing suggesting that CAs *must* be completed. When people who are released from prison, and where there is a perceived risk associated with their release such as the desire to monitor the relationships of a person who has been repeatedly convicted of domestic violence, special parole conditions provide a mechanism to address such perceived risk. Specific to this example, there is a special parole board condition which can be imposed requiring people to disclose specific types of relationships (intimate for example) to their parole officers (Parole Board of Canada, 2024). When monitoring of

relationships for people on parole is imposed as an *actual* parole condition, it is subject to procedural safeguards and limits, even if they are difficult to action, such as the process outlined in the CCRR and Parole Board Decision Making Manual for conditions to be removed. When punishments are imposed administratively, captured only vaguely in sections of policy, a clear process for contesting them or measuring their impact in relation to the perceived risk an individual is deemed to pose is lacking. The practice of regulating the relationships of all people on parole as an administrative condition, rather than as a legislated parole condition, allows the practice to operate without scrutiny and accountability, and is likely in part the reason why the practice causes so much adverse impact. Were there any policy direction into life sentences, caveats may be written into policy to consider the length of time spent on parole by people with life sentences.

As it stands, community assessments create significant barriers to people's abilities to create and maintain contact with members of their community, their friends and families, and to forming new meaningful relationships, and they do so for peoples' lifetimes.

This use of community assessments directly circumvents legislative requirements for the prison system to impose itself upon people in the least restrictive manner possible. Moreover, because participants are being subject to this practice regardless of whether they have parole conditions to report relationships, CAs are rendering the actual imposition of relationship monitoring conditions moot (or worse, a waste of organizational dollars and resources to impose and remove them), given that relationships will be regulated regardless. Only two of the participants in this study had special parole board conditions imposed to regulate their relationships, but every single participant has been told that a CA needs to be completed every time they enter into an intimate relationship.

Geographic Restriction: too reminiscent of Canada's Indian pass system

The practice of limiting people on parole's movement to a geographic area is a listed standard condition within the Corrections and Conditional Release Regulations section 161, paragraph b (CCRR, 2024), and procedures for obtaining permits are located within CSC CD. There is not any information in the literature about the rationale for the original imposition of geographic confinement. However, like all parole conditions, it can be assumed because gradual release and reintegration is the goal of Canada's prison system, staying in a fixed area was intended to be a temporary measure to manage perceived risk, and that geographic confinement within a city was not developed to be perpetually imposed. As participant experiences demonstrate, when conditions are imposed simply for the sake of it, they produce harm, and travel boundaries are especially problematic in the context of parole today, not just because of the isolating impacts they produce, but importantly, because of their unique impacts on high amounts of Indigenous people on parole.

The practice of requiring travel permits, as well as the process that the CSC asks of people in order to obtain a travel permit, has an uncanny similarity—almost an identical process in fact—to the process used within Canada's previous 'Indian Pass System'. The pass system was an administrative process that ordered Indigenous Peoples to stay on reserve, unless they were able to obtain a travel pass. As described by Kevin Storey (2022), "[t]he pass system…was a system of administrative control that required many treaty people to obtain the permission of DIA staff before traveling off-reserve" (p. 137). The rationale for this practice was imposed following the Metis resistance led by Louis Riel in 1885, as a state measure to quell perceived risk posed by Indigenous resistances. The confinement of Indigenous people to reserve, barring a

travel pass impacted at least all Indigenous people in then 'Canada west'. On the establishment of the pass system as an extra-legal sanction, Storey (2022) writes:

> Looking at the origins of the pass system, it is evident that Reed never cared about the letter of the law. In the aftermath of the North-West Rebellion in July 1885, Reed had recommended to his superior officer…that "no rebel Indians should be allowed off the reserves without a pass signed by an I.D. official." This represented the extension of what had until then been a temporary wartime measure to prevent First Nations people from leaving their reserves, unless they first obtained the written permission of a DIA staff member. A few weeks later in August 1885, Reed informed Dewdney that he was "adopting the system of keeping the Indians on their respective Reserves & not allowing them any leave without passes—I know this is hardly supportable by any legal enactment but we must do many things which can only be supported by common sense and by what may be for the general good"[29] (p. 137).

The pass system subverted legislative regulation and procedural safeguard by its construct as an (extra-judicial) administrative procedure, and existed for nearly 100 years until it was eventually deemed unlawful (Storey, 2022). Following the federal government order to stop the practice, 'Indian Agents', (the surveillance officials tasked with administering oppression of Indigenous Nations through the pass system and other measures) were eventually ordered to submit all pass records to Ottawa for destruction (Storey, 2022). From this action, very little evidence about Canada's "Indian pass system" remains , but what does remain shares remarkable

[29] This excerpt discusses a correspondence between the individuals responsible for administering the Indian pass system.

similarities to travel permit requirements in the current parole system, which are of course being overwhelmingly imposed upon Indigenous peoples[30].

Today, for many Indigenous Peoples who have been swept up into criminalization processes, rather than their having to obtain a permit from the 'Indian Agent,' they must do so from the parole officer. Both processes confine an individual's free movement to within a fixed geographic area, and require a state agent to approve their leave. Both require the person approved for leave to carry a paper copy of the permit on them at all times, in addition to it merely being approved. The passes in the past and the permits today list the time period an individual may leave for and the reasons of travel. If an individual is outside of this timeframe, or engaging in activities unrelated, or if they fail to produce a paper copy of the pass/permit, arrest follows. Beyond the problematic nature of all of this, these regulations that require written permits that need to be produced at any time makes little sense given the technological era we live in, where the existence of a permit can be easily located in the digital infrastructural systems of parole and policing, where a police officer can see elements of the file information related to people on parole simply by driving by a car which has licence plates connected to the person. Perhaps the similarities in process stem from the fact that the introduction of travel boundaries surfaced during the same decade in which the last traces of use of the former 'Indian pass system' were recorded (Storey, 2022).

Centering the impacts of law

The law's legitimacy rests upon its claims of justness: upon its ability to be recognized as abiding by the principles which it espouses, primarily: fairness, equality before it, impartiality,

[30] Storey (2022) based their the text largely upon the information presented in a documentary on the same subject.

and due process. Absent its ability to be just and to be understood as just, the law (as a primary institution and agent of enforcement of the state) becomes tyrannical. It becomes structural violence. As Douzinas and Gearey (2005) aptly note:

> There is no law without enforcement. But the force necessary for law's operations is commonly exercised in the name of justice. Indeed the force of law can be interpreted as [either] necessary or violent intervention through an act of judgement. Force is the morally neutral application of pressure upon an entity. The application of force can be evaluated according to moral criteria, highest among them justice. Violence is a morally condemned application of force (p.75).

The level of sustained force imposed upon life sentenced people, their families, and communities is significant. To ensure justness, procedural safeguards and limits to the enforcement of law must be proportionately imposed to match the degree of force imposed; in other words, the more restrictive a punishment is, the more it should be subject to oversight and scrutiny. The Canadian life sentence, as a regime, enjoys quite the opposite, its practices and processes exist beyond the scrutiny of limits and safeguards.

There is a plethora of American literature that explores how previous state and systemic punishment of certain people based explicitly on their race have been absorbed into today's carceral state- punishment systems based on labels of deviance and perceived risk, following structurally racist patterns (Price, 2015). In the US, the function of the prison system has been characterized as the "new Jim Crow" era (Rolston, 2018), but fewer comparisons have been drawn regarding the similarities within Canadian systems of incarceration and parole, and the colonial punishment objectives that continue to be imposed upon Indigenous people (although some comparison has been made; see Nielsen, 2017).

Presently, over 50% of federally sentenced women and 32% of federally sentenced people overall are Indigenous (Public Safety 2024), and in provincial prisons, these figures rise significantly within certain prisons in Manitoba and Saskatchewan (CAEFS, 2022). Aligned with the historical purview of critical legal theory, where 'the law' as an institution has been analyzed for its function of maintaining social stratification and a racially and economically organized social order (Douzinas and Gearey, 2005), the Canadian life sentence represents, at least abstractly, a tool which is achieving the subjugation of marginalized communities and racialized peoples, especially Indigenous Peoples.

The transfer of oppressive tools, or technologies of power—as Foucauldian frameworks would understand them—from overtly colonial processes such as the 'Indian Pass System' to travel permits and geographic confinement for people on parole occurred seamlessly. Many Indigenous people went directly from residential school into prisons, and many of the children of residential school survivors are now themselves incarcerated or under sentence on parole (Twins, personal communication, May 9th, 2022). This phenomenon exists neatly beneath 'new Jim Crow' logics, where the same populations who used to experience state violence overtly have seen their social punishment continue.

Given the presence of such similarities between the former 'Indian pass system', the impacts of being on parole today must be considered for the ways they continue the suffering of Indigenous people: in this instance, by compounding intergenerational trauma and continuing historical forms of segregation and rights limitation for Indigenous Peoples. A quote provided by Yvonne Johnson[31] for use in this study offers a flavour of the colonial impact of parole: '"Parole

[31] Yvonne Johnson was the first Indigenous woman to receive a conviction for first degree murder in Canada, carrying a minimum parole ineligibility period of 25 years. A Cree woman, Johnson was instrumental in efforts to

makes you feel like you need to justify why you exist" (Yvonne Johnson, personal communication, March 21, 2024). Indeed, by focusing on the impacts of law as they unfold in its day-to-day processes upon those subjected to it, the justness of law, and inasmuch, the legitimacy of the law can be directly attended to.

"*People go in very young and they come out much older*": grappling with the impacts of incarceration across age, and over the life course

The experiences of people on parole for life that participants in this study have described fall outside of the listed intent of parole and parole conditions, which claims to achieve public safety by operationalizing reintegration. Rather than having conditions that support people's community embeddedness and that become less restrictive over time, people are being kept under conditions, largely isolated and kept beneath processes that signal to them that they are undeserving of living good lives.

Conditions of parole for life must be considered not just as phenomena that are harmful in the immediacy of a person's life. Parole for life must be understood for its impacts across time, such as people's abilities to move through rites of passage/milestones, and the psychological impacts over time of living in the community and bearing witness to others' achievements, from which they themselves are denied. This lens is especially important given that the majority of this population is sentenced to life in their youth and will experience the bulk of their lifetimes under the circumstances of incarceration and parole. Most participants shared that they were arrested as teenagers or young adults, and all participants were older than 40 at the time of their interview with me, many were in their 50s, 60s and beyond. Hence, many participants in this study shared their experience with me decades after they completed lengthy terms of

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introduce access to Indigenous culture into Canadian penitentiaries. She co-authored the book *Stolen life: Journey of a Cree woman* about her story.

imprisonment, and it is at these junctures where the impacts of the sentence are most pronounced. The barriers to attend weddings, to change careers, to form and end relationships, to struggle - *these* are the points that are inherent to human life, but which surface as sites of risk and tension for life sentenced people attempting to live in the community on parole.

Because people on parole for life are being told by the CSC that there is no opportunity to relieve their conditions over time, individuals lose contact with their family, even where they previously had strong family connections. Yet, access to family and community connections are repeated across the literature, and even within government literature, as one of the most significant determinants of successful community re-entry post incarceration (Public Safety Canada, 2024[32]; Rand et al., 2023, Sentse et al., 2022). Thus, conditions of parole for life are preventing the very factors associated with the goals of parole – an ability to live 'successfully' in the community.

Criminological literature about pathways into and away from interactions with carceral systems point glaringly to an early age at first contact as a key factor in determining who goes to prison and for how long (Blonigen, 2010); measurements of age and criminal convictions globally consistently point to young people as being overrepresented among populations who receive criminal convictions (Blonigen, 2010). Most youth justice systems recognize the harms of incarcerating youth and institute protections and off-ramps from criminalization to avoid permanently shaping young people's lives by system involvement in their early years, a priority which has been informed by ample literature about the harms of incarcerating the young (Parkes, forthcoming). Yet, as participant accounts here highlight, of the very young people receive life

[32] For ease of reference, see: Federal Framework to Reduce Recidivism Implementation Plan 2023-2025 (publicsafety.gc.ca)

sentences in Canada, few of whom are released at their parole eligibility dates, because, as participant experiences and narratives note, being young in prison leads people to following social priorities that are incompatible with the strict behavioral expectations of the prison system, such as the criminalization of gift giving and sharing items with other people in prison, which is responded to through use a prison disciplinary system, exposure to which decreases people's potential for release via parole (Kish, 2016).

As the findings of this study have advanced, the expectations of parole reinforce community isolation that also works against the needs of people in their developmental years. And as the aging process occurs, parole for life removes the ability for people to participate (easily) in significant life events, as well as in the inevitable ups and downs of life that make us learn and grow. The Correctional Service of Canada, having no policy direction for its high rates of life sentenced people, responds to aging processes as evidence of risk. Life sentenced people who have experienced physical and cognitive age-related disease have been reincarcerated and died in prison (Kish, 2021).

The troubling inability of the government to address aging and punishment is all the more compounded by the penitentiary portions of life sentences, which initiate an accelerated physical aging processes as result of long-term deprivation of various determinants of health, alongside chronically stressful conditions (Iftene, 2021). The sum of both of these considerations suggests that life sentences are in conflict with aging as well as with youth. The question begs, if prisons and the conditions of life sentences work against being young, and too work against aging processes (Iftene, 2021), what are we to do as a society with this information?

Fear, remorse, and the legal consciousness of people on parole for life

A question surfaced throughout data analysis that was not present in the original research design of this inquiry- why do people not challenge the conditions of parole for life? People living on parole for life's experiences demonstrate incredibly high levels of personal responsibility, and they interact with the world around them in a hypersensitive manner to any potential behaviours that could see them sent back to prison. The people in this sample live quietly in the community, and to the best of their abilities, as productive members of society. Regardless of people's age or culpability in the historic convictions that led them into prison and gave them life sentences, no one lives statically in the past. Despite this, life sentences punish people forever, for events that occurred decades in the past, which they have already spent a good portion of their lives in prison for, and for long after they have demonstrated that they have successfully reintegrated into the community.

Complicating the results of this study that shed insight into what happens to people on parole for life, especially over time, is the question of why change has not occurred. Given the reintegrative purpose of the prison system, the history of parole, and the legislative possibility for conditions to be varied and removed (CCRR, 2024), it at first seems unclear why people are being kept under such restrictive conditions in perpetuity, and why none are using the law to challenge their conditions. Dually, there is little evidence into why life sentences have largely been excluded from study in both academic and government domains, albeit an earlier qualitative media analysis we conducted offers that media representations may play a critical role in the absence of focus into the sentence (Kish & Humphrey, 2024). Further, there is no literature regarding why the people living through these circumstances have not challenged them directly. To gain some insight into why the circumstances of people on parole for life have not been

challenged by they themselves, their experiences have been considered using the framework of legal consciousness.

The findings of this research show that people on parole-for-life live largely in isolation, they have spent the majority of their lives since arrest without access to formal systems of education, family and without the ability to develop themselves professionally and build careers and vocations for themselves. Their lives have been driven by survival, surviving prison, and subsequently, living under rigid conditions of parole for years and decades. People on parole-for-life live in perpetual states of underlying fear of returning to prison; complicating this fear is that many participants describe intense ongoing remorse. I suggest that it is the culmination of these experiences, especially a conflation of fear of prison and remorse, which shape acceptance of parole conditions, even though these conditions operate outside of the legal scope of parole, and continue to violate people's legal and constitutional rights.

Indeed, there are a host of legal issues impacting people on parole that are certainly justiciable[33], from the broad consideration of the constitutionality of travel radiuses and community assessments, to questioning the way the static nature of parole conditions directly conflicts with the concept of gradual release and community reintegration. The law is clear: people who receive federal sentences retain all the rights of Canadians except those rights that are necessarily limited to impose the sentence. Moreover, all aspects of federal sentences must be imposed in the least restrictive manner possible (CCRA, 2024).

[33] In access to justice literature, the term 'justiciable' creates a verb out of people's legal needs. Issues that are justiciable are known to far exceed the scope of legal needs that are actually met by the law. As such, when an issues is justiciable but not taken up by a person, community or institution, it becomes an unmet legal need (see Farrow, 2014).

Despite that the law regulating the administration of federal sentences is written to their benefit, the participants in this study have not challenged their circumstances. Many expressed that they had not even considered challenging their experiences as a possibility, prior to participating in this study. Participant narratives did not include reference to rights-based legislation such as the Canadian Charter of Rights and Freedoms, the Canadian Human Rights Act, or the CCRA, all of which offer mechanisms through which the legality of current parole conditions could be challenged. However, they are very aware of CSC's policy language, naturalized within their vernacular in relation to protocols surrounding community assessment and travel permit processes. This may suggest that people on parole for life feel that their parole officers (and the CSC more broadly) are the highest, or perhaps the only legal authority, which applies to them, or that they can reach. Their concerns are not with the lawful limits of parole, but with staying safe on parole and navigating the way that its on the ground processes impact them. People are negotiating their 'freedom' against their suffering, across their day-to-day experiences, lest they be returned to prison, an outcome of which they are deeply afraid.

In addition, redress in the form of use of the CSC grievance process and/or legal challenge of parole conditions would have to be initiated by the individual on parole. Young (2009) emphasizes how in legal conscious literature people's demographic contexts are inextricably bound to their legal consciousness. The demographic contexts of participants in this sample suggest that life sentences are given largely to young, racialized, socially disadvantaged people, which gives rise to many dimensions of additional barriers that contribute to a lack of active participation in meeting their legal needs, and instead lead to experiencing unlawful conditions passively. The cumulative disadvantage from which people's interaction with the carceral system begin, namely deficits in formal education, professional development, and

economic privilege also likely play a key role in the shaping of their legal consciousness. Much of the social barriers related to engagement with law are also outlined across access to justice literature, and consistently cite complicated, lengthy, and expensive legal processes as primary barriers to people's uptake of the law (see Farrow, 2014; Hornick, 2008; Lamer, 2021; Department of Justice Canada, 2000).

However, these social locations and experiences do not account for all participants, and across this sample's demographic composition, even among those outlying participants who hold some more privileged positionalities, active use of the law was not present. Thus, while socio-economic factors are important in understanding legal consciousness, much is left to be explained through the commonalities in experience and conditions that any particular demographic in study are subjected to. The overarching tone through which participants discussed their experiences was one of fear and negotiation. Participants describe living in fear of the potential to be reincarcerated if they violate a condition, if they disagree with their parole officer, if they are pulled over for a traffic violation, including even if they are perceived negatively by their parole officers. Participants agree that the conditions they are being subject to are great hindrances to their quality of life but focus more on creating the best version of life that they can for themselves, beneath their conditions, without questioning them.

The legal consciousness of people on parole for life does not appear to be entirely passive however. It seems that people's isolation is both a product of, and a form of active engagement against the insecurities of status in the community and risk of reincarceration. By avoiding social relationships and constructing routines that do not involve leaving their city limits, people gain a sense of freedom and autonomy. As one participant notes, "*being free is more important than being lonely*". I believe this statement assumes a dual meaning in the context of people on parole

for life. By being alone and staying in a small area, they are securing more safety for themselves in the community. Being alone means that parole officers are not calling people in their lives and creating potential sites of risk; being alone means others in the community *and* their parole officers have less power over them. The same can be said for constructing routines that do not involve leaving their travel boundary. By doing so, they are reducing risk of being pulled over, or of breaching a time frame associated with their travel permits. In addition to gaining security through these actions, they also gain a feeling of agency: isolation allows people to interact with the parole system less, and have more autonomy in their day-to-day actions, although this is most certainly contributing to long-term adverse impacts on their wellness. This consideration suggests that the legal consciousness of people on parole for life can be understood both by a passive detachment from rights consciousness, and an acute, active, and persistent consciousness that protects themselves from the law, or from the version of law which is imposed upon them. As explored in chapter three, participants also exhibit a high degree of social consciousness and social responsibility, especially through using their time to support and assist others who are engulfed in the carceral system. This consideration may further support that while people do desire to actively participate in law, and are responding in the ways they know how- generally, through responding to the impacts of law, there is simply too much risk to self and systemic misdirection to take on the legality of their circumstances directly.

Legislative change potentialities

The need to address Canada's life sentence problem in law

As noted above, one key finding of this research is that people on parole for life, whilst facing the intensely complicated demands and social/societal status configurations of living under the status of parolee forever, often engage in a high degree of altruistic and socially

serving activities. The specifics of people's social contributions are not directly quoted in this thesis to prevent the identification of participants, but given the prevalence of people in this sample who exhibit sustained altruistic behaviors, it is likely that this trend transcends the people within the sample of this study. There are, of course, various explanations for people's commitments to others who have experienced Canada's prison system, as explored briefly in the above examination of their legal consciousness, however for the purposes of this consideration, what motivates people to social responsibility is moot—that they do is what is significant. It is significant that people on parole for life exhibit a high degree of social responsibility given the perception within the sentence that people need to be regulated and surveilled forever. It is also significant in that the experiences of people in this study contradict the limited, but incredibly problematic media and public narratives that surface about life sentenced people in Canada. I explore in a co-authored study with Tamara Humphrey (Kish & Humphrey, 2024), how public discourses that frame life sentenced people as monstrous villain Others is a likely factor in the absence of policy direction and research attention to life sentences in general. Life sentenced people are archetypally vilified in these discourses[34], which not only serves as a barrier to policy attention, but which invites more retributive and punitive conditions upon life sentenced people, and by extension - all criminalized people (Kish & Humphrey, 2024).

Would the general public and law makers be aware of the richness of contribution made by people living on parole for life, contributions that are done largely without credit or economic remuneration, perhaps there would be less of retributive appetite towards people who become incarcerated, and those sentenced to life specifically. Moreover, that people on parole for life

[34] Life sentenced people are seldom 'seen' in public and political discourse, and when they are, they are cast archetypally as dangerous villain Others, represented by rare and sensationalized typifying examples of serial killers and people who are convicted of egregious violence (Kish & Humphrey, 2024).

still find ways to benefit others and improve the lives of those around them, even amidst their own suffering via the isolation and other impacts produced by the sentence that have been explored herein, speaks to the pointlessness of punishing someone forever. If people have demonstrated sustained stability in the community for a period of time, they ought to be relieved of the life sentence.

Myriad benefits of legislating mechanism to terminate life sentence parole over time

The history of Canada's swinging carceral pendulum between evidence-based practices that call for social determinants of wellness to be prioritized, and punitive 'tough on crime' agendas is marked by deep ideological divides that too often prevent meaningful change. The argument that 'criminals' deserve to be punished and abandoned drives the tough on crime rhetoric, and yet people on parole for life who have built meaningful lives for themselves in the community fundamentally challenge the tough on crime rhetoric, disrupting the idea that some people are 'good' and others are 'bad'. Further, their experiences and lives point to a desperate need for change across our institutional and social understandings of how to respond people who have been convicted of crimes.

The important irony I offer that we must center in grappling with the socio-philosophical understanding of Canada's attitudes on crime and punishment is that the legal mechanisms we have instituted to respond to people convicted of violence at an individual/interpersonal scale (such as the life sentence and experience of parole for life) represent the imposition of long-term institutional, structural violence. State, structural, and institutional violence are harder to 'see' no doubt, but their impacts are no less significant; yet, a focus on addressing these structural harms is nowhere to be found concretely in society, despite that there exists a sea of perspectives,

attention to, and even obsession with responding to violence at the interpersonal scale. If the aim of law is to create a good life by providing a structure that society can be grounded within, the law should not be as, or more, violent than the actions it seeks to prohibit and manage. This is why the law on the books is constrained and limited to a least restrictive version of itself. However, as we see here, law in action is quite the opposite.

The public cost of keeping one person federally incarcerated every year is astronomical, and while the cost is lower for people under sentence in the community, it still averages a public bill of approximately $18 000.00 per person per year (John Howard Society of Canada, 2018). There would be a myriad benefits to instituting a legislative mechanism for individuals to see their parole ceased after a number of successful years on parole, as was the primary suggestion by many participants. From a fiscal perspective, the barriers parole creates to economic participation alongside the public tax dollar costs in keeping people on parole when they have lived without issue in the community for years and decades, (this, following years and decades of punishment in penitentiaries) seems to be absurd as a blanket practice. Keeping people on parole also increases the risk of reincarceration and encourages cycles of incarceration, which have compounding economic costs, both as periods of incarceration are expensive to administer, and because for each time a person becomes incarcerated, their ability to earn and contribute to the economy upon release reduces.

The ‘problem’ of aging within the confines of a life sentence will be a continually pronounced problem in Canada’s prison system. As people with life sentences experience physical and cognitive decline, the current response is not to relieve them of the conditions of parole, but to assess their physical and cognitive abilities in terms of their ability to be ‘managed’ in the community. Age and ability are directly translated to risk here, and as people on parole for

life experience age related disease, reincarceration has been the answer the that CSC has turned to (Kish, 2021), despite that the penitentiary environment is incredibly adverse for conditions associated with age related disease (Iftene, 2021).

Multiple participants offered that after a certain amount of successful time on parole, the availability of a process for them to be absolved of at least parole conditions, if not from the sentence broadly makes the most sense for their life experiences and futures. From a policy perspective, legislating a process to terminate parole in correlation with behavior and time can be considered a baseline change that would bring the administration of life sentences into compliance with the objectives of the Corrections and Conditional Release Act, as well as with European and global standards. More concretely, providing an opportunity for individual assessment of relief from carceral subjugation would afford people and their families the opportunity return to full social, civic and community participation, enhancing their dignity and quality of life, especially over the life course. This change will dually relieve the Correctional Service of Canada of needing to reconfigure its prisons and practices to accommodate for the declining physical and cognitive abilities of many aging people, and will relieve the Canadian public from paying the bill for prisons to warehouse aging people and people who pose no risk to the general public.

However, while legislating a process to terminate what is currently a perpetual punishment is a much needed beginning, this will not address the myriad additional legal issues that have arisen within the opaque regime and increasing use of the Canadian life sentence. Namely, there are multiple serious concerns related to who life sentences are given to that need immediate attention, especially the high rates of very young people who are given life sentences, as well as the high rates of Indigenous people who are given life sentences, especially in the face

of evidence of a high prevalence of wrongful convictions at the life sentence level (Parkes & Cunliffe, 2015; Pate, 2022; Roach, 2023).

Given the Canadian government's many listed commitments to resolving systemic inequity, legislative and policy attention to people's access to justice during arrest and trial processes would be as timely as it would be socially responsible. Specifically, the Canadian government currently maintains distinct Black and Indigenous Justice Strategies that outline the need reduce the prevalence of incarceration rates in these communities, and to support the successful re-entry of Black and Indigenous people once convicted of crimes. The Government of Canada also makes many commitments to ending colonial harms and states it aims to practice Reconciliation in its listed principles of respect for Indigenous Peoples (even though many are disregarded through the high concentrations of Indigenous Peoples on parole for life). As well, the government has advancement of the Federal Framework to Reduce Recidivism[35] and its related implementation plan, which center the importance of supporting people's re-entry via removing systemic barriers, and which recognizes the salience of family and community connections in the re-entry process. Life sentenced people do not exist in a separate policy framework, they represent 27.8% of all federally sentenced people and thus their contexts and outcomes are directly implicated, and should be a salient considerations in these listed priorities and strategies.

[35] For ease of reference see Canada's Black Justice Strategy here: Framework_for_Canadas_Black_Justice_Strategy.pdf, Canada's Indigenous Justice Strategy here: Indigenous Justice Strategy, Canada's commitments to reconciliation here: Principles respecting the Government of Canada's relationship with Indigenous peoples (justice.gc.ca), and the federal framework to reduce recidivism implementation plan here: Federal Framework to Reduce Recidivism Implementation Plan 2023-2025 (publicsafety.gc.ca)

Conclusion

Human beings change over time, as do the circumstances of our lives. Physically, intellectually, emotionally - these parts of us are not static, and neither are the ways we participate in and interact with the social world around us. The presence of a law that captures people for life and imposes total surveillance and regulation of their bodies, movement, and relationships with no mechanism for relief is an absolute and limitless law. Imposing a punishment that forces people to aspire to live in the community as citizens, but denies them the social and legal conditions necessary to meaningfully do so is a punishment that weaponizes the human condition against itself.

To answer the research questions, *what are the experiences of people on parole for life in Canada*, and *what are the impacts of being on parole-for-life on people's ability to participate in the social world around them*, I interviewed 19 individuals on parole for their lifetimes, who have been on parole for various lengths of time, many over 20 years, many over 30 years. I considered themes across their experiences using the qualitative method of thematic analysis. I learned that the administration of life sentences in the parole stage (which for many constitutes the majority of time spent under this sentence) functions in direct conflict with the driving legislative purpose and limits of the prison system: to create public safety through 'rehabilitation' and community reintegration of individuals as law abiding citizens (CCRA, 2024). With no policy direction into life sentences, overly restrictive statically imposed conditions have become the norm.

There is an unchecked perpetual regulation of people's relationships occurring through the administrative process known as 'community assessments', and a perpetual geographic

restriction of individuals to small areas imposed through the standard parole condition known as 'travel radiuses.' Although the systemic imposition of these two conditions speak to how life sentences are being administered *in action*, laws *on the books* require that people maintain legal and constitutional rights, and that such conditions are only imposed in response to perceived risk, and can be removed over time. Moreover, while the Parole Board of Canada has a process to impose and remove an actual parole condition that permits the monitoring of certain types of relationships, systemic use of the administrative practice of community assessments (developed as a pre-release information gathering tool) ensures pervasive regulation of *all* relationships even where no parole condition is present, circumventing procedural fairness at multiple levels. Absent procedural fairness, community assessments have become a wildly invasive unchecked process with dire consequences on people's abilities to form and maintain relationships, with evidence of particularly adverse consequences for certain intersections of the population, namely, women, Indigenous communities, and people who receive life sentences very young. This practice, paired with the practice of perpetual confinement to small geographic areas for people's lifetimes have instituted a static repression that breeds isolation and entrenches social death (Price, 2015), disallowing people's needs and abilities to grow and change over time, and barring people's ability to have autonomy and agency in their lives and decision making. These punishments are imposed upon people regardless of a person's behaviour, even when people have no perceived risk associated with them, and have not for years.

Learning about life sentences through the experiences of life sentenced people on parole offers researchers, policy practitioners, and the general public insight into how the legal system can and has invisibly crept beyond its scope. As well, it offers insight into how the rising presence of life sentenced people—as a population—has social impacts far beyond the individual

scale. With nearly 28% of Canada's federal prison population being sentenced to life and existing beneath this 'exceptional' law, turning to the answer of my third research question, *there are significant social implications that flow from the practice of perpetual punishment*. Life sentences represent a biopolitical power manifestation that has replaced the former death penalty (the state's right to kill people) with perpetual regulation of people's bodies, minds, actions, opportunities, and social worlds. While life sentences do not directly kill people, their conditions facilitate people's perishing, institute social death, shorten their life expectancies overall (Iftene, 2021), and impact mostly Indigenous, racialized, and multiply marginalized people. The unique consequences of lifetime punishment being applied on so many Indigenous people warrants further research, especially given my finding of the parallels between parole conditions today and colonial practices aimed directly against Indigenous Peoples. Canada's present commitments to Reconciliation cannot be achieved without resolving the issues I have outlined related to life sentences.

The rise of the Canadian life sentence also marks the rise of the perpetual offender, a *status of exception* that subjects individuals to complete and arbitrary applications of law without the protections guaranteed to citizens. Life sentenced people form a new legal class of person who carry in their personhood the socio-political and legal conditions of Agamben's (2005) states of exception. And as Agamben warns, exceptionality is the normalizing nucleus of changing socio-legal conditions. At the heart of exceptional states—and statuses, is an epicenter of power negotiation, where the permission of extreme circumstances for some erode the clarity of what rights and freedoms mean for all. Further attention to how labels of deviance facilitate the imposition of statuses of exception is needed to both ensure that Canada's commitments to

democratic and constitutional principles can remain meaningful for all, and to ensure that the full scope of legal consequences of criminal convictions are articulated in law on the books.

The perceived exceptionality about the life sentence has contributed to a policy and research vacuum around it (Kish & Humphrey 2024). Life sentences have now been in place in Canada for 48 years, and with the passing of these years, the first generation of life sentenced people have lived out their lives under its conditions. Many are now in very senior years of life, or have died beneath the sentence, without public record of their long suffering. The way life sentences have developed harmfully and opaquely over time is not the result of intentional or evidence-based practice, but is the grave consequence of a country with a tumultuous relationship to its understanding of public safety, and more specifically, is the collateral consequence of a country which has avoided giving any dedicated attention to its most exceptional application of punishment for a number of decades. How scholars and policy makers have largely left life sentences out of the discourse, even in the face of its rising use, and the glaring human right violations associated with it as evidenced by its concentrated imposition upon Indigenous Peoples, is yet another impact that speaks to the dangers of framing people and practices as 'exceptional'. The unchecked rise of perpetual punishment has led to the normalized sub-citizen status of the perpetual offender. This is a status that exists buried beneath a convoluted public facing quest to create a safe society, one so hyper-focused with responding to violence commissioned at the micro level that it allows intensely violent institutionalized practices to persist systemically. With the limits of the law perpetually suspended for those beneath the status of parolee for life, structural violence is exemplified in the phenomenon of the Canadian life sentence. The life sentence punishes harshly, forever, and without limits.

By centering the voices of those with lived experience in a topic of study where the impacted population have traditionally been excluded from narratives about them, this research has especially sought to utilize a standpoint approach - further inspired by the goals of Dorothy Smith's institutional ethnography, to trace and highlight disjuncture between laws and policy objectives and social realities, toward the improvement of social systems and the reduction of harm within them. In the hopes of this research contributing to meaningful social change, I have attempted to build this thesis in an accessible and interdisciplinary manner with the goal of inspiring future inquiry across multiple traditions including legal scholarship, public administration, political philosophy, sociology, criminology and beyond. I aim to have raised multiple future questions ripe for inquiry across these traditions through the answering of my research questions.

We must collectively prioritize questions of when such punishment should be accepted. Under exceptional circumstances? When someone commits murder? The scope of the population who become subject to life sentences and the number of convictions that result in life sentences challenges widely held archetypes that life sentenced people are dangerous murdering Others (Kish & Humphrey, 2024). Further, evidence of wrongful and over convictions emphasizes that there are many errors of law made in the administration of life sentences (Roach, 2023 & Pate 2022). Even for those who are, by their own admission, guilty of those crimes that are stereotypically associated with the life sentence, how can we claim to have a just or effective law, when the law does not do what it claims? If we believe in punishing people until they die and subjecting them to social death and legal exclusion, then we must abandon our reintegrative claims. The consequences of a punishment must be written into the letter of law. Until Canada is, as a country, prepared to stand by the punishments that it is imposing on people, life sentences

must be challenged as a source of social harm, as a manifestation of a fundamental contradiction of Canadian law, as a permanent status of exclusion, and as a continuation of state harm against Indigenous people, where individual labels of deviance are used to justify otherwise unfathomable conditions.

Certainly, vast human, social, socio-political and legal impacts fill the space between the law (of life sentences) on the books and law in action, and this space is where all questions that rise from the findings of this research and beyond must follow. Through this research endeavor, I hope to have compelled concern for both the individual and social implications of the life sentence. I hope to have encouraged deeper thought not just about their consequences, but to why they have risen unproblematized, both in scholarship and policy, and unchallenged by those who are subjected to them. Most saliently, I hope to have convinced some of you, as Debra Parkes emphasizes, to begin your focuses in studies concerned with law and prisons through inquiry into its most extreme manifestation: perpetual punishment through the life sentence.

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Appendices

Appendix A: Interview guide

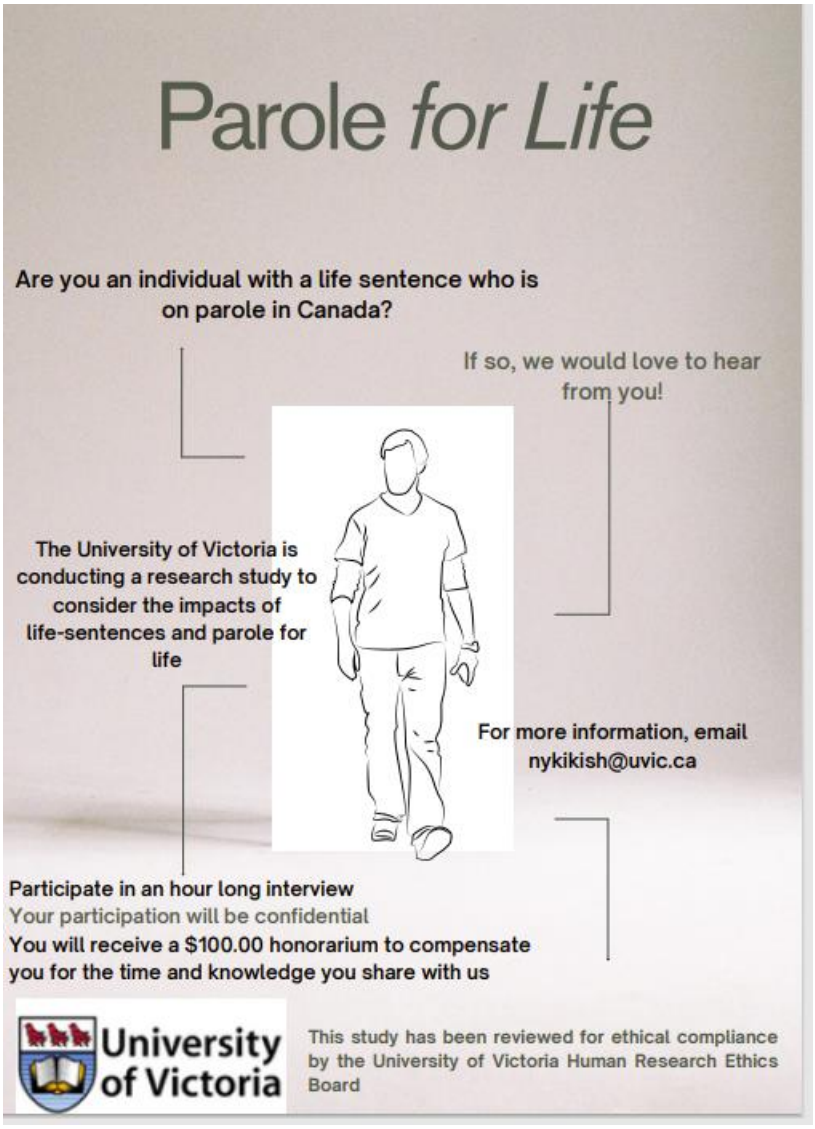
Background Questions

1. In order to understand the impacts of parole for life on individuals, I am going to ask you a few background questions.
2. How old are you today?
3. What is your sentence?
4. How old were you at the time you were sentenced?
5. How many years did you spend in prison before gaining parole?
6. How old were you when you were first released on parole?
7. How long have you been on parole for?
8. How long have you been on full parole for?
9. What is your ethnicity
10. What is your gender?
11. **The next few questions focus on the time period leading up to your release from prison. Thinking back to then, do you remember?**
12. How hard was it to get parole?
13. Is parole how you imagined it would be, when you were still inside?
14. Is doing time different for people who have life sentences, than for people who don't in prison? How?
15. What's the hardest thing about having a life sentence, when you are inside?
16. Did being in prison have lasting impacts on you? Mentally, physically, spiritually or emotionally?
17. **The next section of questions focuses on parole conditions**
18. When you were released, can you recall what parole conditions were imposed on you?
19. Can you describe what a travel radius is?

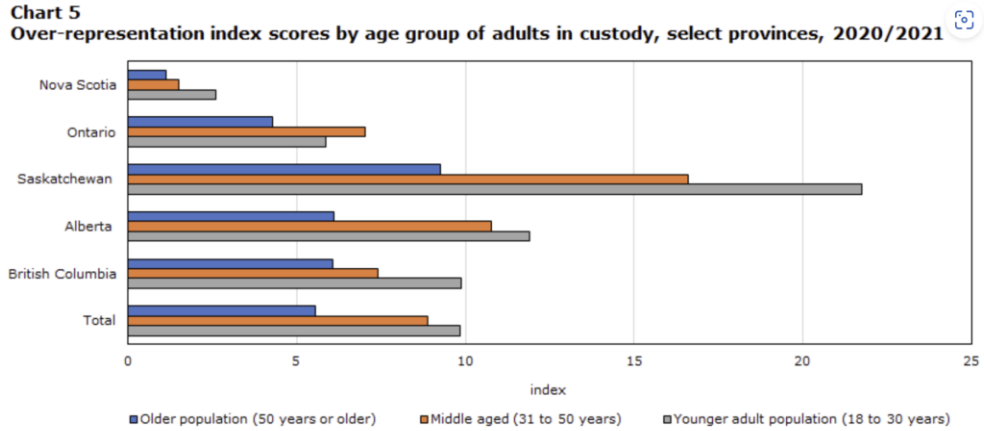
20. Do you recall the approximate size of the travel radius you had first imposed on you when you were granted parole?
21. Can you share the process you have to follow to leave your travel radius?
22. Have any of your parole board of Canada or csc imposed parole conditions changed or been removed over time? Can you describe which ones and elaborate on the process for me?
23. How familiar are you with the laws and policies that regulate parole?
24. Has your travel radius changed over time? If so, how?
25. Do your parole conditions impact your daily life and routine? If so, can you elaborate on how?
26. Did you have any specific experiences related to your parole conditions that you found impactful and would like to share?
27. Has your parole ever been suspended or revoked?
28. **The next section focuses on parole officers**
29. Can you describe to the average Canadian who may have no experience with the prison system what having a parole officer is like?
30. Has your parole officer ever changed in the time you have been on parole? If so, what is it like when you are assigned a different parole officer?
31. Does your parole officer ask to speak directly with people in your life, personally or professionally? Have they ever? How do you feel about this?
32. Do you feel your parole officer's have followed law and policy well?
33. Have your feelings about having a parole officer changed over time? If so, can you please elaborate?
34. Did you have any specific experiences related to any of your parole officers that you found impactful and would like to share?
35. How often do you have to see your parole officer now?
36. **Impact Questions**
37. This section of questions focuses on your experiences of being on parole over time.
38. How would you describe your health?

39. Has being on parole for (___) years impacted your mental, emotional, spiritual, or physical health? If so, can you please share how?
40. Can you share what is has been like to get older on parole?
41. What do you do for work?
42. Do you volunteer or do anything social in your community?
43. Do you feel being on parole has impacted your ability to follow your dreams/pursue your goals?
44. Has being on parole become easier, or more difficult over time? Can you elaborate?
45. Do you think being on parole has impacted your ability to find and maintain friends/relationships? If so, can you please elaborate?
46. Does your life sentence impact your family?
47. Does your life sentence impact your ability to follow and be a part of your culture?
48. Does being on parole forever impacts how you see yourself? If so, how?
49. Do you think being on parole forever impacts how others see you? If so, how?
50. How do you cope with your life sentence?
51. Do you spend more time alone than others in your life?
52. Does your life sentence impact your professional life?
53. Has your life sentence impacted your ability to find and maintain housing?
54. Have you experienced any discrimination or stigma as a result of your life sentence? Do you think your parole conditions contributed to this?
55. What do you think the biggest impact of being on parole for life has been for you overall (*and family, where applicable*)?
56. **Systemic Change Questions**
57. What do you think about life sentences generally? What would you change, if you could?
58. Does life parole feel like a punishment to you?
59. If you could share anything to help inform the general public about having a life sentence I is like, what would you say?

Appendix B: Recruitment poster



Appendix C: Indigenous Persons Overrepresentation in Provincial Provinces



Note: Represents data from Nova Scotia, Ontario, Saskatchewan, Alberta and British Columbia. The Over-representation index calculates the relative difference between Indigenous and non-Indigenous incarceration rates while controlling for age and sex differences between populations. Age of person supervised is calculated for each overnight stay. An overnight stay is counted each night (counted at 11:59 p.m.) a person supervised is physically in a correctional centre during a reference period.
Source: Statistics Canada, Canadian Centre for Justice and Community Safety Statistics, Canadian Correctional Services Survey.

Statistics Canada (2023). Canadian Centre for Justice and Community Safety Statistics, Canadian Correctional Services Survey