

**Aboriginality & Sexualised Violence:
The Tisdale Rape Case in the Saskatoon *StarPhoenix***

Natalie Kallio

A Thesis

in

The Department

of

Communication Studies

Presented in Partial Fulfilment of the Requirements
for the Degree of Master of Arts (Media Studies) at
Concordia University
Montreal, Quebec, Canada

December 2006

© Natalie Kallio, 2006



Library and
Archives Canada

Bibliothèque et
Archives Canada

Published Heritage
Branch

Direction du
Patrimoine de l'édition

395 Wellington Street
Ottawa ON K1A 0N4
Canada

395, rue Wellington
Ottawa ON K1A 0N4
Canada

Your file *Votre référence*
ISBN: 978-0-494-28856-6
Our file *Notre référence*
ISBN: 978-0-494-28856-6

NOTICE:

The author has granted a non-exclusive license allowing Library and Archives Canada to reproduce, publish, archive, preserve, conserve, communicate to the public by telecommunication or on the Internet, loan, distribute and sell theses worldwide, for commercial or non-commercial purposes, in microform, paper, electronic and/or any other formats.

The author retains copyright ownership and moral rights in this thesis. Neither the thesis nor substantial extracts from it may be printed or otherwise reproduced without the author's permission.

AVIS:

L'auteur a accordé une licence non exclusive permettant à la Bibliothèque et Archives Canada de reproduire, publier, archiver, sauvegarder, conserver, transmettre au public par télécommunication ou par l'Internet, prêter, distribuer et vendre des thèses partout dans le monde, à des fins commerciales ou autres, sur support microforme, papier, électronique et/ou autres formats.

L'auteur conserve la propriété du droit d'auteur et des droits moraux qui protègent cette thèse. Ni la thèse ni des extraits substantiels de celle-ci ne doivent être imprimés ou autrement reproduits sans son autorisation.

In compliance with the Canadian Privacy Act some supporting forms may have been removed from this thesis.

Conformément à la loi canadienne sur la protection de la vie privée, quelques formulaires secondaires ont été enlevés de cette thèse.

While these forms may be included in the document page count, their removal does not represent any loss of content from the thesis.

Bien que ces formulaires aient inclus dans la pagination, il n'y aura aucun contenu manquant.


Canada

ABSTRACT

**Aboriginality & Sexualised Violence:
The Tisdale Rape Case in the Saskatoon *StarPhoenix***

Natalie Kallio

In September 2001, a 12-year-old Saulteaux Cree girl-child of the Yellow Quill First Nation was sexually assaulted by three white men from Tisdale, Saskatchewan—Dean Edmondson (24), Jeffrey Kindrat (20), and Jeffrey Brown (25). This thesis interrogates the discursive construction of this crime and its representation as an ongoing media event in one of Saskatchewan's major newspapers, the Saskatoon *StarPhoenix*. Analysing coverage that begins in October 2001, the scope and trajectory of this thesis includes an analysis of numerous preliminary court appearances and hearings, two trials, Edmondson's conviction and Kindrat and Brown's acquittal in 2003, the ensuing appeals, and associated and related stories. The approach to media discourse employed in this thesis strives to locate this media event firmly within the time and place it occurred—contextualising it within intersecting discourses of race and sex specific to this case, in Saskatchewan, at this time. This work problematises not only the hegemonic production of media discourse, but the power-knowledge of authorised speakers and the dominant discourses of rape and Aboriginality that were invoked and reproduced. As such, this thesis forwards an understanding of the physical and discursive contestations of power involved in discourses of rape, racism, and sexism, paying particular attention to violent ways in which this victim's credibility was attacked and erased, as well as the reproduction of the conditions that produced this rape. It concludes by identifying how hegemonic constructions are defended and reinforced at the expense of Aboriginal girls and women.

ACKNOWLEDGEMENTS

for Hammer

I dedicate this thesis to Ashton, my beloved and vivacious niece; to my husband, Neil: without him, there would be no thesis; without the thesis, there would be no husband. And to Mom, Dad, Cyn, Leah, and Willard...always and forever.

I owe a debt of gratitude to Yasmin Jiwani, my impassioned, stalwart, inspiring advisor, for her confidence in this work (at the expense, perhaps, of my life expectancy). Thanks always to Marty Allor (for patient guidance) and Ron Marken (ever-confident that I would not become a ward of the State).

Throughout this process, I relied on the unwavering and necessary cheerleading by and input from my brilliant peers and friends in the Media Studies programme: Neil (wearing one of his many hats), Ngan, Aurora, Andrea, Marian, Ian, Felix, and the rest of Fight Club (breaking the first rule of Fight Club).

Thanks to Rae, for sharing and understanding my frustrations; your intimate knowledge of Saskatchewan was integral to my articulations about this place we call "home."

I acknowledge the invaluable support I receive (always) from three beautiful, brilliant women: Jill, Megan, and Kari (aka the crazy clowns).

Thanks, also, to John Hill, Len Findlay, Sherene Razack, James McNinch, Bill Roe, and many others who helped me, at different junctures and moments, to work through these ideas and the legalese, to come to terms with the Saskatchewan I love and hate, and to remember what I know.

I gratefully acknowledge the ongoing support I received through the Department of Communication Studies at Concordia University and the financial assistance for my graduate work provided by the Social Sciences and Humanities Research Council of Canada.

And, always, to M.C. Your name is a prayer, whispered when I lost faith and resolve. Please forgive me if anything I have done in the following pages has hurt you.

TABLE OF CONTENTS

PREFACE	1
INTRODUCTION	
A Sunday Afternoon in the Land of Rape and Honey	7
The Case	8
CHAPTER ONE	
Approaching the Text	12
The Text	14
Qualified Speakers	20
Regimes of Truth	24
CHAPTER TWO	
Intersecting Constructions: Interrogating the Text	27
She is the Victim	32
Rape	38
Rape Myths	42
Intersecting Constructions: "I thought Pocahontas was a movie..."	45
CHAPTER THREE	
Discursive Power: Dramatis Personae	55
Breaking News	57
Inside/Outside	61
Framing Victim Impact	67
"We're not racists"	76
Framing and Blaming Race: "This case has attracted widespread attention because..."	81
Manoeuvring Through: Interrogating the <i>StarPhoenix</i>	87
CHAPTER FOUR	
Approaching Discourse: Outlining the Power-Knowledge Nexus	88
Seeing M.C.	89
Synopsis: the Trials	93
"Tried to have sex with..."	94
Discursive Constructions: Power-Knowledge and Expert Testimony	103
Medicalised Discourses and Protection of Power:	
Un-making a Child, Un-making a Victim, Making Doubt	109
Victim of Whom?	115
Rape Victim → Incest Victim → Sexually Unpredictable → Sexual Aggressor	122
Sitting in Judgement	125
CHAPTER FIVE	
Looking for Trouble: Reactivating Rape Myths in the (Re)construction of the Victim	132
Mediated Discourse: Reporting on M.C.'s Testimony	136
Judging M.C.	148
CONCLUSION	152
WORKS CITED	159
Appendix: <i>StarPhoenix</i> Articles Cited	165

PREFACE

We tell ourselves stories in order to live. The princess is caged in the consulate. The man with the candy will lead the children into the sea. The naked woman on the ledge outside the window on the sixteenth floor is a victim of accidie, or the naked woman is an exhibitionist, and it would be 'interesting' to know which. We tell ourselves that it makes some difference whether the naked woman is about to commit a mortal sin or is about to register a political protest or is about to be, in the Aristophanic view, snatched back to the human condition by the fireman in priest's clothing, just visible in the window behind her, the one smiling at the telephoto lens. We look for the sermon in the suicide, for the social or moral lesson in the murder of five. We interpret what we see, select the most workable of the multiple choices. We live entirely, especially if we are writers, by the imposition of the narrative line upon disparate images, by the 'ideas' with which we have learned to freeze the shifting phantasmagoria which is our actual experience.

Or at least we do for a while.

—Joan Didion, *The White Album* (1980)

In the above passage, her introduction to *The White Album*, Joan Didion is attempting to express the period of her life when she began to *doubt* the stories she had been telling herself in order to live. In the summer of 2003, when I recorded this passage, Didion's honesty was particularly poignant—her doubt resonant, her pain tangible. That summer, I took a term hiatus from this Masters to return to my job and home in Saskatoon, Saskatchewan. While the national press was consumed with the war in Iraq and the “war on terror,” one story dominated the local media: that of the trials of three men from Tisdale, Saskatchewan, charged with the sexual assault of a 12-year old girl.

My situation is integral to this project, for not only was I bombarded daily by the local media's ongoing and obsessive coverage—I was immersed in talk and text around it. I could no longer live with a story I was telling myself—about my home, my friends and neighbours, my community. I could no longer tolerate the stories concocted to make it easier for people to live with the gang rape of a 12-year old girl: the version of this story told by defence attorneys, a judge, doctors, reporters, editors; the version in which this rape is not rape; a story in which inequalities of sex and race are apparent but sexism elided and racism vehemently denied.

Jane Doe (2003) explains that she writes her story of her rape (by the criminal justice system—the police used her as bait in their investigation of a serial rapist—as well as by her rapist¹) to “challenge and respond to ‘popular’ ideas about rape that still inform the way

¹ In her autobiographical novel *The Story of Jane Doe: a book about rape* (2003), the woman who became Jane Doe writes about her rape in 1986 by Paul Callow (a serial rapist dubbed the “Balcony Rapist” by the Toronto media) and her historic civil suit, *Jane Doe v. Board of Commissioners of Police of Toronto*, in which she successfully sued the Toronto Police for negligence and Charter violations in the investigation of her rape. For more on this case, see *Jane Doe and the Balcony Rapist* at www.walnet.org/jane_doe/balcony-rapist.html, *Jane Doe v. Board of Commissioners of Police of Toronto* at www.owjn.org/archive/jane.htm, and *Review of the Investigation of Sexual Assaults Toronto Police Services* at www.city.Toronto.on.ca/audit/reports1999.htm.

police and society behave around raped women” (3). This thesis seeks to explicate those ideas about rape—how they are produced and reproduced in media discourse and, in particular, how they are mobilised to incorporate, frame, and explain (away) the rape of this 12-year old girl-child.

Jane Doe identifies many of the myths that are active in the discourses around the case at issue here, including “popular, social, psychiatric, and legal mythologies about rape that tell us that women lie about our rapes” (3). That women cry rape to seek attention or revenge. That, “ludicrously,” women “enjoy rape.” That women can be, in these popular renditions, “predisposed to being raped.” These myths underlie the dominant framework of interpretation that constructs the girl-child victim as a sexually-aggressive mature young woman/might-be-sexually-abused child who preys on her innocent victims, her rapists. The active circulation and reproduction and refining of these and other rape myths always already reinforce suggestions that “men cannot physically control the biological urge to rape” (3).

Reading Jane Doe’s book in conjunction with this case is illuminating, informative, eerily familiar, and frustratingly similar. Jane Doe, too, is reading news about rape, and toward the end of her own story, she writes about *this* story:

I read the news today. George W. Bush was denied a portion of the front page in order to tell the story of a young girl. A child really, twelve years old and gang-raped by three white, twenty-something sons-of-pillars of a tiny prairie town. She is Native. They are released without bail, claiming consent, innocence. She bled for two days and became infected, ran away, has no legal representation or voice. They are sure to win. She is in grade seven. I cannot write. (347)

Jane Doe acknowledges her privileged position as a “good” rape victim (white, middle class, small, the victim of a stranger-rapist who broke into her home and threatened her with a weapon). Knowing about rape, she recognises how this girl-child will be painted as rape

victim. What her chances are. How this “appears.” Who has power. She knows how this case will be framed, upon which myths it will be based, and predicts the outcome.

Unlike Jane Doe, I was naïve. I hoped that this might be the case that would have the narrative power to unsettle these myths, the myths and ideas that make rape excusable and the rape of young Aboriginal women commonplace, even taken-for-granted. For this case to be the last case. *I wanted this case to defy incorporation.* To leak out, to seep into the public consciousness, to shake people out of complacency. To wake up Saskatchewan. I was wrong; rather, it reinforced rape and race myths and forced new ways of saying the same things to excuse rape and deny racism and blame the victim.

Jane Doe called it.

As I was reading and listening, my own niece was nearby. My vibrant, smart, fearless, trusting niece, about the same age as the victim. My niece, who still walks down the streets of her small town in Saskatchewan not fearing rape. Who does not yet know that the whiteness of her skin and bloneness of her hair means she has to fear rape less than less-white, darker-haired girls do, but should fear it nonetheless. Who is just now learning that racist jokes and sexist stories are more than just “how people talk.” Who is only beginning to recognise that stories she hears, and sometimes believes and repeats (e.g. that all of the girls on the opposing junior high volleyball team from a nearby First Nation are pregnant or have babies), reproduces the conditions that produced the rape of this 12-year old girl. (She is my inspiration, my collaborator, the one I write to and for.)

This case so disturbed and frustrated Jane Doe that she could not write. I empathise. Writing about this case has brought me to my knees with frustration and hopelessness, to tears with inordinate sadness and incapacitating fears of getting it wrong—or getting it right and no one listening or, worse, no one caring.

But Jane Doe writes again; she writes to eradicate rape. I can only hope to contribute to this eradication. I write, too, because, when I was talking about this case with friends and family, I could not understand why they, too, sought to excuse this rape. Grasping at straws, I asked them to imagine it was my niece in the position of the victim. To think about what they would feel if this story was about her. I write because they said it was different, that this girl asked for it. That the doctors said she was sick. That the lawyers said she consented. That these rapists were drunk boys who went too far. That the judge said there are “degrees” of rape. That because my niece was never sexually assaulted by her father, was not drunk, did not lie about her age and accept a ride from three men who came out of a bar...that this is different. The unmentioned: because the victim is Aboriginal and my niece is white. Rape doesn't happen to nice white girls, in the same fantasy world in which nice white boys don't rape. But it does—and they do.

Rape is about power. And that it happens to any girls, to any women, that there are still a litany of excuses being written and revised, that undergo sophisticated morphologies to appear other than they are: excuses for rape, excuses for an epidemic of sexual violence against Aboriginal women in Saskatchewan, excuses for colonial violence. These are stories that we tell ourselves in order to live, and that recreate the crimes that we live with...this is what drives this thesis.

I am writing about rape to eradicate rape. Racism, rape, the exploitation of women's bodies, the gang-rape of a 12-year-old girl whom three white "boys" mistook for a fantasy Pocahontas. I am talking about judges and lawyers and doctors and journalists who, through their knowledge and power, in discourse, made her responsible for it. I am seeking a society that does not profess equality and justice, but one that is (utopian be it may) equal and just. Where this girl should not fear rape because there is nothing to fear. This is something that we *want* to be true, but because it is not, entire bodies of knowledge are created to explain why it is not. Rape is about violence and about power and these discourses reproduce the power to do such violence. Yes, there *are* rules justifying what counts as knowledge and what does not, but there is also a need to break the rules because the rules need breaking. Thus, when I fly off on tangents and need to rein in my passion and anger, I need to rely on the incredible women—and men—who have laid a foundation upon which I hope to build, in collaborating to stop the reproduction of the discourses that produce and permit rape.

Throughout this work, I find myself returning to feminist works that emerged, scathing and unapologetic, from revolutionaries writing in the 1970s. In "Dwelling in Deficiencies", Lillian S. Robinson (1971) warns that, "to be effective, feminist criticism cannot become simply bourgeois criticism in drag. It must be ideological and moral criticism: it must be revolutionary" (879). This is *how* I write to eradicate rape. At times, the project seems hopeless—but with great humility, I seek to explode this case to contribute to the understanding of issues of gender, race, and power in violence against women.

INTRODUCTION

A Sunday Afternoon in the Land of Rape and Honey²

On the afternoon of September 30, 2001, a 12-year-old girl-child was sitting on the steps of the hotel (the hub—often housing the only amenities—in a Saskatchewan hamlet) in Chelan (population: 52³), 11 km from her home. Three adult males—white—emerged from the hotel bar. She recalls one of them saying: “I thought Pocahontas was a movie.”

According to her own testimony, she told them her name was Rochelle, that she was 14 and from Saskatoon. She said they offered her a ride. They said she asked for one. She said they told her they could *trust* them. They said they “thought they were doing her a favour.” She said, “I thought they were going to be nice.”

These three adult men offered intoxicating substances—beer—to this child. They drove her to the nearby Mistatim Hotel where they bought more beer. The bartender asked the men what they were doing with a child. The girl-child tells Krista Foss of *The Globe and Mail* (one of only reporters that interviewed her—notably, the Saskatoon *StarPhoenix* did not) that one of the three men told her that if she went into the Mistatim Bar naked, “he would make sure everyone would give me money. ... I said no. I was already getting scared” (12

² The sign that greets you on your way into Tisdale in northeast Saskatchewan reads “Welcome to Tisdale: Land of Rape and Honey.” “Rape” here refers to the rape plant, *Brassica napus*; canola is a cultivar (cultivated variety) of rapeseed. The town motto advertises the area’s two major agricultural commodities: 10% of Canada’s honey is produced around Tisdale and canola is grown on one third of the farmland. This is the *encoding* of the motto; the *decoding* is often, obviously, much different. Diefenbaker infamously ridiculed a fellow member in Commons over his misunderstanding of what was meant by this “indelicate” term; comedian and Corner Gas star Brent Butt, Tisdale’s favourite son, is often asked to explain what is meant by his hometown’s slogan; and tourists are often dumbfounded (or terrified) by the sign. Metal band Ministry borrowed the motto (which they came across on a Tisdale souvenir mug) for an album title and song—in which rape and honey are decidedly *not* used in the agricultural commodity sense. Despite the confusion, heightened by this highly publicised rape case, Tisdale stands by its motto—along with its giant bee and new billboard advertising the town as the home of Brent Butt. For more on Tisdale and its motto’s storied history, visit <http://wikipedia.org> and <http://www.townoftisdale.com>.

³ Statistics Canada, 2001 Census.

November 2001). The three men—Dean Trevor Edmondson (24), Jeffrey Chad Kindrat (20), and Jeffrey Lorne Brown (25)—drove the now-intoxicated child to a deserted location. They removed her pants. All three sexually assaulted her and took turns “trying” to penetrate her on the hood of their truck. They then discarded her outside her friend’s house in Tisdale.

The Case

The victim was 12-years old at the time of the assault. She weighed less than 90 lbs and was under five feet tall—a child, in size, stature, and law. In the past five years, she has endured testifying at a preliminary hearing and two trials. Her initial statement to Tisdale RCMP (hometown of the three men, population 3,063⁴) was not videotaped,⁵ as is customary in sexual assault cases (especially of children), so on each occasion she was made to retell her story and relive her ordeal. She was not allowed to testify behind a screen or by video link⁶—the judge did not deem it necessary to protect her or facilitate her “full and candid account” of the crime.

The judge in the preliminary hearing, held in August 2002, determined that there was enough evidence to go to trial. On May 20, 2003, Dean Trevor Edmondson’s trial began and, on May 30, a jury convicted him of being a party to sexual assault. He was released pending sentencing, and was free throughout the trial of the other parties to the assault, Jeffrey Chad Kindrat and Jeffrey Lorne Brown, which commenced on June 17, 2003. On

⁴ Statistics Canada, 2001 Census.

⁵ The Criminal Code entrenches hard-won provisions intended to protect victims, particularly victims of sexual assault, encourage them to report this most under-reported of crimes, and facilitate their testimony. Under subsection 715.1, in proceedings relating to sexual offences where the victim or witness was under the age of 18 at the time the alleged offence occurred, a videotape, describing the acts complained of and made within a reasonable time after the offence, is admissible in evidence, if the victim or witness, while testifying, adopts the contents of the videotape.

⁶ In cases of sexual assault, subsection 486(2.1) permits a witness (victim) who is under the age of 18 years or who has difficulty communicating to provide testimony from behind a screen or by closed circuit TV, *where the judge is of the opinion that this is necessary to obtain a full and candid account.*

June 26, a jury found these two men not guilty. Following this acquittal, on September 4, 2003, the Honourable Mr. Justice F. J. Kovach⁷ (who presided over both trials but not the preliminary hearing) sentenced Edmondson to house arrest for his crimes—an almost unprecedented conditional sentence of two years less a day.⁸ He would serve no time in a federal penitentiary; rather, he would be electronically monitored, allowed to live in his home, sleep in his own bed, go to work, and to ask permission to leave for “other reasons.” He was ordered to perform 200 hours of community service, pay a nominal \$500 “victim surcharge,” and enrol in alcohol and sex offender counselling.

In September 2003, the Crown appealed Edmondson’s sentence; the defence appealed his conviction. In July 2004, the Crown also appealed the Kindrat and Brown’s acquittal. In both of the Crown’s appeals, the Saskatchewan Court of Appeal granted the Native Women’s Association of Canada (NWAC) intervenor status⁹ but prohibited it from “commenting on the guilt or innocence of the accused or the suitability of the sentence” (NWAC 2004). In January 2005, the Crown (with NWAC’s help) won its appeal of Kindrat and Brown’s acquittal, and the Saskatchewan Court of Appeal ordered a retrial. In April 2005, the Saskatchewan Court of Appeal upheld Edmondson’s sentence, and the Crown took their appeal to the Supreme Court of Canada, which declined to hear the case. Edmondson is now a free man. On May 12, 2005, the *StarPhoenix* reported that Kindrat

⁷ Prior to his appointment to bench, Kovach was a defence lawyer. Of particular note are parallels between the defence strategy used in this case and how Kovach himself defended his client, Alex Kummerfield, in the Pamela George murder trial. Below, I demonstrate how the discursive strategies Kovach employed in defending Kummerfield—particularly in how he constructed his client as a “boy”—reappear in his discursive framing of Edmondson, Kindrat, and Brown. For more on the rape and murder Pamela George, see Razack (2002).

⁸ Section 271 of the Criminal Code (R.S. 1985, c. C-46) states that every one who commits a sexual assault is guilty of an indictable offence and is liable to imprisonment for a term not exceeding ten years or an offence punishable on summary conviction and liable to imprisonment for a term not exceeding eighteen months.

⁹ In their role as intervenor, NWAC (2004) filed arguments “outlining the principles that should guide a court in considering the evidence in a case like this one, and in passing sentence. These principles include the need to interpret the criminal law in a way that is sensitive to the vulnerability of Aboriginal women and children, and is consistent with the promotion of equality required by the Charter of Rights.”

and Brown's new trial would begin on January 9, 2006 in Melfort; on January 10, 2006, when this trial date passed without notice, the paper reported that the trial was now scheduled to run from June 19-29, 2006. June came and went without a whisper in the *StarPhoenix*. On September 8, 2006, the *StarPhoenix* reported that yet another trial date has been set: Kindrat and Brown's new trial will begin on March 19, 2007—almost six years after the sexual assault.

The victim will have to testify yet again—endure another trial and all of the attendant psychological trauma, media attention, public scrutiny, discursive violence, and courtroom warfare. Since reporting the incident to RCMP, she has been made to relive her attack, on innumerable occasions: to her family and friends; to RCMP officers, Crown prosecutors, doctors, paediatricians, specialists, child support workers, foster parents, and at least one reporter; to a judge and packed courtroom via video link in the preliminary hearing; and in open court to a judge, jury, lawyers, family members on both sides, reporters, and observers, in full view of her attackers, in two trials. She has attempted suicide, been removed from her home and placed in foster care hundreds of kilometres from her home and community and ostracised by her friends.

Doug Cuthand, an exceptional *StarPhoenix* columnist,¹⁰ explains that “the victim in this case has been cast as the aggressor and the author of her own misfortune, in spite of the fact that she was 12 at the time and the three accused were in their 20s. She remains the one who has suffered the most and, so far, the justice system has failed her” (12 September 2003). For her protection, her name cannot be printed. Throughout this thesis, she is identified only by her

¹⁰ Cuthand is “exceptional” in two senses: an unusually good or outstanding columnist and unusual, not typical, as one of the only Aboriginal voices in the *StarPhoenix* and, for that matter, the mainstream Saskatchewan—and Canadian—press.

initials: M.C.¹¹ She is Saulteaux Cree, of the Yellow Quill First Nation, from which she has been removed. She is now 17 years old. At the time of the assault, she was 12. She weighed less than 90 lbs, was under five feet tall, and had just started Grade 7.

The hegemonic reading of the case provided by the defence, supported by the power-knowledge of psychiatric, medical, legal, interconnected and entwined with sexist and racist discourses, shifts the media discourse and builds the authority of this version throughout the ensuing trials. Not the truth *per se*, but a regime of truth (Foucault 1980), emerges. The defence argues the girl had a fight with her mother¹² and ran away. Three nice Tisdale boys “found” her on the steps of a small town bar (noted by the defence: not in the school yard). She lied to them, said she was almost fifteen, that her name was Rochelle, and that she was from Saskatoon. They took her for a Sunday drive. She drank beer. She crawled onto one boy’s lap and started kissing him. She wanted “it.” They stopped the truck on a secluded country road and she and the boy kissed. She said “more, more.” He then “tried” unsuccessfully to have sex with her. The other two boys “tried” to have sex with her and were also unsuccessful. They could not get it up because they were too drunk, therefore could not possibly have raped her. She was sexually aggressive. The boys were intoxicated. They made a mistake. Boys will be boys.

¹¹ The victim’s name and identity is protected by a publication ban (I will elaborate on this in the following chapter). The *StarPhoenix* does not give her a pseudonym, not even Jane Doe, which is the name assigned unless the victim stipulates otherwise (Doe 2002, 91). I do not refer to her as Jane Doe to call attention to this lack of naming in the media coverage—most often, *StarPhoenix* journalists refer to her as “the 12-year-old aboriginal girl.” In referring to her by her initials, I am following the precedent set in the Saskatchewan Court of Appeal’s ruling on the appeals (by the Crown and the defence) in *R. v. Edmondson*, published online at www.canlii.org/sk/cas/skca/2005/2005skca51.html.

¹² Marian Meyers (1997) explains that, in her research on news coverage of violence against women, cases concerning sexual violence against children, where the child may be framed as innocent (i.e. the victim is not blamed, as in most cases of sexist violence), the mother is often blamed for allowing or facilitating the sexual assault of her child (63). In the news coverage of this case, the inferred mother-blame is supplanted by blame of the victim, as the girl-child is made a woman and, subsequently, the enchantress, enticer, sexual aggressor, etc.—a frame that places the blame on her for the crimes against her. The cause for this alleged sexual deviancy becomes her father, who is accused by expert witnesses—without a charge against him or trial of his own—of sexually abusing his daughter.

CHAPTER ONE

Approaching the Text

In this thesis, I analyse the discourses that overlap and intersect in this case to gain some insight into how and why certain frames were clamped over this case and not others, how certain frameworks of interpretation took precedence over others. My approach has shifted over the course of my writing, and I find myself taking a more holistic theoretical and methodological approach than I originally intended. While critical discourse analysis (van Dijk 1988, 1991a, 1991b; Henry and Tator 2002) informs my work, I employ a mode of qualitative analysis that “aspires to a level of complexity...that remains true to the actual complexity and contradictoriness” (Gitlin 1980, 303) of the media production of this case.

In this, I take more of a Foucaultian (1980; 1984; 1989; 1990) approach to discourses as operational and active, as bodies of knowledge at work. Drawing from Michel Foucault’s theoretical tool-kit, Sujata Moorti (2002) uses *discourses* “to refer to the processes of meaning-making within particular historical, social, and political conditions” (8), interrogating what is said and not said, which statements are made and not made. Moorti explains that discourse is “a historically, a socially, and an institutionally-specific structure of statements, terms, categories, and beliefs,” and her approach locates discourses “within the conditions of their production and circulation” (8). Returning to Foucault (1989), the task regarding “words and things,” is not to treat discourses as groups of signs,

but as practices that systematically form the objects of which they speak. Of course, discourses are composed of signs; but what they do is more than use these signs to designate things. It is this *more* that renders them irreducible to the language (*langue*) and to speech. It is this 'more' that we must reveal and describe. (54)

Discourses constitute “knowledge” by producing and organising meaning and experience within a social context. Discourses are constantly working, and are irreducible to the *said*: the silences and the *not-said* (28) are just as important to understanding the productive forces of power manifested in the discourses working here to form the object—the victim of this crime, the crime itself, the story of this victim and this crime.

Regarding communications media in particular, Myra Macdonald (2003) argues for a discursive *approach* to media, rather than a discourse “analysis,” explaining that discourse—as an analytical concept—acknowledges that the media are “at best partial originators of ideas and values” (2). That is to say, the media—in particular, news media—do not necessarily create and construct ideas and values. Reporters, editors, and columnists are not talking and writing in a vacuum, nor are they inventors; rather, they manoeuvre “a way through pre-existing and competing discourses” (2) to produce stories about the world. For Macdonald, the discursive approach to media “reminds us that media’s forms of talking and thinking interact with those of the wider society—sometimes setting an agenda, but frequently reacting to perceived public desires or concerns” (2). This approach does not dismiss the power of the media to define, frame, and name what is at issue; rather, it acknowledges that all of this takes place *within something else*: discourse, systems of domination, institutions, power structures, hegemonies. Macdonald’s approach locates media discourse always-already in discourse—in the pre-existing and competing, hegemonic and counter-hegemonic. This approach considers the ways in which media practitioners manoeuvre through discourses in both setting agendas and reacting to what they *perceive* to be public desires or concerns and, further, how and why they perceive them as such. Thus, my approach here locates media discourse within the conditions of its production and circulation, paying attention to the competing discourses journalists negotiate in their meaning-making. Macdonald calls for an

approach to media discourse that “starts with an ear to the texts themselves, and in a spirit of openness to the patterns that may emerge” (2). It is with such an “ear to the texts” and “spirit of openness” that I approach my object of inquiry: the Saskatoon *StarPhoenix*.

The Text

The *StarPhoenix* is Saskatoon’s only daily newspaper. The average circulation is 55,075.¹³ The paper is owned by Canadian media conglomerate, CanWest Global Communications Corp. (as is its Regina counterpart, the *Leader Post*, which often reproduces *StarPhoenix* articles verbatim, giving CanWest¹⁴ a provincial monopoly over newspaper coverage of this case). The *StarPhoenix* coverage is specifically written for a Saskatchewan audience. Tisdale is part of the *StarPhoenix*’s reading audience, which covers the Saskatoon area; the *StarPhoenix* is “the paper” for Tisdale, Melfort (where the trials take place), Saskatoon, and all the rural area and small towns included in its scope. It is this paper that concerns me, and the maps of meaning and discourses it negotiates to present this case “objectively” and “truthfully” to its readers. Because the *StarPhoenix* coverage is localised, the discourses at work in this meaning-making are specific to *this* place, at *this* time.

My archive of the *StarPhoenix* coverage of this case includes more than eighty articles, reports, briefs, columns, editorials, and letters to the editor, beginning with the breaking news report about the alleged sexual assault of a 12-year-old girl by three men on October 4, 2001 to a brief on September 8, 2006, reporting the latest new trial date (March 19, 2007) scheduled for the retrial of Kindrat and Brown.

¹³ Average of weekly circulation figures based on 6-months ending March 31, 2005 (Canadian Newspapers Association). The average daily circulation of Regina’s *LeaderPost* is 51,177.

¹⁴ *The Moose Jaw Times-Herald*, *Prince Albert Daily Herald*, and Swift Current’s *Booster*, the other three Saskatchewan dailies (with significantly smaller circulations) were CanWest Global properties, until they were bought by competing media giant, Quebec-based GTC Transcontinental Inc. in 2002.

In *Policing the Crisis*, Stuart Hall, Cas Critcher, Tony Jefferson, John Clarke, and Brian Roberts (1979) contend that the media make assumptions about society by relying upon an idea of consensus—that there is one common culture that we share, a common stock of knowledge, and that what unites us is far greater than what divides us. This assumption leads the media to presume that there is one perspective on events. This consensus view “denies any major structural discrepancies between different groups, or between the very different maps of meaning in a society” (55). Like the mugging cases that Hall et al. interrogate, this case demonstrates the inherent difficulties in assuming that there can be one perspective on events. The dominant media discourse in Saskatchewan is incapable of considering structural discrepancies—for instance, between men and women, between the dominant (white, colonial, settler) culture and Aboriginal culture—and, in particular, the different maps of meaning that may be involved in reading this case. A consensus view of Saskatchewan assumes that the society is, overall, tolerant, inclusive, and equal; thus, this case is extraordinary, and accusations of sexism and, in particular, racism are actively incorporated into this hegemonic view.

Macdonald reminds us that the media are only partial originators of ideas. To a great extent, journalists rely on the expertise of the press, the judiciary, the legal system, and medical doctors to arrange, define, and provide frameworks of interpretation for what is happening in the world. Thus, journalistic narratives are webs of morphed discourses from multiple areas of expertise. This is demonstrated in how the testimony of such “experts” and qualified or authorised speakers was taken from the court through the *StarPhoenix* and into the communities, coffee shops, workplaces, and households of Saskatchewan. The symbolic power of these “primary definers” (Hall et al. 1979, 58) creates a wall that dissenters must

struggle to tear down, brick by brick. But each brick is cemented in place by the symbolic power and expertise of powerful primary definers—the “expert” in child sexual abuse; defence attorneys (who manipulate discourse by playing up stereotypes and biases, appealing to consensus knowledge and common sense); the judge; even the Crown—making that wall formidable and seemingly impenetrable. There is an expectation that these primary definers are (by virtue of their power-knowledge and the symbolic power our society invests in them) objective, fair, and impartial. When I talked to people—friends, family, co-workers—about this case, expressed my horror at how such people contributed, each in their own way, to the racialisation and sexualisation of this *child* to excuse and explain away this brutal crime, some retaliated, dismissing or rebutting my authority to challenge the hegemonic construction of the case: *who do you think you are? Were you in that courtroom? Do you have a law degree or a medical degree? What makes you think that you know more than the judge?*¹⁵

Many of these people assume that racism and sexism can be identified from a mile away; racist and sexist speech is blatant and obvious and that what was being said here was not racist or sexist. Rather, it was perceived as fact, truth, science—legitimised by what Hall (1981) defines as “inferential racism”: unproblematised, naturalised, or unacknowledged assumptions that “enable racist statements to be formulated without bringing into awareness the racist predicates on which the statements are grounded” (36).

This drives my work. It informs my methodology and theoretical approach to the case. It is why I chose to interrogate these frameworks of interpretation in and through the *StarPhoenix*

¹⁵ These questions derive from conversations with family, friends, acquaintances, and co-workers about the assault, the case, and *StarPhoenix* coverage. They were not formal interviews for this thesis; rather, they were my impetus to write this thesis. Thus, the speakers are not identified and the references are not dated; they are my recollections of questions posed to me and comments made to me that I draw upon to explain my desire to interrogate what prompted them.

coverage of the case. It is the common ground—we were reading the same stories, but reading them *differently*. Hall et al. (1979) explain that

the media define for the majority of the population what significant events are taking place, but, also, they offer powerful interpretations of how to understand these events. Implicit in those interpretations are orientations towards the events and the people or groups involved in them. (57)

Such orientations were apparent in the conversations I had about the case. People would say, “I read in the paper that the doctor said she was sexually aggressive” or “the paper said that the judge thought she asked for it.” Many parroted the defence and the judge in referring to the men as boys. When I decided to pursue this case in my research, I looked to that “paper” and made it my primary object of inquiry. I gathered up all of the articles related to this case, put them in chronological order, and started reading, story by story, tracing how this deraced child victim of rape in the first piece (*StarPhoenix* 4Oct’01) became a sexually aggressive, wilfully drunk, experienced, racialised and sexualised woman who asked for three men to try to sexually assault her on the hood of their truck on a sunny September afternoon.

The press has significant power to determine which statements are given (and which are not), what is told (and not), what the public knows (and does not know) about a crime, an issue, a trial.¹⁶ I did *not* sit in the courtroom in Melfort every day, listening to all of the testimony, hearing complete reports from police, experts, the victim, and the defendants. I was not privy to daily, verbatim accounts of the lawyers’ arguments or the judge’s instructions. I could not see the jury, was unable to observe their facial expressions or read their body language.

Through the *StarPhoenix*, I was given some semblance of access, but what little I had access

¹⁶ The proliferation of alternative and counter-hegemonic voices, particularly through internet and web-based media, are lessening this power, but individuals and even organised advocacy groups and NGOs may not have the resources to report from the courtroom on an ongoing basis. The internet affords some increased public access to institutional discourses. For example, the Saskatchewan Court of Appeal’s ruling is available online with hyperlinks to the laws, statutes, and case law precedents to which it refers. This access, though, remains heavily mediated (e.g. the transcripts of the trials are not available online, and the hefty copying charge of \$3.50/page is prohibitive in most cases, including my own). It also requires a seeking out: the public must do the work to access alternative and counter-hegemonic accounts.

to was mediated, policed, and highly selective. I read what the journalists gave me to read. I saw what television crews made available to view.¹⁷ All of this was itself limited and censored by the various publication bans (on all courtroom speech in the preliminary hearing and on any speech or image that could identify the victim throughout). This created the parameters for public discourse, producing a severely limited version of the event from which to formulate opinions and ideas about the case, including the guilt or innocence of the accused, the veracity of the witnesses, the reliability of the experts. I, too, as a media consumer, must sift through what is available to me.

There are many factors at play in decisions made about what is *news*: extraordinariness, involvement of elite persons, unusualness, dramatic events, the unexpected, organisation of the newsroom, interests of reporters, etc. (Hall et al. 1979; Meyers 1997; Henry and Tator 2002). This is *made* “news” because a number of these factors are at play. It is “unusual” enough to be newsworthy and dramatic enough to sustain public interest (keeping reporters busy reiterating and seeking out stories even when there is little “news” to report).

In considering *why* this case was newsworthy, I looked to a case study in Frances Henry and Carol Tator’s (2002) *Discourses of Domination*. In their newspaper analysis of the 1999 trial of Reform MP Jack Ramsay, who sexually assaulted an Aboriginal girl child in Pelican Narrows in northern Saskatchewan in 1969 (he was stationed there as an RCMP officer), Henry and Tator explain that their analysis “illustrated powerfully how the voices, views, beliefs, and experiences of First Nations women are of little interest to the media” (232). In particular, the victim’s experience of sexual assault by this powerful white male was “reported

¹⁷ Since cameras were banned from the courtroom and reporters were prohibited from making public any images of M.C. or her family, photographic and televisual images focused on the three accused coming in and out of court, statements made by lawyers and other primary definers on the courtroom steps, and any scuffles or protests outside the courthouse.

on as a single, isolated incident, only worthy of attention because it involved a widely respected individual with a high public profile” (233). From their analysis of racial bias in Canadian newspapers in general, Henry and Tator conclude that “only when a situation or event creates an opportunity for the media to construct a discursive crisis do minorities become a focus of attention” (233).

Henry and Tator’s findings are among the factors that made M.C.’s assault newsworthy. Other factors include: the victim is a child (but the three men are never named paedophiles, although the term is ready to activate any time the narrative shifts); three men assaulted her and not one (gang-rape, never named as such); the three men can be framed within a Bernardo-esque “don’t look like rapists” hegemonic narrative (clean-cut white men, good jobs, members of the community, good parents, good “boys”); hot-topic “race-relations” in Saskatchewan (pushed to the fore by ongoing inquests and investigations into Aboriginal men “manslaughtered” by Saskatoon Police, more missing and murdered Aboriginal women and children being *reported*, and the activation of Aboriginal stereotypes in active denials of racism).

I, like the majority of Saskatchewanians, had to rely on the media to decide this case is newsworthy enough to cover so extensively and relate the story to me. The *StarPhoenix* is able to control the majority of the discourse because we could not see or hear for ourselves; reporters are charged by their editors not only to report but to “make comprehensible” this problematic event (Hall et al. 1979, 56). Dominant media discourses will—because of everything from heterogeneous newsrooms to journalistic conventions to an over-reliance on experts and primary definers—contribute to a reproduction of the definitions of the powerful (57). What is at issue here is how the media presented, interpreted, and made

decisions about what was important, what details I needed to know, and framed how I was *to understand* this case, including how to orient myself toward the case, the events and issues in dispute, the people involved (Hall et al. 1979, 57).

In reading the *StarPhoenix*, approaching it in these ways, I encounter discourses that work to reify rape mythologies, blaming the victim for the crimes against her. I examine M.C.'s construction through the media reliance on specific *moments*, particular courtroom *utterances* that bear the authority of the speaker and create a discursive closure and/or determine the parameters of acceptable speech. I interrogate how rape mythologies are deployed to make M.C. *incredible*, and how sexism and racism intersect. This sexism and racism is denied in discourses emerging from the courtroom; I seek to make them visible through the discourses activated to make meaning. This work seeks to expose how the *StarPhoenix* reproduces, reifies, and reinvigorates hegemonic understandings of rape. The discourses active in the text are permissive of sexualised violence, particularly that perpetrated by white men on Aboriginal women.

Qualified Speakers

Discourses are media for the expression of power-knowledge. Institutions invest their authority in the knowledge-power of actors “qualified” to speak by, in, and through *powerful* discourses (ostensibly “truth” and “knowledge”). Hegemony works on multiple levels, locally and globally, re-inscribing the authority of those discourses through institutions of power (Williams 1977). This is a cyclical, reciprocal relationship. The qualified (powerful) speak and the *powerlessness* of Others is, systemically and structurally, denied access to discourse. For example, a “layperson” cannot testify that what a deemed-bona fide “expert” says is incorrect or biased. This is how discursive power operates. Discourse creates and yet

manipulates “common sense” but never relinquishes the power to name and frame; counter-hegemonic and alternative and lay speech is discredited, including the speech of the victim.

Journalists rely primarily on “qualified speakers” to legitimise truth claims; they rely, then, on those charged with saying what *counts* as true. To reinforce ideological tenets of “objectivity” and “balance,” professional journalism adheres to rules and guidelines that are designed to ensure that stories are “wherever possible, grounded in ‘objective’ and ‘authoritative’ statements from ‘accredited’ sources (Hall et al. 1979, 58). This is demonstrated by the professional guidelines laid out for journalists. For example, *The Canadian Press Stylebook* (2004) instructs them to “cite competent authorities and sources as the origin of any information open to question” (14). Since most things are “open to question,” this directive excludes everyone who may be perceived as “incompetent” without explaining how to determine and gauge *competency*. Thus, journalists tend to rely on *authority* and institutional credibility.

In eschewing competency for authority, journalists rely heavily on “accredited representatives of major social institutions” (Hall et al. 1979, 58)—those who are always already in possession of and exercise the power to name what is at issue. Professional designations and titles are *made to mean* access to fact and objectivity—i.e., access to discourse and specialised knowledge. Accredited sources and competent authorities have the symbolic, cultural, or economic capital to speak and be cited. For instance, educational and professional designations “represent real titles” of symbolic capital that have real value and give the recipient “a right to the profits of recognition” (Bourdieu 1990, 135). This relieves the so-called from “the symbolic struggle of all against all by imposing the universally approved perspective” (136) through their official, legitimised identity. It also relieves the journalist of

the burden of independently assessing credibility or making decisions about who can speak authoritatively and objectively to every issue. Doctors, judges, lawyers—all benefit from the “profits of recognition” and authority to speak and interpret medicine and the law respectively. Special status is given to “the expert”: privileged because her/his “disinterested pursuit of knowledge” confers any statements or interpretations about an issue or case with objectivity and authority (Hall et al. 1979, 58); symbolic capital is assumed from his/her presumed “unwavering dedication” (echoing that expected of journalists) to objectivity.

The *Canadian Press Stylebook* acknowledges a “profound and disturbing” distrust of the media. Its “remedy” is to rely on competent authorities which, in conjunction with routine pressures of the news business (which make reliance on institutional “beat” sources more efficient), means that reporters over-access the same sources: the privileged, the powerful, those sources tied to institutional positions (Hall et al. 1979, 58). This is active hegemony, working to recreate and reproduce the power structure of society in media discourse. The over-reliance on primary definers creates a demand for use, which in turn legitimates the definers’ expertise and, further, legitimises the structures of the dominant society that creates them as seemingly “competent” and “credible.”

This desire for such sources is seemingly at odds with another tenet of journalistic practice: to present all sides or, most often, the “other side” (i.e. assuming there are opposing camps, polarising debates, that there is no grey area). In such binary approaches to issues, that “side” must also be presented. In most cases, power is terribly unbalanced. What if the other/Othered side’s spokespeople and sources are not equipped with the institutional clout or professional designations or symbolic, cultural, and economic capital? In striving for that elusive balance and objectivity, journalists tend to rely on the deliberately named primary

definers to do what they do: “establish the initial definition or *primary interpretation*” (Hall et al. 1979, 58) of the topic, issue, event, or case. These primary definers, then, are opinion leaders who “play a critical role in shaping issues and in identifying the boundaries of legitimate discourse” (Henry and Tator 2002, 25). What is *at issue* is named and framed by those who have the power (and have that power reaffirmed in this process) to name and frame. In this, they provide primary definitions and frameworks of interpretation, within which all detractors, those on the *other* side, must speak or, alternatively, that which they must attempt to redefine, reinterpret, and re-frame. The primary definition “*sets the limit* for all subsequent discussion by *framing what the problem is*”—providing, for the journalists and their audience, “the criteria by which all subsequent contributions are labelled as ‘relevant’ to the debate, or ‘irrelevant’” (Hall et al. 1979, 59).

For those who cannot be in the courtroom, who cannot access (or choose not to access) alternative sources, the media control what is known about this case. These primary definers, then, have the power to define and construct M.C. A portrait emerges through dominant frameworks of interpretation: she is an aggressor, not a victim; an unreliable witness/liar, not truth-teller; sexually mature woman, not child. M.C. is witness to the swirling discourses naming her, creating her, recreating, renaming, and speaking her experience in words that may be incomprehensible to a child or, for that matter, anyone who lacks the access to discourse, the power-knowledge both *to speak to and about* her experience and the crime against her. In the talk and text of the competent and authorised, she is named (Aboriginal, young, female), identified, and filed into discursive categories. For example, paternal abuse she may have suffered is used to frame her not as *more* vulnerable to her three attackers, but as evidence that she is self-destructive and probably sexually aggressive. Seeds of doubt are planted by expert testimony and hypotheses are presented as scientific fact. She is made an

object of medical, psychiatric, legal, and sociological “knowledge.” She is, thus, constructed in discourse and, as such, becomes a discursive object.

Regimes of Truth

The convergence of these kinds of expert discourses also create a specific version or rendition of the “truth” that is constructed through discourse. Truth, then, is a site of struggle and this struggle is amplified when it comes to rape. As Foucault (1980) makes clear, the truth of M.C.’s story or the truth being presented by the defence is of no matter: “The question of whether discourse is true or false is less important than whether it is effective in practice. When it is effective—organising and regulating relations of power—it is called a regime of truth” (131). Here, Foucault explains, truth is

a thing of this world: it is produced only by virtue of multiple forms of constraint. And it induces regular effects of power. Each society has its regime of truth, its “general politics” of truth: that is, the types of discourse which it accepts and makes function as true; the mechanisms and instances which enable one to distinguish true and false statements, the means by which each is sanctioned; the techniques and procedures accorded value in the acquisition of truth; the status of those who are charged with saying what counts as true. (131)

M.C. is, to this end, rendered the *least* qualified to tell the truth. She is actively Othered on multiple levels, and lacks any of that status that would qualify her to have her truth *count*. Rather, her truth must be corroborated or disproved by qualified speakers: experts speak to her on the stand, speak about her in open court, name and dissect and frame her testimony of what “happened” to her. They impose their knowledge on her, construct her in ways unintelligible to her that may alienate her from her experience. They are “qualified” to speak of, to, and about her; her voice is subsumed in theirs. Her story is anaestheticised, her experience is translated into discourses that “provide authority to and...legitimise” and, consequently, *delegitimise* “truth claims” (Moorti 2002, 8).

The objective—or, what discourses enable—is a sort of political and social shortcut, a legitimized general strategy that attempts to

determine the different ways of not saying such things; how those who can and those who cannot speak of them are distributed, which type of discourse is authorised, or which form of discretion is required in either case. There is not one but many silences, and they are an integral part of the strategies that underlie and permeate discourses.” (Foucault 1990, 27)

Truth is a process, bound up in a web of competency and authorisation and acceptance.

M.C. is required to speak of her assault, but over the course of her ordeal, she is silenced. She cannot speak of it in acceptable or authorised language. Her public stumbles through this language are publicised (e.g. unable to articulate her ordeal in the second trial, she writes it, misspelling *penis*). The *StarPhoenix* reports the speech of those whose discourse is acceptable and/or authorised. Language is euphemised. *Rape* is not authorised (but the *StarPhoenix* makes an exception in its sensational headlines), but verbose and complicated definitions of sexual assault and consent are—when lawyers and judges are speaking them. Descriptions of an 89-lb., 12-year-old child in Grade 7 are elided by primary definitions of an attractive, sexually aggressive, sexually experienced, mature (menstrual) young woman. If experts say she looks old for her age, then she looks old for her age, end of discussion¹⁸—and since we cannot see her, the implication is: who are we to argue?

As I continue, I work through the above theories to make visible the power used to construct M.C. as a malleable object, tracing how primary definers and authorised and acceptable speech weaken the counter-hegemonic power of her story while constructing a regime of truth that can somehow make the gang rape of a 12-year-old girl-child explainable and even palatable. I manoeuvre in and through approaches, theories, and contexts that provoke and

¹⁸ This brings to mind colloquialisms often overheard in my own small town, in the bar or the rink, regarding what is and is not underage for girls: “If she’s old enough to go to the store, she’s old enough to get ‘bred’” and “If she’s old enough to bleed, she’s old enough to breed.”

poke holes in the discourses inflicted upon the victim, her story, and this case. The objective is to problematise the explanations and dominant interpretations, provided by the court and those privileged to speak in it, through the *StarPhoenix* to the public—to make power-knowledge visible and contextualise the web within which that power operates. I move in and through mythologies about female sexuality and Aboriginality, seeking an understanding of the power struggles involved in rape, and intersecting and interdependent racialisation and sexualisation in speaking about rape, with particular attention to great vehemence with which this girl-child's credibility is attacked—and hegemony defended and reinforced.

CHAPTER TWO

Intersecting Constructions: Interrogating the Text

I have introduced my theoretical tool-kit, but this case also needs to be situated in research on the intersection of race and sex in sexual violence against girls and women in the discourses at work in the *StarPhoenix*. The strategy of this analysis is to explore the intersection of sex and race in the rape mythologies inherent in the discourses used—and still in use—by primary definers to discredit the victim, M.C. I contend that the discursive treatment of this rape as a media event by the *StarPhoenix* reproduces the conditions that produced this rape. Underlying this contention is an interrogation of the narrative frameworks clamped over this case—particularly, the inversion of subject positions facilitated by discourses of power—that seek to make the perpetrators victims and the victim perpetrator.

By frame, I defer to Todd Gitlin's (1980) definition of media frames as "*persistent patterns of cognition, interpretation, and presentation, of selection, emphasis, and exclusion, by which symbol-handlers routinely organise discourse, whether verbal or visual*" (7, emphasis his). For Gitlin, it is important that frames be identified and that discourse analysis involves asking not only what frame, but why this frame and not another. This case is framed in a particular way, through primary definitions, dominant frameworks of interpretation, and discursive presentation of what is at issue, what "happened," and why; an alternative framing—and many alternatives are plausible and available—would have created a different discourse about this case. For instance, if the media frame clamped over this event had presented the perpetrators as child-molesters—named as paedophiles—we would have been working within a drastically different narrative. Sympathy for them (i.e. paedophiles) would have

been more difficult to activate, and discourse mitigating their crime and culpability would have been far less effective. But the frame over this event was, rather, one of three nice white small-town boys with good jobs and good parents who picked up a complicit, sexually mature, girl-woman who indulged in their proffered alcohol and welcomed their advances (even instigated their arousal and aggressively coerced them), and then “cried rape.” Within this frame, M.C. came from a bad home and her father sexually abused her and she fought with her mother; she lied about her age and name. This frame fits the persistent patterns of cognition, interpretation, and presentation of rape victims and Aboriginal women and Aboriginal women rape victims. The definitions of this event by primary definers leans toward the latter and not the former frame, making it *seem* as if this makes sense and that this must be the only way to approach this story. We must, as Gitlin advises, always ask what other frames are available, and what is at stake for whom in framing discursive events in particular ways.

Framing has a great impact upon interpretation and presentation of a story. For instance, in her rigorous analysis of the Pamela George¹⁹ murder trial, Sherene Razack (2002) explicates that a number of factors were involved in framing George as a disposable Aboriginal hooker and her murderers as good white boys who got into trouble. These primary definitions were taken up by the media in ways that “contributed to masking the violence of the two accused and thus diminishing their culpability and legal responsibility for the death of Pamela George” (Razack 2002, 125). Razack demonstrates how this inversion works to make George responsible for her own rape and murder. Discourses of power seek to rein in what George’s

¹⁹ Pamela George was raped and murdered in Regina in April 1991 by Alex Ternowetsky and Steven Kummerfield—two white men, University students, athletes, young, promising, and middle class. Ternowetsky and Kummerfield celebrated the end of final exams by getting drunk, soliciting George for sex, driving her outside of Regina where, “following oral sex, they took turns brutally beating her and left her lying with her face in the mud” (Razack 2002, 124).

murder might otherwise imply: that nice white boys maliciously rape and murder Aboriginal women because they can. This narrative framework is threatening, therefore unacceptable.

What else could have caused this horrific crime? How can the implications be managed? Can George (or M.C., etc.) be blamed? Hall et al. (1979) explain that

to find an explanation for a troubling event, especially an event which threatens to undermine the very fabric of society, is of course the beginnings of a sort of ‘control.’ If we can only understand the *causes* of these events, then we are halfway to bringing them under our control. To give shocking and random events ‘meaning’ is to draw them once again into the framework of the rational order of ‘things understood’—things we can work on, do something about, handle, manage.” (166)

This process is often not “logical.” When the explanations and rationalisations are inconsistent or incomprehensible, the sense-making does not “make sense.” In the case at issue here, the role of racism in the crime and the courtroom—i.e. the racialisation and sexualisation of M.C. inherent in the explanations, motives, and reasons offered by judges, lawyers, doctors, and the *StarPhoenix*—is denied and made invisible, in favour of more palatable explanations that, while inconsistent and overreaching, do not threaten the consensus model of society.

The inversion of perpetrator and victim in the Pamela George case demonstrates how discourses of power rationalise and manage such “troubling events.” In cases of sexual violence that do not fit into familiar narratives (familiar because they are the only ones publicised and perpetuated, e.g. the ‘police-blotter rapist model’ (Brownmiller 1975) or the crazed lunatic rapist (Meyers 1997)), discourses of power seek to “make sense” by blaming the victim. In this narrative, a victim’s culpability and responsibility are made palatable to not only a public that considers itself liberal, democratic, fair, and egalitarian, but to the primary definers themselves (those who *want to believe* that justice is fair, genderless, and colour-blind). By denying the existence of sexist rape and race mythologies, in general and in

this particular case, the defence lawyers, Crown, judges, police, and press reproduce the conditions that produce sexual violence (as in the case of Pamela George) and permit it to be re-enacted (upon M.C.).

Primary definitions are synonymous with “dominant definitions.” They come first and “set the limit for all subsequent discussion by framing what the problem is,” providing, the journalists and their audience, “the criteria by which all subsequent contributions are labelled as ‘relevant’ to the debate, or ‘irrelevant’” (Hall et al. 1979, 59). What is at issue in this case is named and framed first by those who have the power to name and frame and define what is at issue; those who stand behind the edifice of symbolic power and expertise have their power reaffirmed by their influence on the media discourse. Those privileged with the power to name creates a situation in which detractors or dissenters must work *from within* these primary definers’ names, frames, narratives, and interpretations. This “framework of interpretation” (Hall et al. 1979) is where those without such power must speak from or, alternatively, what they must attempt to redefine, reinterpret, and re-frame.

Notably, according to the dominant framework of interpretation in this case, the issue is *not* race and it is *not* sex, and it is certainly not race *and* sex. As I demonstrate in the next chapter, primary definers speak to race only to deny racism. On the other hand, the sexism inherent to this case is not denied, but subsumed—its role is, perhaps, so obvious and deeply ingrained that it is “rendered invisible by its apparent transparency” (Hall 1977, 356).

For example, in an editorial written in response to the acquittal of Kindrat and Brown, *StarPhoenix* editors explain to readers that “the outcome was predictable, not because a racist jury was biased against a Native girl but because jurors had no compelling evidence to

convict” (28 June 2003). With a seemingly incontrovertible authority, the editors dictate the terms of reference in this assessment and present them as fair and objective.²⁰ Underlying this is a colossal failure to recognise the racist-sexism inherent in a “justice” system that cannot find the evidence in this case “compelling.” On the same occasion, Mark Brayford, Brown’s lawyer, tells the *StarPhoenix*’s Jason Warick that he “didn’t feel race had anything to do with this particular incident” and, moreover, “that our justice system does an admirable job when it comes to race” (27 June 2003)—effectively enacting a discursive closure on the issue of race while defending the system from which his power derives *and* reaffirming hegemony (i.e. the system works). The role of race and racism is siphoned off and explained away; the obvious role of sex and sexualisation is made invisible. In this, the intersection of the two is elided.

Some of the denials, particularly of racism, are almost too blatantly blind or ridiculous to warrant a rebuttal (but the effectiveness of such inane rhetoric cannot be underestimated). During the reading of Edmondson’s verdict, a group of M.C.’s supporters were drumming in protest outside the courtroom. Edmondson’s lawyer, Hugh Harradence,²¹ tells the *StarPhoenix* he is certain that one had nothing to do with the other, claiming the demonstration is “completely unrelated to the case” (29 May 2003). Harradence is not asking but *telling* reporters and readers to believe that a group of Aboriginal people just happened to be drumming outside a Melfort courtroom in the middle of a May day. Racism and sexism seep into the discourse in more insidious and less blatant ways. For instance, Dr. Ann McKenna, authoritatively framed as a leading expert on child sexual assault, undermines

²⁰ The following quotation is printed at the bottom of all *StarPhoenix* editorials: “Democracy cannot be maintained without its foundation: free public opinion, and free discussion throughout the nation of all matters affecting the state within the limits set by the criminal code and the common law” (The Supreme Court of Canada, 1938). Free, but bound by limits—this is an effective summation of Canadian hegemony.

²¹ Harradence used similar strategies in denying the racism inherent in the serial rapes and murders perpetrated by another infamous client, John Martin Crawford (see below).

the age of consent protection afforded children (like the 12-year-old M.C.) and opens the door to rape mythologies by sexualising M.C. In her “expert” opinion, M.C. is more woman than child—she had already begun menstruating—raising suspicions of her sexuality by noting that “it was unusual” that she “wore lipstick to her appointment” (*StarPhoenix* 24 May 2003). Through such discursive strategies, the overlapping roles of race and sex in this case are elided, dismissed, and outright denied. It is an insidious, vicious circle. Further, and not without irony, there is an additional circle of affirmation, with primary definers and powerful discursive actors protecting their own symbolic power since, if the system is suspect, so is their symbolic power and the social contract itself...and the whole thing falls apart. These circles overlap: simultaneously, the denial and affirmation rewrites, reproduces, and re-legitimises sexualised racism and racialised sexism and racist-sexist violence.

In her analysis of the public vilification of Anita Hill, Wahneema Lubiano (1992) asks: “what does it mean to see or hear power so constantly elided or treated as if separate from gender or racial dynamics?” (357). As I demonstrate how this process works in this case, it *means* that racism and sexism are subsumed in discourse that wilfully denies not only their role in power dynamics, but the power they give the rapists and their defenders. The latter, in particular, treat the power of the rapists and themselves as separate from this case while framing themselves as protectors of women and children and defenders of justice and right, not of rapists and rape and racialised violence—reaffirming that power at the expense of the racialised and sexualised victim.

She is the Victim

Naming is perilous, fraught with potential missteps and slippages into the very discourses that seek to subjectify, objectify, make invisible, erase, eradicate, Other, and re-victimise the

victim, M.C. Such perils underpin this thesis. I am wrestling with my own power to name, to create M.C. in discourse while decrying how she is constructed in the *StarPhoenix* by the primary definers and produced and co-produced by the *StarPhoenix* for a “white-eurocanadian-christian-patriarchal (weccp)” (Acoose 1995) Saskatchewan audience. How, then, do I reframe M.C.?

In the trial of the two white men accused of her murder, Pamela George is framed as an Aboriginal prostitute, not only by the defence, but also by the Crown prosecutor (who never works against the hegemonic frame, pursuing a conviction and not justice for George) and judge (who facilitates the framing). In “Gendered Racial Violence and Spatialised Justice: The Murder of Pamela George,” Razack (2002) reframes the victim and, thus, the framework of interpretation, by introducing George as a woman of the Saulteaux (Ojibway) nation and mother of two who was “brutally murdered” in Regina in 1995 (123). In this, Razack gives George an identity as a woman, a mother, a First Nations person, of a specific place—her nation. With these basic details, she is working against the discursive erasure of Pamela George, reintroducing her as the innocent victim of a vicious crime. Razack notes that “few details of her life or the life of her community are revealed in the court records of the trial...or in the media coverage of the event” (124). She explains that, in the absence of details about George (her life, where she is from and who she is, descriptions that humanise her, make her visible and tangible) and the overdescription of the “promising” lives of her murderers, “a number of subject positions remained uninterrogated. Thus, not only did George remain the ‘hooker’ but Ternowetsky and Kummerfield remained boys who ‘did pretty darn stupid things’” (144).

Similarly, M.C. is reduced to Aboriginal, young, female. Perhaps she has been abused. Perhaps this abuse made her sexually-aggressive and self-destructive. Perhaps she “asked for it.” She is a subject of medical, psychiatric, sociological “knowledge”; seeds of doubt and blame are planted by expert testimony and hypotheses are presented as scientific fact. The discourses acting upon her make her not only powerless, but faceless and voiceless.

She is not afforded many provisions laid out in the Criminal Code to protect her and facilitate her testimony by demonstrating that the court can protect her. Her identity is, however, protected by a publication ban ordered by the court.²² The shield of her face, name, and identity—ostensibly, to “protect” her—shield her from the public. It is a façade of protection, because by making her invisible, sympathy and empathy are harder for the public to conceive. She is never named, even with a pseudonym (e.g. Jane Doe) and, like Pamela George, humanising details about her life and community are not provided. She is, thus, constructed in discourse only, and that discursive construction is heavily mediated. It is left up to the primary definers to define who she is, to figure her. The media control the discourse and, thus, paint her portrait for its readers: the aggressor, not victim; the unreliable witness/liar, not the truth-teller; the sexually mature woman, not child. She is faceless and nameless, making empathy more difficult as the audience is not permitted to see her as an 89-lbs girl but as whatever the journalists, and the primary definers in court and out of court upon whom they rely, create her to be in discourse. The *StarPhoenix* seems to use the publication ban as an excuse. She is referred to as the “12-year-old aboriginal girl” (note: in the *StarPhoenix*, Aboriginal is always in lower-case “a”) or the “complainant” but seldom the

²² Subsections 486(3) and 486(4) of the Criminal Code of Canada provide for an order prohibiting publication of the identity of sexual offence victims and young witnesses in sexual offence proceedings, and subsection 486(4.1) provides that a judge may make an order prohibiting the publication of the identity of a victim or witness of any offence, on application, where it is established that the order is necessary for the proper administration of justice.

“victim.” She becomes, throughout the paper’s coverage of this case, closer to the Aboriginal hooker that George became in the same paper (and its CanWest counterpart, Regina’s *The Leader Post*) and further and further from victim and any descriptions or cues that could remind readers of her vulnerability and humanity.

The publication ban is issued, ostensibly, to protect M.C. Historically, it took a lot of effort and years of work by victims’ rights advocates and feminists to make the publication ban available (and for the courts to grudgingly acknowledge its inadequacy when it comes to dealing with violence against women), but this case explicates how it is a token gesture granted on behalf of the (predominantly white male) legal system. The ban allows the courts to articulate two different things: first, it allows the facile statement, “look, we are protecting the victim,” discouraging media from presenting details about the victim as a person and, second, it continually allows both pornographic disclosure of intimate details about her sexual history (officially disallowed, but increasingly allowed to seep in under the guise of scientific forensic evidence) and graphic descriptions of the victim and the crime (Du Mont and Parnis 1999). Marian Meyers (1997) explains that “details of sexual assault or other acts of violence serve to revictimise the victim, just as surely as would public identification” (67). The publication ban does not “protect” her from this; it does protect/shield the public from details that could reinforce that *this child is the victim here*. Also, the publication ban cannot regulate public discourse—it extends to text, not talk. Certainly, the ban protects her identity from people who do not live in and around the Yellow Quill First Nation and Tisdale, but the people of those communities know her name, her face, her family, even where she lives.

While I cannot name her—for her own protection and because the publication ban forbids it—I can, following Razack, work against her discursive erasure. I repeat: M.C.²³ is Saulteaux Cree, of the Yellow Quill First Nation. At the time of the assault, she was 12 and one month into Grade 7; she lived in a house with her parents and six brothers.²⁴ M.C. is the victim here, yes, but this is a subject position by circumstance. Before, during, and after the rape, she is a person: the M.C. that I cannot know, that her rapists never met, that the juridical system does not recognise, that the *StarPhoenix* cannot comprehend. As I cite *StarPhoenix* reports that name her (as Aboriginal girl, 12-year-old Aboriginal girl, girl not from Tisdale, alleged victim, and, later, as teen) and quote primary definers (the defence, judges, and expert witnesses who seek to make her invisible and to name her as not-victim), I seek to remind, through reiteration and repetition, that M.C. is the victim. As victim, she occupies a plethora of subject positions: Aboriginal victim; First Nations victim; child victim; female victim; 12-year-old Aboriginal girl-child victim; racialised victim of rape; sexualised victim of racism; infantilised victim; victim of colonial, sexual, and racial violence; victim of discursive violence and systemic violence.

There is much debate in feminist scholarship about whether to use the term *victim* or *survivor*. Moorti (2002) explains that she uses the latter because the former portrays women who have experienced rape as passive and removes their agency, while contributing to the persistence of beliefs that rape is natural (43). Jane Doe (2002) writes that she does not allow people to refer to her as a “rape victim” because “every time that term is used to define me, I feel I am returned to that moment, that night of terror and helplessness” (120). While I am

²³ Due to an “error” by the court transcriber, her name has been available to anyone who is able to pay the exorbitant fees to receive copies of the court transcripts. This is a violation of the publication ban by the criminal justice system itself, and has made the publication ban a farce.

²⁴ These details about M.C.’s life were not published by the *StarPhoenix*; they were pieced together from alternative sources, including Foss’s *Globe and Mail* article (12 Nov. 2001), Buydens (2005), McNinch (forthcoming), and NWAC (2004).

aware and respectful of these dangers and the potential to do further harm, I refer to M.C. as the victim. Not a victim—*the* victim. *Not* to return her to that moment (a peril of naming) but to constantly reinforce that *she is the victim here*: “a person or thing harmed or destroyed in pursuit of an object or in gratification of a passion, etc.; a person injured or killed as a result of an event or circumstance” (*Concise Oxford Dictionary* 1995). This is what the dominant discourses seek to elide and forget—and what I seek to remember. She has been victimised, i.e. *made* a victim. I seek to keep that in the fore, a constant reminder of the terror and helplessness that the three rapists inflicted upon her, as well as her revictimisation by the media and criminal justice system. This analysis also illustrates how this victim’s *victimisation* is undermined, delegitimised, and made invisible. Yasmin Jiwani (2006) argues that, in contrast to the hypervisibility of women whose victimhood is legitimised by media discourses (e.g. those of Afghan women, in the “war on terror”), the bodies of Aboriginal women are rendered invisible and, thus, their victimhood delegitimated (15).²⁵ M.C.’s legitimacy as a victim relies upon her child-ness; as this recedes in favour of discourses that construct her as Aboriginal woman, so, too, does her victimhood status—making her undeserving of societal protection and intervention on her behalf.

While dominant discourses work to delegitimize her victimhood, M.C.’s victimisation has some power. She tells a tale “from the front” (Lyotard 1999, 132) that interrupts and problematises grand narratives about egalitarian Canada. Lyotard contends that “the only way that networks of uncertain and ephemeral stories can gnaw away at the great institutionalised narrative apparatuses is by increasing the number of skirmishes that take place on the sidelines” (132). M.C.’s story, subsumed and incorporated as it is, gnaws away at multiple narratives—the utopian ideal of Canada as anti-racist and gender-equal, the

²⁵ Jiwani explains that her objective is not to argue for an “essentialised victim status,” but to unpack when and where *victimhood* is legitimated, i.e. “granted as a status deserving of attention and intervention” (15).

resilience of the White settler colonial narrative in Saskatchewan, and, in particular, mythologies of rape (who is raped, who rapes, rape as isolated and unusual)—and the apparatuses that tell and retell them. While power is deployed to silence her, power is also productive. Downe (2005) writes that while we must not “diminish or disregard the suffering and hardships faced by Aboriginal girls and women...we must not allow stories of violence and exploitation to eclipse the equally powerful stories of survival and determination that are also told” (3). Unlike Pamela George or Helen Betty Osborne or the hundreds of “stolen sisters” (Amnesty International 2004), M.C. survives to tell—and *tells*—her tale. While much of this thesis discusses efforts to silence the victim and elide the discourses that made her a victim, I want to underline her great courage.

Rape

Stripping away the power-knowledge and discursive façades reveals persistent rape mythologies that blame the victim for sexual violence against her. These mythologies have a durable historical legacy: they have been named and framed as many things over centuries across the world, and applied in varying degrees by different discursive means. In her meticulously researched and sobering analysis of news coverage of violence against women, Meyers (1997) demonstrates that, with notable exceptions (what Jane Doe calls “good rapes”), the victims, not the perpetrators, “appear to be deviants worthy of condemnation” (4). Media discourses produce and reproduce pre-existing and competing discourses—these stereotypes and myths do not originate with the media—in ways that support hegemony. In the dominant discourses that the *StarPhoenix* relies upon and those its reporters activate in coverage of this case, I demonstrate how, in perpetuating myths about sexist violence and reinforcing discourses that disguise them, the *StarPhoenix* “ultimately encourages violence against women” (9) and Aboriginal women in particular.

Hegemony works to undermine my argument before I even begin. Foucault's work serves as a constant reminder that there are rules justifying what *counts* as knowledge and what does *not*. Those "rules that justify" permeate and mediate my approach. Meyers warns that "the dominant discourse supports patriarchy and maintains its position of prominence by marginalising feminist discourse and, therefore, feminists" (15). Anti-racist and feminist discourses are buttressed by the diligent and painstaking work of so many, producing reams of scholarship, evidence, qualitative analysis, statistics and numbers...but they are, still, constantly working against incorporation, de-legitimation, and discursive closure (i.e. that which seeks to name them too reactionary, sensitive, redundant, not objective or scientific enough, etc.). I recognise the power nexus, and attempt to jam it. I strive to be passionate, unapologetic, polemical, and powerful while being "taken seriously"—to negotiate the rules without losing that revolutionary voice (in a revolution that is, by no means, over).

The sexism inherent in rape and dominant discourses about rape, is so entrenched and normalised and sanitized that it is difficult to identify, far less eradicate. Susan Brownmiller's *Against our Will: Men, Women and Rape* (1975)²⁶ explodes this hegemonic normalisation, stripping all of the power-knowledge and euphemistic talk down to a *female* definition of rape, which is quite simple: "If a woman chooses not to have intercourse with a specific man and the man chooses to proceed against her will, that is a criminal act of rape" (18). This has, she points out, never been the *legal* definition of rape, neither in the US nor in Canada.²⁷

The law is too complicated for such simplicity. The law, she argues, "has never been able to

²⁶ This foundational text on rape was written the year I was born. While some of her analysis is dated, in reading Brownmiller's acute analysis of rape, I fear that little has changed in my lifetime—not in terms of scholarship and people who, like Brownmiller, are working to understand, prevent, and eradicate rape, but in that rape is becoming more common, not rare, more vicious, not less.

²⁷ Brownmiller provides a rigorous history of rape in Western culture, including its economic origins as a property crime by man (the rapist) against another man (a husband or father whose property, be it wife or daughter, was devalued by rape). Rape is derived from the Latin *rapere*, to seize.

satisfactorily distinguish an act of mutually desired sexual union from an act of forced, criminal, sexual aggression” (385).²⁸

Rape is rarely used to describe this crime. On occasion, the *StarPhoenix* uses the word rape, but only in sensational, attention-grabbing headlines.²⁹ Rape is sanitised, and “sexual assault” is so broad that it can be manipulated to suggest (as is suggested in this case) that there are degrees of rape. Avoidance of the term also precludes the use of gang-rape to describe what happened to M.C. on the hood of that truck. Gang-rape is explicit, and it more accurately describes the crime than “being party to a sexual assault.” Notably, another word never used throughout the coverage of the trial is *paedophile*. This is an accurate, justifiable description of a man who sexually assaults a child. By eradicating (i.e. never uttering) these words from descriptions of this crime and the perpetrators, discursive power is deftly elided and treated as if separate from, in particular, sexualised violence.

I use rape here, and not sexual assault, to underline the extreme violence of this attack. I do not mean rape as in forced penetration; the focus on penetration as criteria for rape is a

²⁸ This inability is made apparent by the ongoing struggle to successfully legislate this into Canadian criminal and constitutional law in theory *and* practice. Bill C-46 (*Criminal Code*, R.S., c. C-34, s. 1) and important Supreme Court rulings in the 1990s—including *R. v. Ewanchuk* (1999), the “No Means No” case (see also *R. v. Darrach* 2000, *R. v. Mills* 1999, *R. v. Seaboyer* 1991)—explicate that “implied consent” is not a defence for sexual assault and that using rape myths to substantiate belief in consent is prohibited. In their challenge of the acquittal in *R. v. Brown and Kindrat*, NWAC (2004a) outlines the discrepancies between the letter of the law and the interpretation of that law in this case. NWAC argues that, in his charge to the jury, Judge Kovach failed “to provide the jury with instructions on what constitutes ‘all reasonable steps’ [to ascertain the age of the complainant] under s. 150.1(4)” of the *Criminal Code*; to “provide the jury with instructions on the definition of capacity” to consent and failed to instruct the jury on s. 273.2 [i.e. not a defence if that belief arose from the accused’s “self-induced intoxication” or “recklessness or wilful blindness,” or the accused “did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain that the complainant was consenting”] when he presented the defence of mistaken belief in consent.” NWAC also charges that Kovach incorporated “sexist myths into his instruction on the issue of consent, as well as the prohibited suggestion that prior sexual history is relevant to consent” and failed to incorporate “*Charter* equity values and Parliament’s objective of protecting young persons and women from sexual assault and exploitation” into his jury charge (NWAC 2004a, 13). See also: Du Mont and Parnis (1999 and 1999a); Denike (1999).

²⁹ For example, the breaking news headline screamed: “Trio from Tisdale accused of raping 12-year-old” (4 October 2001).

patriarchal, phallogentric understanding of sexual violence. Rather, *rape* is used here to describe

an annihilation of bodily integrity, an imposing of one person's imperatives and fantasies on another through a violent act that rewrites and rewires that person. ... Rape removes volition, it traduces what sex is, defiles the very act of sex, uglifies it as much as it violates and objectifies the woman who is raped. And it makes her matter not a bit. She is just a projection, a screen on which rape is acted out to the degree that she is separated from the rape, and it becomes the property and business of others. And she is instructed on how to define it, cope with it, recover from it, live with it. Rape is a social issue and an economic issue. Rape is a form of social control. Rape is a crime against society, against humanity, against life. You cannot be a little raped or not seriously raped or non-violently raped. To claim otherwise, to have laws that say otherwise, is to legalise rape. (Jane Doe 2003, 114)

While Brownmiller's definition of rape explicates what it *is*, Jane Doe's defines what it *does*. She seeks to incorporate the complexities of the crime: violence, imposition, violation, objectification, rewriting, rape as inextricable from the social and the economic, from context and history. Jane Doe's analysis of rape is a companion to this thesis; she informs my work. I have few of M.C.'s words, but I have many of Jane's. Her explication of the crime against her is written to women, to potential, already, and always-already victims of rape. Jane Doe's words are not meant to be universal, but she makes great efforts to make her experience inclusive, to suggest commonalities while distinguishing her experience from that of others. In particular, she is aware of her whiteness (along with class, physical appearance, knowledge), cognisant that even though she went through hell, this hell is worse for women who are not white, not middle class, not equipped with knowledge of feminist and legal discourses. When Jane Doe reads about M.C.'s case in the newspaper, she knows that this rape will be framed differently than hers because of the victim is Aboriginal. Jane Doe—and the victim's parents, in going straight to the media (as I will explain in the next chapter)—*knows* that race will make this much worse for M.C. than it was for her.

Rape Myths

This case is *made to mean* in ways that people can “make sense of,” without having to consider their own culpability or examine the conditions that create this crime, by individualising M.C.’s experience while universalising her through available stereotypes and narratives. In this translation, meanings are mapped onto pre-existing racist and sexist narratives that are framed as “common sense,” which Hall (1977) explains is fraught with problems:

You cannot learn, through common sense, *how things are*: you can only discover *where they fit* into the existing scheme of things. In this way, its very taken-for-grantedness is what establishes it as a medium in which its own premises and presuppositions are being rendered *invisible* by its apparent transparency. (325-6)

Myths about rape are uninterrogated, depoliticised, taken-for-granted—rape myths³⁰ are latched onto as “common sense.” The premises and presuppositions upon which rape myths are based are, as Hall says, rendered invisible by their apparent transparency. Assumptions about rape victims and their perceived complicity in or contribution to the violence they suffer are not questioned, and the patriarchal and, in this case, racialised systems in which they flourish are never connected to that violence because the connection is never made in the dominant discourses in the courtroom and the media discourses that emerge from it.

In my approach to rape myths, I map Roland Barthes’ concept of *myth* onto Hall’s conception of *common sense*. Barthes (1972) explains that *myth is depoliticised speech*³¹ (142). The function of myth is to evacuate, or to “empty reality” (143). Political must, here, be understood as “the whole of human relations in their real, social structure, in their power of

³⁰ As Joyce Green (2005) explains, the racism that legitimates colonialism “operates in ways that appear to be benign, unintentional, passive, or unknowing” (12). In Saskatchewan, racist assumptions about Aboriginal people that “legitimate our politico-social [colonial] order have been dignified by intellectuals, by policy, and by politics, until they have become part of what many white people understand as common sense” (12).

³¹ This definition of myth is but the conclusion of Barthes’ detailed, rigorous, semiological definition in answer to his own question, “what is myth today?” (109) in the final chapter of *Mythologies*.

making the world”—not the state, but society, the entire cultural system. If this is political, politicised is the political in action, and he emphasises that the “de-“ in “depoliticised” is an action, something doing or done: *de*-politicising.³² Myth’s function is not to *deny* things; rather, it is to talk about them, to put them into discourse but in a way that “purifies them, makes them innocent” (143). Rape myths, then, have lost their history: “the memory that they were once made” (142) and the context and real social conditions in which they were made. The power-knowledge that produced and reproduces rape myths is actively disappeared. Feminist approaches to rape have uncovered a series of pervasive rape myths. These myths circulate and manifest in different ways and are produced and reproduced by different discourses, but the myths themselves serve to disguise that they are made, why they are made, and how they enable and permit rape.

The Canadian-based organisation Women Against Violence Against Women (WAVAW) features a “Get Informed” section on their website,³³ which includes a page on prevalent rape myths. WAVAW defines rape myths as “widely held, inaccurate beliefs about rape,” explaining that these myths

give people a false sense of security by legitimising sexual assault or denying that it even occurs. They do this by blaming the victim for their experience or making excuses and minimising their assault. In effect, these myths perpetuate sexual assault by not addressing the realities of rape.

They also, referring back to Barthes, are evacuated of conditions and history of their making. These myths offer a way of fitting rapes into common sense, which relies upon these myths to make sense of rape. WAVAW is tackling common sense head-on by first making the invisible visible and forcing readers to encounter these notions and “beliefs” *as myths*, then to

³² Barthes gives the example of the Black soldier to illustrate his explication of myth; in the trotting out of the Black soldier proudly saluting the French flag, what is signified is an inversion of French imperialism: what is evacuated is “not French imperality (on the contrary, since what must be actualised is its presence)” but rather “the contingent, historical, in one word: *fabricated*, quality of colonialism” (143).

³³ For more information on WAVAW’s work, visit their website at www.wavaw.ca.

confront realities that dispel these myths or at least force an interrogation of them and the presuppositions upon which they are based.

Many of the twenty-seven myths WAVAW identifies and is working to dispel—through a *re-politicising*—are active in the discourses at work on M.C.’s experience. Of these myths, the following will be addressed in the forthcoming analysis: sexual assault is rare; “women lie about being sexually assaulted to get revenge, for their own benefit, or because they feel guilty afterwards about having sex”; rape victims “ask for it” by the way they dress or act and are only raped if they are sexy and young; perpetrators are “either mentally ill or sexually starved” and belong to a particular race or have a particular background; rape is sex “taken too far”; rape requires physical injury or use of a weapon; rape victims only suffer long-term effects if they had been physically injured; once aroused, a man cannot control himself; no means yes; you cannot be accused of rape if the victim is drunk or unconscious; pressuring women to have sex is okay; women want to be raped and cannot be raped unless they want to be; “you can tell if a woman is really sexually assaulted by the way she acts” (WAVAW). Add to that list the ever-persistent myth that only “bad girls” or “loose women” (Moorti 2002, 49) are raped (or, where myths of gender and Aboriginality intersect, squaws, not princesses), “women who ‘tease’ men deserved to be raped” (Torrey, cited in DuMont and Parnis 1999a), and that only virgins can be raped.³⁴

For each of these myths, WAVAW provides an explanation of the “reality”—reports, statistics, data, along with experience on the ground in sexual assault centres, research on rape and rape reporting, accumulated testimonies of victims’ experiences—that contravenes it. While this approach works in *opposition* to rape mythologies in terms of truth and

³⁴ See also: Brownmiller (1975); Denike (1999); Du Mont and Parnis (1999); Meyers (1997).

falsehood, it neglects the real potential to address the social, historical, and political. Thus, WAVAW falls into refuting the myths but not the discourses in which they thrive and the hegemonies that they support. To create *alternative discourses*—that have the potential to pose a “serious challenge to the hegemonic order” (Karim 1993, 201)—WAVAW must take a more complex approach, refuting not only the myths but the narrative frameworks and discursive limits to discussion, attacking the boundaries around the available field of meanings that sustain, reinvent, and reinvigorate these myths. To do more than merely oppose, we need to offer alternative ways of thinking and talking about rape. The primary definers I interrogate below *know* the “reality” of rape, but continue to leverage their knowledge by activating these myths. Moreover, they use them to confirm their power-knowledge and reinscribe hegemonies.

Intersecting Constructions: “I thought Pocahontas was a movie...”

Writing about the intersections of race and sex in the context of Anita Hill’s charges against Clarence Thomas, Lubiano (1992) explains that “meanings are constructed and/or influenced by power in the debate that went on as a result of her charges, the ways that public discourse is influenced by activating salient and pre-existing narratives” (323-4). In that case, narratives that blame the victim are compounded by particular stereotypes of black women as sexualised and eroticised objects, to be slotted into one of two available narratives: black lady or welfare queen. The salient and pre-existing narratives in the case at issue here revolve around slotting M.C. into one of two available narratives: princess or squaw.

The princess/squaw dichotomy is introduced not by me, but by the perpetrators; as I mentioned above, the first thing they said upon encountering her was: “I thought Pocahontas was a movie.” Under the white male coloniser’s gaze (as betrayed by the

utterance) M.C. is racialised *and* sexualised. This utterance epitomises the discursive problematic of this case. *Pocahontas* is a movie, but Pocahontas was a real Aboriginal woman. The former is an unrealistic, confining stereotype, the Indian Princess, the alter-ego of the Squaw, defined in relation to white colonisers; the latter, a human being. According to Gail Guthrie Valaskakis, the popular culture portrait of Pocahontas “combines the sexually alluring qualities of innocence and availability” (quoted in Pewewardy 1998, 194). Edmondson, Kindrat, or Brown are referring to Disney’s *Pocahontas* (1995). On Disney’s website, this is how the title character is framed:

Pocahontas, whose name means ‘Little Mischief,’ is based on a real historical figure. She was born into a highly sophisticated Indian culture [differentiating her people from the “savages” Disney and other purveyors of popular culture usually portray] that had some knowledge of Europeans. So when she encounters lead scout John Smith, a moment of magic occurs. John Smith finds Pocahontas. She does not run. He cannot hurt her. (Disney 2005)

Like this mythical John Smith, then, Edmondson, Kindrat, and Brown “find” their Pocahontas on the steps of the Chelan Hotel and a “moment of magic occurs.” Their Indian princess does not run, either. They tell her she can trust them—they “cannot hurt her.” As Cornel Pewewardy (1998) explains, the Disneyfied Pocahontas

embodies the dominant stereotype of the noble savage and all of the contradictions in hegemonic representations of the legacy of American colonisation. In dominant discourses, the genocide, colonisation, and assimilation of the colonisers is romanticised and anaestheticised in representations of a earthy, gentle, and ‘once great but now dying’ Indian culture. (194)

Disney, like the mythical (depoliticised) story of Pocahontas upon which the movie is based, conveniently elides the inequality of power in this encounter and the colonial violence inherent in it—as do M.C.’s rapists.

The Princess—embodied in the pseudo-historical figure of Pocahontas—is the wild “New World” tamed, the savage civilised by the white coloniser and, thus, his protector and

champion. She is also the forbidden object of his lust; she is sacrosanct, off-limits: “her sexuality can be hinted at but not realised” (R. Green 1998, 188). The Virgin-Whore complex, determined in relation to white men, discursively splits the virgin (Princess) from the whore (Squaw). As Rayna Green explains, “white men cannot share sex with the Princess, but once they do so with a real Indian woman, she cannot follow the required love-and-rescue pattern. She does what white men want for money or lust” (188). Edmondson, Kindrat, and Brown imposed their fantasy of Pocahontas on M.C., then destroyed the fantasy with their own actions. Green explains that when “realities intrude on mythos, even Princesses can become Squaws”³⁵ (190). Over the course of that Sunday afternoon, they made “their” Pocahontas a Squaw.

The squaw stereotype is the most prevalent and most often reproduced: in dominant discourses, particularly in Saskatchewan,³⁶ Aboriginal women are always-already associated with prostitution, crime, drunkenness, custody battles, bad parenting, glue-sniffing, welfare, and/or as victims of a plethora of sex-based crimes, ranging from spousal abuse (by Aboriginal men) to rape, sexual assault, and murder by white men (often in positions of authority, e.g. priests, police officers, and teachers). In these narrative frameworks, victims are, like George and M.C., framed as contributors to their victimisation. Sarah Carter (1997) observes that the “negative images” of Aboriginal women constructed³⁷ in the late nineteenth

³⁵ For example, R. Green cites the popular ragtime song “On an Indian Reservation,” in which a Whiteman falls in love with a Chief’s daughter and swears to “sunburn to a darker shade,/ I’ll wear feathers on my head,/ Paint my skin an Indian red” if she will marry him. She does, and he marries her and does as promised, only to have his love (and lust) fade when the Princess becomes “just like any other squaw.” The “Whiteman wonders at his blunders—now the feathers drop upon his head./ Sorry to say it, but he’s a wishing, that he’d never gone a-fishing./ Or had met this Indian maid” (qt. in R. Green 1998, 191).

³⁶ I recently heard a story that reminds me of how ingrained and actively reproduced the squaw stereotype is in Saskatchewan. At the age of four, a boy (raised in a lily-white Saskatchewan town) saw an Aboriginal woman in the mall in Saskatoon. He pointed to her and, proud of his ability to identify her to his father, pronounced “squaw!” This little boy did not emerge from the womb with this word; it was taught to him.

³⁷ Carter’s study lays bare the purposes of particular discursive constructions of the racialised and gendered Aboriginal woman and the white woman to support the colonial project. The *raison d’être* for these

century “became deeply embedded in the society of the most powerful socio-economic groups on the prairies and have proved stubborn to revision” (160). Writing about her experience as a First Nations woman growing up in Saskatchewan, Janice Acoose (1995) explains that she

learned to passively accept and internalise the easy squaw, Indian-whore, dirty Indian, and drunken Indian stereotypes that subsequently imprisoned me, and all Indigenous peoples, regardless of our historical, economic, cultural, spiritual, political, and geographic differences. (29)

The princess/squaw is an either/or, and the persistence of these categories make it impossible for Aboriginal women to be seen as “real” (R. Green 1998, 191)—by others (e.g. Edmondson, Kindrat, and Brown) or themselves (e.g. Acoose). In such discursive constructions of Aboriginal women, race and sex are inextricably entwined.

The violence perpetrated against M.C. is not specific to her or her rapists. It is prevalent in, but not particular to, Saskatchewan. It is an epidemic, but rarely described as such. Violence against young Aboriginal women is part of the history of Canada—as a still-patriarchal and colonial society³⁸—and a contemporary reality. Yet media discourses continue to individualise these cases. The history and context of missing, murdered, sexually abused, assaulted, and exploited Aboriginal women and children is rarely acknowledged and usually actively disassociated from each case, from each incident, by the media and the criminal justice system.³⁹

The staggering numbers of cases and frequency of events make this sexual violence “usual.” For instance, John Martin Crawford went on raping and murdering Aboriginal women in

constructions are part of regimes of truth about the danger posed by the “savages” that served colonisers in their economic and political hegemonising of the West.

³⁸ The exploitation of the land’s First Peoples is irrevocably entwined with Canada’s existence.

³⁹ See Downe (2005), Goulding (2001), Razack (2002).

Saskatoon while nary a word was printed in the *StarPhoenix* about his victims, reported missing by family members. The “missing” posters of them turned to dust on Saskatoon’s bulletin boards and light-posts while their remains decayed on the outskirts of town. Even when Crawford⁴⁰ was on trial for four murders—a prolific serial killer by Canadian precedents—*StarPhoenix* readers knew little about what was going on in the local courthouse and practically nothing about his victims except that they were Aboriginal women linked to prostitution. Crawford raped a woman and deserted her in a parking lot while the Saskatoon Police surveillance unit watched (claiming they could not “see” what was happening), and there was little to no coverage. Crawford’s trial and conviction as one of Canada’s most heinous serial rapists and murderers did not get as much press as the Tisdale case—a fact that has kept me up at night. What is it about M.C.’s story that caused so much alarm?

The attention paid to M.C. may well represent a “crisis of hegemony” (Hall, et al 1979, 217)—a rupture in the ideologies about who we are and where we live, a moment in which the stories we tell ourselves in order to live are exposed and contested. As McNinch (forthcoming) explains, M.C.’s story is only *uncommon* because she was taken to the hospital “scratched, bruised, and holding her crotch and wailing” (*R. v. Edmondson* [2003], quoted in McNinch, forthcoming), resulting in the hospital dutifully reporting the injuries to the RCMP. This child’s story is *volatile* because M.C. survived to tell this tale and because her family told the tale to reporters. The counter-hegemonic discourses that emerge in this case poke holes in hegemonic discourse, and force it to work harder to contain, suppress,

⁴⁰ Goulding (2001) explains that “most members of the general public don’t even recognise the name of John Martin Crawford. He’s no [paedophile and serial murderer] Clifford Olson. Certainly he’s no Paul Bernardo [who, because of such intense coverage and media fascination, requires no introduction]. In his hometown of Saskatoon, he doesn’t even rank with the likes of David Threinen, the man who killed four Saskatoon youngsters in a murderous rampage twenty-five years ago. Crawford’s comfortable obscurity may not be a bad thing. The tragedy is we don’t remember [the victims] Mary Jane Serloin, Shelley Napope, Eva Taysup, or Calinda Waterhen, either” (xvii).

and/or incorporate them. Williams (1977) reminds us that hegemonic dominance does not just passively exist: “it has continually to be renewed, recreated, defended, and modified” (112). If hegemony is hard work, hegemony in moments of crisis is then *harder* work. In the next chapter, I demonstrate how hard it is working—to incorporate, ignore, discredit, or somehow deal with this story in a way that undermines its counter-hegemonic potential.

M.C.’s story is not new. Carter (1997) traces it through the colonial and settler history of Canada; Amnesty International’s “Canada’s Stolen Sisters” report (2004) explicates stories and statistics that underline the prevalence of this racialised, sexualised violence today. The Aboriginal Justice Implementation Commission (1999), reporting on the Aboriginal Justice Inquiry convened to interrogate the gross *injustices* of the Helen Betty Osborne rape-murder case, determined that *all* women in Canada live under a constant threat of violence and that Osborne’s murder is an expression of that violence (8). The Inquiry concludes that 19-year old Osborne

fell victim to vicious stereotypes born of ignorance and aggression when she was picked up by four drunken men looking for sex. Her attackers seemed to be operating on the assumption that Aboriginal women were promiscuous and open to enticement through alcohol or violence. It is evident that the men who abducted Osborne believed that young Aboriginal women were objects with no human value beyond sexual gratification. (8)

These assumptions and beliefs that Osborne’s attackers acted upon have not miraculously disappeared since Osborne’s murder in 1971, and the Commission’s damning report did not eradicate or even stifle the conditions that created it. Rather, the Commission’s finding could be tacked seamlessly onto this case: *[M.C.] fell victim to vicious stereotypes born of ignorance and aggression when she was picked up by [three] drunken men looking for sex. Her attackers seemed to be operating on the assumption that Aboriginal women were promiscuous and open to enticement through alcohol or violence. It is evident that the men who abducted [M.C.] believed*

that young Aboriginal women were objects with no human value beyond sexual gratification. In fact, this determination can be applied to any number of cases of sexual violence against Aboriginal women in Canada.⁴¹ Yet these are the very stereotypes and myths that are tangible in not only the violence and the conditions that produce it, but in the discourses activated to explain away M.C.'s story, treating this case as an aberration rather than part of an ongoing pattern embedded in Canadian history and perpetuated by this pervasive and immutable construction of Aboriginal women.

The explanations that we concoct, believing they are common sense, are already available to us—disparate parts that we pull together, but which have lost their connection to a more defined ideology or set of ideas. Gramsci calls them *traces*: debris and residual ideas that are still in circulation. “The historical process,” he writes, “has left an infinity of traces gathered together without the advantage of an inventory” (qt in Hall et al. 1979, 166). The racist and sexist mythologies used to make sense of this case are traces—reproduced and recreated and reinscribed—of colonial ideology, of assimilation, genocide, and control culture, but their link to this ideology, wilfully or otherwise, is *forgotten*.

In this rape, race and sex are irrevocably entwined and demonstrably denied. bell hooks (1990) asks: “Why must people decide whether this crime is more sexist than racist, as if these are competing oppressions?” (62). It is the more-this-than-that, the either/or, that is the problem. hooks seeks a way in through *both* race and sex (63) that, as the inquiry into Osborne’s rape-murder demonstrates, such analysis requires. hooks is calling for an approach

⁴¹ In sentencing Crawford, Mr. Justice David Wright links his crimes to the stereotypes and perceived permissiveness that made him “feel that he could take their lives after sexually assaulting them, confining them, terrorising them, and then brutally killing them.” Wright determines that Crawford was attracted to his victims because they were young; they were women; they were Native; and they were prostitutes. Crawford “treated them with contempt, brutality; he terrorised them, he violated them sexually, he confined them, and ultimately he killed them. He seemed determined to destroy every vestige of their humanity” (qt. in Goulding 2001, 188).

that recognises and incorporates *oppression*. The victim in this case is never either brown or female, not more Aboriginal or more woman. M.C.'s oppression, and the dominance (in a white supremacist capitalist patriarchy) exercised over her and her body, are racist *and* sexist. There are moments when I write only about sex or only about race, not to imply that they are competing oppressions but to focus my critical lens on how each is working upon this case, ever cognisant that the two oppressions are not just overlapping but interwoven.

Racism and sexism are what hooks (1990) calls “interlocking systems of dominance” (62); in Canadian society, the most dominated group—“the most invisible and silenced” (Downe 2005, 2)—is Aboriginal girls. Within their nations, in their communities and out, in small towns and urban centres, violence against Aboriginal girls is on the rise. Pamela Downe (2005) reminds us that this violence has a 130-year history—these incidents are “connected through a pervasive colonial ideology that sees these young women as exploitable and often dispensable” (3). Acoose (1995) argues that images of Indigenous women “perpetuate unrealistic and derogatory ideas, which consequently foster cultural attitudes that legitimise rape and other kinds of violence against us” (71).

The rape of a First Nations girl-child is not rare; this is not an isolated incident or an aberration. 75% of Aboriginal girls under 18 have been sexually abused (Lane, Bopp, and Bopp, cited in Downe 2005, 8). 75% of Aboriginal victims of sex crimes are girls under eighteen; 50% are under fourteen (Hylton, cited in Downe 2005, 8). There are scores of missing Aboriginal women, innumerable unreported sexual assaults, unknown numbers of exploited children.⁴² As James McNinch (forthcoming) explains, these are “dirty little secrets”—covert or actively denied narratives, unspoken truths. The murder, disappearance,

⁴² For more information, see Amnesty International (2004), Downe (2005) or visit SistersinSpirit.ca.

exploitation, sexual abuse, and rape of Aboriginal women and girls has become normalised. These incidents are not “news” in the mainstream media, or to Aboriginal communities; rather, these dirty little secrets are also “public secrets”:

Aboriginal girls today are connected to historical patterns of uprootedness and violence every time they hear these secretive stories of 16-year old Felicia Velvet Solomon from Norway House, Manitoba (raped and murdered in 2003), Pamela George from Sakimay Saulteaux First Nation, Saskatchewan (raped and murdered in 1991), Maxine Wapass from Thunderchild Cree Nation, Saskatchewan (raped and murdered in 2002), Moira Erb from the Fort Alexander First Nation, Manitoba (missing and murdered in 2003), or the countless others whose names are not known.⁴³ (Downe 2005, 10)

Brownmiller (1975) argues that women are *trained* to be rape victims, from childhood.⁴⁴ In the context of these public secrets, where race, sex, and youth intersect, “Aboriginal girls learn quickly that they are at risk” (Downe 2005, 10). In this context, Aboriginal girls are always already potential victims.

These public secrets amount to a public fraud. The emphasis on the individual in society is antithetical to comprehending or even recognising systemic racism and sexism. Thus, dominant discourses overwhelmingly deny the inextricable connection between the racism and sexism that produce and permit racialised sexualised violence. When these public secrets are, on occasion, reported, they serve “as both a warning to [young Aboriginal] women and a form of social control that outlines the boundaries between acceptable behaviour and the forms of retribution they can expect for transgression” (Meyers 1997, 9)—reinscribing the fear, the vulnerability, that learning of risk. For would-be rapists, it reinforces the

⁴³ Downe notes two of the many Saskatchewan-specific cases. Add to that Crawford’s known and suspected victims (Mary Jane Serloin, Shelley Napope, Eva Taysup, and Calinda Waterhen); five-year-old Tamra Keepness (missing since 2003); the four known sexual assault victims, aged 12 to 16, of former RCMP officer and judge David William Ramsey; Shirley Lonethunder (missing since 1991); Cynthia Louise Sanderson (murdered in 2002); Melanie Geddes (missing since 2005)...and on, and on, and on.

⁴⁴ We learn that rape happens to girls and women—“it is the dark at the top of the stairs, the undefinable abyss around the corner, and unless we watch our step it might become our destiny” (Brownmiller 1975, 309). We are told what *not* to wear and *not* to reveal, where *not* to walk, and to *never, ever* walk alone after dark. Lock your doors. Be suspicious. These fears are so deeply embedded, this self-policing of body and decisions so ingrained, that it took writing this to recognise it in myself.

permissiveness of violence against Aboriginal girls and women and provides a host of excuses for their transgression.

The colonial violence against Aboriginals and, in particular, sexualised colonial violence against Aboriginal women,⁴⁵ the trivialisation of sexual violence, the infantilisation of women, girls, and people of colour, persistent princess/squaw stereotypes, the engendered blame of rape victims—each and all intersect here, permeating the discourses activated to blame *this* victim. The dominant discourses in this case serve the defence of these three men and, thus, their prerogative to rape this child. Hegemony recuperates, incorporates, and works to create a narrative that reaffirms dominant juridical, patriarchal, and colonial-settler narratives.

⁴⁵ See Carter (1997), Acoose (1995), Razack (2002), Downe (2005).

CHAPTER THREE

Discursive Power: Dramatis Personae

There is a cast of characters upon whom the *StarPhoenix* relies to narrate this story—primary definers whose speech is privileged, and who are, most often, relied upon to provide frameworks of interpretation and intelligibility for what is going on within the courtroom and without. Plum speaking parts go to the defence lawyers—Hugh Harradence (Edmondson’s lawyer), Mark Brayford (defending Brown), and Stuart Eisner (defending Kindrat)⁴⁶—and the Crown prosecutor, Gary Parker. The medical establishment is represented by doctors Linda Somer (the Tisdale doctor who first examined M.C.) and, in a starring role, Anne McKenna (doctor, paediatrician, specialist in child sexual abuse, “expert” witness) who also claims ownership over medicalised discourse and psychiatric knowledge.

Minor roles on the law-and-order side are played by Heather Russell (provincial RCMP spokesperson) and Sgt. Ken Homeniuk of the Tisdale RCMP detachment. In the interests of “balance,” Jim Sinclair (Vice-Chair of Treaty Four Bands and President of the Saskatchewan Aboriginal People’s Congress) speaks to neatly framed “Aboriginal” issues, Bob Hughes

⁴⁶ When the lawyers for each defendant were named, Warick selectively noted that Brayford’s past clients included Robert Latimer (25 June 2002). To many in Saskatchewan, Latimer is a sympathetic figure, and *StarPhoenix* readers would be well acquainted with his case: the framed-as-mercy killing of his severely disabled daughter, Tracey. This selection of detail is important because Warick chose a high-profile case in which Brayford emerged as a pseudo-heroic figure, defending a father and local farmer who, Brayford argued, loved his daughter so much that he had to end her suffering. This defence enraged many disabled and differently-abled rights groups, but the majority of Saskatchewan allied with Latimer. The Latimer case was an anomaly in Brayford’s high profile career; Warick *could* have contextualised him by citing his defence of a number of high profile clients, including convicted ex-wife-killer Colin Thatcher (an MLA at the time of the killing and son of a former Saskatchewan premier) or one of Canada’s most prolific serial rapist-murderers, John Martin Crawford (in a case that should have been higher profile but was not, arguably because his victims were Aboriginal women framed, by Brayford and the media, as prostitutes and deviants) (Goulding 2001). Notably, Harradence defended Crawford *with* Brayford, but in the same article, Warick also elides Harradence’s connection to the Crawford trial, identifying him as a member of the Commission on First Nations and Metis Peoples and Justice Reform. The selection of clients frames both lawyers as defenders of justice, avoiding cases that would connect them to the racism and sexism of which they have been accused in *how* they defend their clients (if not whom they choose to defend).

(President of Saskatchewan Coalition Against Racism) is afforded a platform when it comes to racism-in-general issues, and Kripa Sekhar (executive co-ordinator of the Saskatchewan Action Committee for the Status of Women) gets a few one-liners. The lead characters have the power-knowledge to map out a framework of interpretation of this case; the minor ones react to it. The narrators, playing objective, balanced, and fair reporters, include Lori Coolican, James Parker, and Jason Warick of the *StarPhoenix*; press opinion is provided by *StarPhoenix* columnists (personal opinion) and the editorial team (institutional opinion).

The accused rapists—Edmondson, Kindrat, and Brown—do not speak in their own defence. Most of their words emerge from transcripts or tapes of their initial statements, although Edmondson (who has his own trial) does make a cameo in Brown and Kindrat’s trial (in which they were co-defendants) to contravene his original videotaped statement (i.e. commit perjury) and claim he saw nothing. M.C. occupies multiple roles: the tragic victim, the instigator, vulnerable child, Aboriginal girl, abused child, rape victim, incest victim, teenager, sexual aggressor, provocateur, liar, medicalised subject, infantilised subject, Pocahontas, princess, squaw. She is afforded little or no agency; she is constructed by the other characters, from their respective perspectives.

My objective in this analogy is neither to belittle the case nor understate the power-knowledge of these characters; rather, I mean to draw attention to the *fiction* of this story and the *StarPhoenix* text as a constructed object. There is no shining, incontrovertible truth awaiting discovery here—in reading the text, I am looking at the construction of knowledge about this case, interrogating a dominant narrative in which truth and falsehood are less important than the effectiveness of the regime of truth (Foucault 1980, 131). This narrative is *constructed* to “define and explain ‘reality’ and tell the ‘truth’” (Schissel 1997, 30). The

scripts are revised by the major characters, illustrating their preference for certain meanings over others. The *StarPhoenix* version of this case is a heavily mediated and contrived discursive production of this colossal battle over regimes of truth. In this production, multiple, hierarchal discourses convene to produce a media discourse about this case.

Breaking News

On October 4, 2001, the *StarPhoenix*, began coverage of this case (which continues to this day) with a story under the headline: “Trio from Tisdale accused of raping 12-year-old.” At the time of this first report, four days after the alleged assault, the three men had already made a court appearance and been released on their own recognisance...all without a whisper in the press.

In reaction to this silence, M.C.’s family reported this “harrowing incident” to the *StarPhoenix*. This represents an anomaly in crime reporting, which usually follows the lead of the RCMP or police or reports through the regular court beat. According to the *StarPhoenix*, the spokesperson⁴⁷ reported the sexual assault to the paper because the family was “surprised” that the incident had not received media coverage. In light of recent and historical treatment of Aboriginals by Saskatchewan’s juridical system and the near-invisibility and/or gross discursive violence revisited on Aboriginal women and girl victims of sexualised violence, I would hazard a guess that the family always-already feared the case would either not garner any publicity or that any publicity would blame M.C. From this perspective, within this context, there is reason to doubt M.C.’s chances of receiving “justice.”⁴⁸ M.C. is not raced

⁴⁷ Recall that M.C.’s identity is protected by a publication ban; naming the C. family spokesperson would reveal her identity, in contravention of the ban.

⁴⁸ For instance, the families of Crawford’s Aboriginal women victims reported their daughters missing to the Saskatoon Police and RCMP and were not taken seriously or summarily dismissed. At the time of M.C.’s attack, Saskatoon police officers were under investigation for a number of “mysterious” freezing deaths of

(i.e. deraced) in this article, but that does not mean that racialisation was not in play; her Aboriginality and the suspects' whiteness may have been factors in the noted lack of reporting of such a horrific charge—certainly “newsworthy”—and the quick and quiet release of the suspects. Perhaps the family went public to ensure this would not become another case in which the victim does not matter because she is Aboriginal⁴⁹—or because they assumed that the press already knew about the case, and decided it was not news.

The spokesperson's statement to *StarPhoenix* reporter Lori Coolican is accusatory (“Why *didn't* this receive media attention?”); Coolican shifts the potential blame and charges of indifference from the media to the RCMP, who did not report it to the media (news organisations rely heavily upon the police and court beats for crime news). This creates two “sides” (the family v. the RCMP), removing the *StarPhoenix* from the equation while activating journalistic codes of balance and objectivity—the reporter must appear to give “fair representation to all sides” (Canadian Press 2004, 14). In this case (and in most) the two sides of this constructed polarity are not equal, in discursive power or credibility. Ericson (1998) explains that “the credibility of sources is established through institutionalised forms of authority and knowledge. Sources are typically predetermined as authorised knowers by the source organisation itself, within its own hierarchy of credibility” (85). The RCMP, for instance, authorises Heather Russell to speak publicly on its behalf. Russell is not necessarily in the best position to *know*, but as an institutionally authorised spokesperson, she is

Aboriginal men last seen in police custody. These men were suspected victims of what members of the urban Aboriginal community called “starlight tours” (a very public secret)—men apprehended by members of the Saskatoon Police who chose to drive them out of town and leave them to freeze to death rather than process them at the station. There were also numerous open and unreported (and often uninvestigated) cases of raped, missing, and/or murdered Aboriginal women. Also, only a few years before, Kummerfield and Ternowetsky received their manslaughter sentence for the rape and murder of Pamela George—in which George's victimhood was actively delegitimated.

⁴⁹ The title of Goulding's book on the Crawford case, *Just Another Indian: A Serial Killer and Canada's Indifference*, is taken from a quote by Justine English, sister of Mary Jane Serloin, Crawford's first victim: “It seems that any time a Native is murdered, it isn't a major case. It's just another dead Indian” (xiv).

apprised of the situation in context of what the institution seeks to present—here, to stifle the media-contrived implication that the RCMP is hiding something—and has the power to command an audience.

Thus, while the C. family spokesperson spoke to the *StarPhoenix* first, in the top-down hierarchy of the resulting article, Russell speaks first. She confirms that the Tisdale RCMP had, indeed, responded to a complaint of a sexual assault on a 12-year-old girl and arrested Dean Trevor Edmondson (24), Jeffrey Chad Kindrat (20), and Jeffrey Lorne Brown (25). This demonstrates that even though there would not have been a story if the C. family had not alerted the *StarPhoenix*, the family spokesperson is not an acceptable primary definer. In this article, *StarPhoenix* reporter Lori Coolican also gives Russell the final word. Invoking “procedure” to divert any sense of impropriety (which the spokesperson may be insinuating), Russell claims that the RCMP rarely reports sexual assaults to the media (although no explanation is given for why this is the practice), explicating that the RCMP was “not trying to keep the information secret” (4 October 2001)—delegitimising the C. family’s concerns.

Coolican does afford the C. family spokesperson (book-ended by Russell’s comments) some space to explain the case from M.C.’s perspective and establish a framework of interpretation that privileges her voice. The spokesperson explains that M.C. was hospitalised for three days, and says that, “as a family, we’re truly blessed that she’s not dead” (4 October 2001).⁵⁰

The spokesperson also describes the crime: M.C. was looking for a ride and was picked up by three men in a truck. She was taken to a local bar, where “the waitress asked the men what they were doing with a child.” To reinforce this—that she is *a child*, and is identifiable as a

⁵⁰ This fear is well founded. Research by the Native Women’s Association of Canada (NWAC), Amnesty International (*Stolen Sisters* 2004), Statistics Canada, independent researchers, and other women’s, anti-racist, and Aboriginal groups indicates that the numbers of missing and murdered Aboriginal women have reached epidemic proportions.

child—the spokesperson adds that M.C. does *not* “look old for her age.”⁵¹ Children are, under the law, incapable of giving consent. This C. family spokesperson is trying to keep that in focus, and is cognisant of rape and race myths that will inevitably be deployed to “make sense of” (i.e. permit or excuse) this crime. The spokesperson is attempting to set up a particular framework of interpretation: three men raped a child, she is the victim, she was hospitalised, the men cannot use the excuse that they thought she “looked older.”

This “breaking news” story is significant. The girl is not raced. She is 12 years old, and *looks* like a 12-year-old girl. She was assaulted by three men, not white men. She is a loved child with a supportive family that is gravely concerned about her welfare. The framework of interpretation, at this moment, privileges this version or “side.” As I will demonstrate, this portrayal of M.C. and interpretation of the crimes against her is to be distorted, undermined, made invisible, and refuted vehemently throughout the *StarPhoenix* coverage of this case.

The invisibility of race in this breaking news article is notable. When one of the parties involved is Aboriginal, of colour, or otherwise Other, the Canadian press tends to race all parties (Henry and Tator 2002), or provide the reader with cues that imply race. By Othering, I referring to processes in which a people, culture, or “race” are made (discursively) to “seem alien, deeply different from or even opposite to one’s own” (Comaskey and McGillivray 1999, xiv). As a long-time reader of the *StarPhoenix*, I have been trained to expect such Othering—to assume that, if one of the parties is Aboriginal, she or he will be identified as such. Thus, for me and, I suspect, many other readers, the expectation is that when race is not specifically invoked, the parties are white. Where there is no one to describe as Other, whiteness is assumed and, thus, invisible. By this convention, this is, presumably, a

⁵¹ This insistence anticipates the implied consent/mistake of age defence strategy. The defence vociferous argues that M.C. consented to the assault and that the accused *thought* she was 14, the legal age of consent.

white girl attacked by three white men. As I demonstrate, the narrative frame shifts once M.C. is raced, first incorporating myths and stereotypes about Aboriginality and, second, the intersection of Aboriginality and sexuality into dominant discourses that “explain” this case.

As I outlined in Chapter Two, there are many factors that contribute to the newsworthiness of what Edmondson, Kindrat, and Brown did to M.C. Media discourse does not allow newsworthy events

to remain in the limbo of the ‘random’—they must be brought within the horizon of the ‘meaningful.’ This bringing together of events within the realm of meanings means, in essence, referring unusual and unexpected events to the ‘maps of meaning’ which already form the basis of our cultural knowledge, into which the social world is *already* ‘mapped.’ The social identification, classification, and contextualisation of news events in terms of these background frames of reference is the fundamental process by which the media make the world they report on intelligible to readers and viewers. This process of ‘making an event intelligible’ is a social process—constituted by a number of specific journalistic practices, which embody (often only implicitly) crucial assumptions about what society is and how it works. (Hall et al. 1979, 54–5)

This echoes the Didion (1980) quote with which I begin this thesis: there is a need to impose a narrative “upon disparate images, by the ‘ideas’ with which we have learned to freeze the shifting phantasmagoria” (11). The narratives and realm of meanings upon which this story is mapped are those that the dominant culture can understand in terms of what it already “knows”—knowledge underwritten by myths about rape and Aboriginals, good girls and bad girls, princesses and squaws, assumptions that the police and the juridical system is colour-blind and gender neutral and doctors and judges are impartial, and that *must* be a reasonable explanation for this (or one must be made).

Inside/Outside

Hall et al. (1979) explain that crime is both a threat to and affirmation of society (66)—this is the consensus knowledge that supposedly unites individuals, a shared “morality” and

common values. Violent crime marks, then, “the distinction between those who are fundamentally *of* society and those who are *outside* it” (68). However, what if the distinction does not fit into that (hegemonic) consensus? What if the victim of that violence is *outside* and the perpetrators are *inside*? What Hall et al. fail to recognise is the intersection of crime and race and *sex*, and the particularities of racialised sexualised violence; the discourses enacted upon M.C. blur the inside/out distinction. For example, in the first *StarPhoenix* article (4 October 2001), the RCMP are suspect (police corruption and bias is also newsworthy) but are still granted status as primary definers (embedding the accusations in the rhetoric of procedure). The 12-year-old girl, administered intoxicants and sexually assaulted by three adult men, is still *of* society—the innocent child-victim of a heinous crime. As I demonstrate, this victim becomes the perpetrator (sexual aggressor, liar, woman/whore, squaw not princess, drunk), shifting her from inside to *outside* society while the “nice white boys” are ushered inside.

The racing of M.C. is more explicit in the second *StarPhoenix* article, “Tisdale court case captures town's attention” (16 October 2001). Coolican focuses the impact of M.C.'s accusation on the people of Tisdale, the predominantly white⁵² hometown of the accused. The *StarPhoenix* does not devote such attention to the people of the nearby Yellow Quill First Nation, home of M.C. Rather, Tisdale is framed as the community affected by this crime. Read: Tisdale is *of* society; Yellow Quill is *outside*. The *Canadian Press Stylebook* (2004) encourages reporters to use the lead to “tell readers why this is important and what it

⁵² The population in 2001 was 3,063. “Foreign born” population: 130; not-white: 10 Chinese, 15 South Asian, and 65 Aboriginal (Statistics Canada 2001). The *StarPhoenix* uses Tisdale as a subnarrative to this story—the impact on the community, notions that this sort of “thing” doesn’t happen in Tisdale, vehement debates about whether or not Tisdale is racist (members of the community take offence to a comment made about the prevalence of racist stereotypes in Melfort, where the preliminary hearing and trials actually take place, and small town Saskatchewan in general). This subnarrative works to reify myths of our tolerant society and reinscribe small towns as pastoral utopias. The *StarPhoenix* uses it to incorporate charges of racism while appearing to be “reporting” on a story. For more on this, see the *StarPhoenix*, 16 October 2001, 26 June 2002, 27 June 2002, 2 July 2002, 21 April 2005.

means in terms that strike home,” to provide “context, background, balance, and the sights, smells, and sounds of the news” (161). Coolican’s lead paints a picture of the scene:

A small meeting room at the local civic centre⁵³ was not enough to contain the crowd who arrived Monday to catch a glimpse of three clean-cut white men accused of picking up a 12-year-old aboriginal girl and sexually assaulting her two weeks ago. (*StarPhoenix* 16 October 2001)

This lead is loaded. Accuser and accused are raced. M.C. is identified as a small-a Aboriginal girl (not a member of the nearby Yellow Quill First Nation or even a First Nations girl). The three accused are distanced from her, identified as not only white but “clean-cut white men.” Coolican is constructing a spectacle: the crowd is quite likely there to “catch a glimpse” of M.C. (the only “chance” available, since her face and identity is otherwise protected by the publication ban), as well as Edmondson, Kindrat, and Brown (whom most Tisdale residents would know or be able to identify).

M.C. is identified only by age, race, and sex (intersecting constructions).⁵⁴ She is notably *not* from Tisdale. Coolican provides no details that could (without violating the publication ban) humanise her. The overdescription of three accused as “clean-cut” is unnecessary and decidedly biased. As McNinch (forthcoming) explains, these nice boys are good boys, not monsters; they are portrayed as “ordinary people in unfortunate, compromising, and ‘embarrassing’ circumstances.”⁵⁵ Coolican is not merely “reporting the facts”; she is

⁵³ Jim Sinclair, vice-chair of the Treaty Four bands (which includes Yellow Quill) and president of Saskatchewan Aboriginal People’s Congress, there at the C. family’s request, describes the setting as a “community court where everyone seems to know each other” (*StarPhoenix* 16 October 2001).

⁵⁴ As I discussed in the Introduction, M.C. is never given a pseudonym in any of the mainstream media coverage. This lack of name, even one designed to provide anonymity, creates an absence, hindering in our ability to talk about her; it also means that the identifier is able to shift with current narrative frame, as I demonstrate below.

⁵⁵ McNinch (forthcoming) cites the Edmondson trial transcript—to which he had the access I could not afford—which includes a verbatim account of Edmondson’s statement to the RCMP. As part of a tactical strategy to compel Edmondson’s disclosure (while at the same time reifying the good ol’ boy narrative), the officer sympathises with the “situation” Edmondson has been put in (not put himself in): “You’re not comfortable, you’re probably a bit embarrassed, ya’know, and I’m damn sure that this isn’t the way you were brought up.”

establishing a dominant framework that persists throughout the trial in which these three white boys do not “look like” rapists and they certainly do not *look* like paedophiles.

Paedophilia is notably absent from all of the mainstream media coverage, even though these three adult men who sexually assaulted a child under 14 could accurately (and justifiably) be called “accused paedophiles.” The adjective pairing is significant: *clean-cut* precedes *white* to describe *men*. The description insinuates that they *look* like they should be on the inside (innocent men are not dirty or dishevelled), their whiteness marks their power, and as clean-cut white men from Tisdale, they are members of the hegemonic, dominant, white-settler patriarchal Saskatchewan culture.

Kindrat’s lawyer Stuart Eisner describes the scenario to Coolican (and *StarPhoenix* readers) as an “awkward situation” (16 October 2001). He “admits” that there is an “obvious racial element”⁵⁶ but adds that “anyone who thinks justice won’t be done is pre-judging the process.” As an authorised primary definer (speaking inside white male privilege), Eisner is given the last word on the accusations made and fears expressed by M.C.’s family and supporters about the potential for racism to be a factor in this case. He negates these concerns as “pre-judging,” implying it is not a factor but “they” are trying to *make* it an issue.

⁵⁶ Eisner is referring to the case in general, but also responding to the accusations of racism in the unequal treatment of victim’s supporters and those of the accused. RCMP officers asked M.C.’s supporters (visibly marked by race) to wait in the hall until the judge finished dealing with some traffic violation cases; while they remained in the hall, Edmondson and Brown appeared before the judge and the court moved on to other cases. The implicit accusation is that the RCMP diverted, concealed, and/or misled them. Coolican quotes M.C.’s uncle, who makes the accusation explicit: “I was deliberately lied to by the RCMP from the start... They snuck criminal charges on with the traffic charges, like it was nothing important” (16 October 2001). There is a narrative developing (which is stifled before it manifests) about the RCMP: that they have something to hide (did not report the case to the media) and are protecting the accused from M.C.’s supporters. RCMP Sgt. Ken Homeniuk responds to the accusation by calling it a “misunderstanding” claiming that “our courtroom just does not accommodate that many people.” He discursively shifts the onus for the “misunderstanding” from the RCMP to the C. family. Also, an “observer” was overheard telling an RCMP officer that “if Indians did that to a white girl, they’d be in jail.” This is, notably, described as a “confrontation” by Coolican. This shifts the frame away from accusations of the RCMP’s racial bias in the handling of this case, activating another familiar narrative—confrontations between the police and Aboriginals—and corresponding affective images (e.g. Oka).

As in the Pamela George murder case, here primary definers actively seek to make race, social position, and gender—i.e. power—disappear (Razack 2002, 155).

Eisner activates a narrative threaded throughout the case: the justice system is fair and equitable, the law is colour-blind, Canada is a liberal, democratic, tolerant, multicultural nation. This is at odds with the experiences of many Aboriginal people and many victims of sexual violence. Henry and Tator (2002) identify this as indicative of a deliberate “dissonance between the ideology of Canada as a democratic liberal state and the racist ideology that is reflected in the collective belief system operating within Canadian cultural, social, political, and economic institutions” (23). These ideologies *conflict* but also *coexist* (24) in what Henry and Tator call “democratic racism,” in which “racist beliefs and behaviours remain deeply embedded” (23) but are de-politicised and evacuated from the Canadian mythology. This is not to say that racism is *democratic*; rather, the hegemonic consensus view of Canada (as a democratic liberal state) works to incorporate, mythologise, deny, or make invisible the undemocratic lived realities of Canadian society—the colonisation and cultural genocide of First Peoples upon which the nation was founded and continues to operate on and benefit from, the systemic racism and structural violence of that society in practice, the inequalities inherent to that society. Perhaps this phenomenon is more accurately “racism in a liberal democracy”—how racism coexists with notions of equality, how hegemonic discourse works effectively to enable people to forget what they know (or believe what they want to believe). This is what, for example, facilitates Eisner’s accusation that M.C.’s supporters are trying to *make* race an issue when it is apparent that it is already an issue. Primary definers make race visible only to deny the structural inequalities and violence of racialisation; Eisner is denying his power—his white privilege (an upper-

middle class white man working inside the juridical system)—to negate M.C.’s supporters (i.e. those who do not have such power or privilege).

Coolican affords Eisner, Kindrat’s lawyer, great discursive power over the introduction of the people involved in this case. He notes that he knows M.C.’s family, and calls them “extremely fine people” (16 October 2001). Eisner’s character assessment of the victim’s family is deemed important, as if the expectation is that they are *not* or that their “fine-ness” requires confirmation by a white man and his symbolic power to define them as such. Eisner also supplements the “clean-cut” appearance of the accused by noting that one of the men is “highly regarded” at his place of employment, where co-workers are “shocked” that he has been accused of “such a crime.” He also performs empathy for the C. family, professing an understanding of “why they’re upset” about this “tragic” event. Coolican latches onto this tragedy narrative, in which this violent crime perpetrated upon M.C. becomes a tragic event—an unfortunate circumstance, something that happened, not something *done*—diminishing Edmondson, Kindrat, and Brown’s culpability.

Between a brief on November 6, 2001 (announcing the dates of the preliminary hearing) and June 25, 2002, there is no mention of this case, yet the *StarPhoenix* operates on the assumption that readers will be able to, with a few cues, pick this story up where it left off. One of these cues is the name the *StarPhoenix* uses to identify it: the crime did not take place in the town of Tisdale, but the *StarPhoenix* names it “the Tisdale case.”⁵⁷ This name is localised and specific to a Saskatchewan audience; it is designed to cue readers who know that Tisdale is a town in Saskatchewan and have heard about the case (through *StarPhoenix*

⁵⁷ Perhaps the “Brown, Edmondson, Kindrat” (in whatever order) case was deemed too cumbersome or lacking required punch (unlike the “Bernardo case” or the “Crawford case”). The naming was effective; in talk overheard and conversations I had, people referred to it as the Tisdale case.

coverage or other local or provincial news sources) and is able, now, to associate the name of that town with this ongoing news story. This name is tied to the perpetrators and how they and their community—not M.C. and her community—are affected by this “tragedy.” Philip Schlesinger (1987) explains that in the case of ongoing stories, news production is organised by the assumption that “the audience will, after one day’s exposure, be adequately familiar with the subject matter to permit the ‘background’ to be largely taken for granted. It is always today’s developments which occupy the foreground” (105). The name is assumed to evoke memories of what readers have read or heard about this case, and when the *StarPhoenix* reintroduced “the Tisdale case” in advance of the preliminary hearing (in which judge determines if there is sufficient evidence to proceed to trial), the audience was expected to be able to pick up, in June 2002, where the story left off in the fall of 2001. The foreground is the upcoming preliminary hearing; the rape itself is background. According to Schlesinger, this enables news to be framed ahistorically and discontinuously. It also allows the “background” to be framed differently as the narrative shifts. When the *StarPhoenix* resumes coverage, gearing up for the preliminary hearing (to take place in August), there is little “news” to report. This results in two dominant narratives: 1) the effect of the hearing and testifying on M.C. and 2) a vituperative reaction to a call for a change of venue sparked by a characterisation of Tisdale and Melfort as “more racist” than urban centres.

Framing Victim Impact

The first of these narratives focuses on M.C. When the story resumes, we find out what has *not* been news in the interim: she attempted suicide and was “removed” from her home and placed in foster care. Notably, no explanation is given for her removal.⁵⁸ In interrogating the

⁵⁸ As I explain in detail below, the semen found on M.C.’s panties is matched to her father’s DNA. This does not happen until *after* she is in foster care—it is the foster mother who instigates the evidence gathering of the father’s DNA. Thus, the reason for her removal by the State is never given.

productive forces of discourse, Foucault (1989) reminds us that silences and the *not-said* (28) are just as important as things uttered and said. A persistent myth about Aboriginal people, particularly in Saskatchewan (where the high Aboriginal birth rate is threatening the white majority⁵⁹), is that they make bad parents. As depoliticised speech, this myth is “emptied of its history” (Barthes 1972, 142)—here, the history of colonialism, marginalisation, displacement, oppression, physical and sexual abuse, and cultural genocide (the very wounds that the Aboriginal Healing Foundation is seeking to address with its Yellow Quill project). As Downe (2005) writes, “the problems of neglect, abuse, and violence are rooted not only in individual family dysfunction but in historical processes of colonisation” (2). This *has* led to the particular vulnerability of Aboriginal girls to violence (in the home, on the streets, by white and Aboriginal men), but it also has discursive effects—reifying myths that all Aboriginal parents are unfit and that the State knows best (divorced from current inquiries into violence and abuse suffered by Aboriginal children in residential schools and foster care). The *StarPhoenix* leaves the audience to activate either or both myths, to conclude that either M.C. or her family are responsible for her removal from the home—the beginning of many “suggestions” that make M.C. (not the accused or the State) responsible for her own suffering.

The *StarPhoenix* story “Rape victim fears confronting accused in court: family” (Warick⁶⁰ 25 June 2002) demonstrates that the impact of the rape on M.C. only *becomes* news to contextualise the preliminary hearing. The headline features M.C., naming her “rape

⁵⁹ Smith (2003) explains that this makes Aboriginal *women* threatening “because of their ability to reproduce the next generation of peoples who can resist colonisation” (78). See Lawrence (2000) for how this fear manifested psychiatric and medical discourses constructed to support coerced and forced sterilisation of American Indian women.

⁶⁰ Jason Warick writes this article; he is one of the *StarPhoenix*’s “senior” reporters, indicating that this case is important enough to put its “top guy” on it. Coolican, James Parker, and others do write some of the news articles, but from this point on, Warick is the lead reporter assigned to this case.

victim.” (Notably, rape is used in headlines, but seldom in article text: rape “sells.”) This article is about M.C. *as* “rape victim”; in that, Warick is constructing her as rape victim. Outside the Melfort courthouse,⁶¹ a relative tells Warick that the now-13-year-old M.C. “may not be able to withstand the strain of testifying” (Warick’s paraphrase), explaining that she “isn’t doing too well” and he does not think she will be able “to hold up” (25 June 2002). In addition to being hospitalised for three days following the assault, she has attempted suicide. This victim narrative explicates Hall et al.’s (1979) contention that “journalists will tend to *play up* the extraordinary, dramatic, tragic, etc. elements in a story in order to enhance its newsworthiness” (53-4). This article expresses how this violence has, in effect, changed M.C.’s whole life, creating sympathy for her—but also a narrative framework for mental instability that will be used, in court and the *StarPhoenix*, to discredit her testimony. In relating her fragility and the psychological impact of the rape upon her, it also paves the way for the activation of rape mythologies and her discursive creation as a medicalised, infantilised, and psychologised subject. The relative betrays a trust in those very discourses—a hope that she can be healed. He explains that “it’s going to take a lot of counselling. I think this ordeal has traumatised her” (25 June 2002). He also notes that M.C. is currently in foster care and, from how the paragraph is constructed, readers are led to conclude that this is because of the suicide attempt.

M.C.’s unidentified relative⁶² is also making a public appeal for the judge to use measures available to protect her, explaining that M.C. “will be victimised again if she has to face the three men in court” (25 June 2002). He expresses hope that she will be able to testify from behind a screen that will shield her from rapists’ gaze. Rhetorically, and suggestively, he adds:

⁶¹ The preliminary hearing has been moved from Tisdale, the hometown of the accused, which does not have a proper courthouse. This move is what prompted Hughes to make his case for the change of venue, to the larger urban centres of Saskatoon or Regina, that instigated the “we’re not racist” narrative, explicating above.

⁶² We are not told what the relative’s relationship is to M.C.

“But who knows what the court’s going to do.” The “screen” referred to is a provision of the *Criminal Code*, subsection 486(2.1) intended to protect the privacy of victims and facilitate testimony in particular cases, which

permits a witness who is under the age of 18 years or who has difficulty communicating, to provide their testimony from behind a screen or by closed circuit TV, where the judge is of the opinion that this is necessary to obtain a full and candid account. This provision applies in proceedings for sexual offences and other specified offences.

M.C.’s age and the trauma she has suffered, “qualify” her for this protection. The spokesperson is strategically using this opportunity to make an appeal to prevent M.C.’s further victimisation, or at least avoid it as much as possible, by making her *invisible* in court. The visibility/invisibility of Aboriginal women is complex. Here, M.C.’s invisibility is preferred; it could protect her, and mitigate her vulnerability and the trauma of facing her assailants. On the steps of the Chelan Hotel, to Kindrat, Edmondson, and Brown she was highly visible, marked as Aboriginal female (the fantasy Pocahontas), but this same marking makes her *invisible* in terms of the juridical system’s lack of concern for her need for protection.⁶³

M.C.’s family spokesperson also invokes what Warick calls the “strong racial overtones” of the case, postulating that “if three aboriginal men would have raped a white girl, they would have been thrown behind bars and justifiably so. But when it comes to a little aboriginal girl ...they are out free. They roam wherever they want” (25 June 2002). The spokesperson is asking for equal, not “special,” treatment—be it a white victim and Aboriginal suspects or an Aboriginal victim and white suspects, the suspects should be in custody. This is “justifiable.” Through this interpretive framework, the unequal power dynamics between white and

⁶³ In her work on Vancouver’s missing women, England (2004) explains that stereotypes of Aboriginal women, in particular, work as justification of police inaction, rendering at-risk women *invisible*—but when the police are looking for criminals, those same stereotypes make Aboriginal women highly marked and *visible*, justifying apprehension, harassment, suspicion of criminality by police and the juridical system (308).

Aboriginal are equalised. The speaker is appealing to a *consensus* (Hall et al. 1979, 55) notion of Canadian society to illuminate the inequity. In the context of white-settler communities' defence against notions that it is racist or devalues Aboriginal girls more than white girls, this is a call to see all of that rhetoric about tolerance and equality put into practice. He also reinforces the picture of M.C. as a child ("a little aboriginal girl"), while creating a vivid mental image of three rapists roaming free—an alternative discourse that seeks to obliterate the banal portrait of three clean-cut small town boys preferred by the *StarPhoenix*.

This story is an anomaly, in coverage of this trial and of sexual violence news in general; no one speaks except M.C.'s relative (Henry and Tator 2002). He is granted pseudo-primary definer status in this article, in which Warick prioritises the "human interest" story of the preliminary hearing. He is afforded the space to humanise M.C.—and *her victimisation* is the story here. In the absence of any new "news," to sustain and generate interest the *StarPhoenix* affords space to one of the only people who is talking: the C. family spokesperson. He is able to provide a map of interpretation to the audience through Warick: M.C.'s victimisation thus far and potential re-victimisation through the court process; familial concern for her welfare; legal protections available to the court; and racial inequalities of the justice system.

I dwell upon this because I seek to recall those moments when, preceding the trials, I heard talk and read text that expressed a seemingly genuine sympathy and concern for M.C. and her family and outrage that this crime could have been perpetrated on a child. Having followed the trials and read my compiled coverage repeatedly, I need to remind myself that her racialisation was not a mere discursive effect of her being named and raced, nor is her sexualisation a product of news of her rape. Rather, her racialisation and sexualisation are intersecting discursive constructions constituted by layers upon layers of myths, stereotypes,

common-sense notions, and frameworks of interpretation evoked to mitigate the criminality of the crime, revert to the status quo, and make things right in Saskatchewan.

The focus on M.C. as victim, and the trauma she has suffered and is suffering,⁶⁴ continues when the preliminary hearing resumes; the *StarPhoenix* reintroduces readers to the case by picking up the fear-of-testifying narrative. In “Girl to take stand at rape hearing: Relatives say child will be revictimised by facing men in court” (28 August 2002), Coolican reinvokes this victimisation narrative to fill a news hole and to activate drama around the adversarial juridical system and create anticipation around the imminent spectacle. Within this drama is the victim, whose suffering and fear of testifying is ripe for exploitation—and individualisation.

According to its 2004 General Social Survey on Victimization, Statistics Canada reports that only 8% of sexual assaults were reported to police (24 November 2005); Stats Can reports also indicate that reported sexual assaults are “less likely than other violent offences to result in charges” (25 July 2003). In a report prepared for Status of Women Canada, Michelle M. Mann (2005) explains that “both on reserve and off, Aboriginal women remain fearful of reporting violence to police, perceiving that their complaints may not be taken seriously (3).” Statistics Canada also notes that, following the 1983 reforms to sexual assault laws, numbers did increase; this heralded improvement is pathetic. These numbers demonstrate that reporting rates are shamefully low; in these cases, charges are not always laid and, for those in which they are, conviction rates are abysmal. The system itself *must* be a deterrent to reporting rape.

⁶⁴ Notably, the anticipation of whether or not M.C. will have to testify has been a long, drawn-out affair. The preliminary hearing was initially scheduled for February 2002; it was postponed (without explanation by the press) until late June. The court “ran out of time” (*StarPhoenix* 28 August 2002), and after a two-month hiatus, the hearing resumed in late August.

If it is, there is little in the coverage of this case that would alert readers of the *StarPhoenix* and other mainstream media news to the problems or the system that creates them. Nowhere are these statistics, or any figures on reporting and conviction, given or even alluded to.

Rather, as explicated above, M.C.'s fear of testifying is individualised and compartmentalised. Her trauma is *not* situated within the context of the 92% of unreported sexual assaults and the fears of those women (and children and men)—of revictimisation, disbelief, exposure, blame, persecution—that deter them from reporting. Meyers (1997) explains how this operates:

By presenting stories of violence against women as separate, discrete incidents, the news also reinforces the idea that this violence is a matter of isolated pathology or deviance, related only to the particular circumstances of those involved and unconnected to the larger structure of patriarchal domination and control. This mirage of individual pathology denies the social roots of violence against women and relieve the larger society of any obligation to end it. (66)

In the *StarPhoenix*, M.C.'s fear is disconnected from the system that alienates and inspires fear in victims, as the rape is disconnected from anything that would identify this as a societal problem rather than an aberration. The media—as well as the courts—perpetuate these fallacious ideas. Coolican makes this a human interest story of one girl and her family's fears that she will be unable to “withstand the strain” (28 August 2002), in context of the adversaries preparing strategies to demolish her on the stand.

This individualisation of M.C.'s trauma and fears isolates her from the social context in which rape discourse operates and, thus, from the systemic barriers that perpetuate the lack of confidence among victims that they will not be revictimised if they do report. Fear of reporting and testifying need to be contextualised within the law and order, medical, juridical, and media discourses that create and confirm such fears. The family spokesperson explicates those fears in hopes that M.C.'s revictimisation can be avoided, or at least

mitigated. Again, he is appealing, through the *StarPhoenix* (28 August 2002), for M.C.'s protection, expressing the family's hopes that Judge Benjamin Goldstein will allow her to testify behind a screen or by closed-circuit video link; he can grant this measure if he "is of the opinion that this is necessary to obtain a full and candid account" (Department of Justice 2005). These measures are made available because of the great number of unreported rapes and convictions, recognising the material effects of victims' fear of facing attackers in open court, of being the object of the gaze of the court, of their pain as spectacle. Goldstein does make the screen available in the preliminary hearing, but Kovach, the judge presiding over the actual trials, does not. The discretionary nature of this power, to decide who is protected and who is not, perpetuates victims' well-founded lack of confidence in the court's ability (or willingness) to protect them.

This discretionary power is also apparent in police handling of statements. For instance, while the defendants' statements to RCMP were videotaped, M.C.'s was not. This means that they had the means to save her from having to testify in the courtroom at all—but did not use them. Subsection 715.1 of the *Criminal Code*

permits, in proceedings relating to sexual offences, that where the victim or witness was under the age of 18 at the time the alleged offence occurred, a videotape, describing the acts complained of and made within a reasonable time after the offence, is admissible in evidence, if the victim or witness, while testifying, adopts the contents of the videotape. (Department of Justice 2005)

Why, then, was her statement not videotaped, when the defendants' were? This is not interrogated by the *StarPhoenix*; it does emerge as problematic in the Edmondson trial, but it is contextualised in terms of police mishandling and the beneficial use of video to discern when victims are lying (as I will discuss below, regarding Dr. Anne McKenna's testimony)—not to save them the agony of testifying. That the RCMP wanted to believe the defendants and *not* M.C. may have been a factor. In a videotaped interview, the interrogating

officer suggests to Edmondson that he “may have been drinking, reacting to peer pressure, responding to the girl having come-on to him, and so on, saying that for all he knew the girl might have been the aggressor” (Edmondson Appeal 2005).

While it may be argued that this is an interrogation tactic—a mere discursive twisting to legitimise the Constable’s sexualisation and racialisation of the victim as nothing more than a strategy used to procure a confession—the knowledge that this officer of the law’s appeal to such rape myths⁶⁵ demonstrates the discursive power of those myths. The officer’s suggestion that she asked for it always already founds a perpetrator’s belief that women ask to be raped. It is *this* system that does not inspire any confidence in 92% of sexual assault victims and makes invisible violence against Aboriginal women (England 2004). M.C. played the role of “good victim”: following discovery of her injuries by hospital staff, she duly reported the crimes. She has suffered invasive interrogation and medical and psychological examination and been the victim of police bias (bucking procedure) and media interrogation and dissection of her life. The State removed her from her home and she has attempted suicide; this trauma has been psychologised and used against her. But all of this context is stripped away, made invisible, *not* said. M.C.’s trauma and fear of testifying removes her—and this case—from the historical, political, and social context in which rape is prolific, pretending that the conditions that produced/permitted/legitimised this rape are constantly being reproduced within and through dominant discourses. Henry and Tator (2002) contend that the white, middle class, mostly-male subject positions of journalists act as filters, “screening out the historical, socioeconomic, and political context”⁶⁶ (215). Thus, what is left is one victim who is scared to testify; one sexual assault isolated from the war on Aboriginal

⁶⁵ As I will demonstrate, this officer’s suggestion becomes integral to the defence strategy, substantiated by McKenna and Judge Kovach.

⁶⁶ See also: Razack (2002), Brownmiller (1975).

women⁶⁷; a devaluation and dehumanisation of one squaw by three white men, divorced from a history and social climate of colonial and sexual violence. Devoid of context, M.C.'s reaction is framed as uncommon, unusual, and exceptional.

“We’re not racists”

The second narrative the *StarPhoenix* constructs to sustain interest in this case begins with a letter written by Bob Hughes, president of the Saskatchewan Coalition Against Racism (SCAR) to the Crown, calling for a change of venue from the small city of Melfort to Saskatoon, Saskatchewan’s largest city.

On June 26, 2002, Warick reports that Hughes wrote, in a letter to co-prosecutor Cam Scott, that “racist attitudes are ‘more acceptable’ in small town Saskatchewan, so a rape case involving an aboriginal girl and three white men must be moved to a bigger city.” This is not an “event” *per se*, but a statement that illustrates what is *at issue* in this ongoing story that has the potential to generate news. In his interview with Warick, Hughes chooses his words, describing Melfort as “less homogenous,” describing an “atmosphere” in which racist attitudes are “more acceptable.” “Such situations,” he says, “produce juries composed predominantly, if not exclusively, of Caucasian jurors.” This statement is credible, and derives from both Hughes’ expertise and cultural capital as a spokesperson for an anti-racist organisation and experience with such scenarios. Hughes’ speech is careful and not accusatory, but the publicity of his statements ignites a debate or, more accurately, causes hegemony to work to contain or defuse his statements and defend “the system” (democratic racism in practice). Paraphrasing Hughes, Warick writes “many people in the community

⁶⁷ Jiwani and Young (2006a) deliberately invoke “war” to describe violence against women; in this gendered war, Aboriginality “constitutes the contested battlefield of meanings that can only be won when society recognises its complicity in reproducing neo-colonial systems of valuation that position Aboriginal women in the lowest rungs of the social order, thereby making them expendable and invisible, if not disposable” (914).

value young aboriginal women less than young Caucasian women.” Hughes has a specific objective: to move the trial away from Melfort (and nearby Tisdale), where these men are known and “respected,” to a city that can possibly offer less racist attitudes,⁶⁸ where there is more integration and greater diversity, and, most likely, where there is apt to be more intense national media scrutiny. Hughes’ call for a change of venue is backed by Stan King, who has worked as translator and mediator for the C. family. King explains that “the family feels they would not get a fair hearing here. People think these are good boys. [The alleged victim]⁶⁹ is just an Indian girl” (26 June 2002). The fear is that, to the potential jurors in this pool, M.C. may be of less value than a white girl victim and valued less than the clean-cut white “boys” charged with assaulting her.

Hughes’ and King’s fears and observations are framed and interpreted as *accusations*, sparking a vituperative response and generating “news.” As the following day’s *StarPhoenix* front-page headline explicates, this “racism comment rankles Tisdale” (Parker 27 June 2002). The “story” here is “Tisdale’s” reaction to Hughes’ statements. Hughes’ fears and comments allegedly “struck a nerve.” Although Hughes was speaking about Melfort, Tisdale’s mayor Rolly Zimmer speaks in defence of his town and his community: “I myself—and I think I speak for many taxpayers in this area—don’t see this at all as a racial issue.” Zimmer not only negates the fears about racist attitudes, but invokes his white privilege in *denying that race is an issue at all*. In this, he invokes economic capital—the taxpayers, whom he “thinks” he speaks for—in place of “white.” Tax-paying and not-paying is a familiar narrative in the dominant discourses around Aboriginals in Saskatchewan, particularly popular with the right, stemming from the common-sense notion that Aboriginals are not tax-payers and are

⁶⁸ As Hughes knows, this could be said of Regina and Saskatoon, as the murders of Pamela George and Crawford’s four known victims and uninvestigated cases of missing Aboriginal women indicate; what Hughes is saying these attitudes are even worse in small towns.

⁶⁹ This is Warick’s insertion, not mine.

getting a free ride on the tax-dollars of working people (white). Zimmer is, then, deploying a prevalent racialised narrative to deny racist attitudes. In defence of Melfort, Saskatchewan Party MLA Rod Gantefer enters the fray to defend his riding and constituents, claiming that Melfort “is a sophisticated community” comprised of

a good mix of quality people of all kinds of backgrounds.⁷⁰ We have two aboriginal communities nearby. People have a great deal of personal experience of people from other cultures and backgrounds. The tolerance is even higher out there than in other locations. (Parker 27 June 2002)

As McNinch (forthcoming) explains, western-Canadian racism relies upon the consensus knowledge “that ethnically diverse, but white, European settlers earned their status and privilege through hard work, while First Peoples lost their inheritance because, overwhelmed, they gave up and signed the treaties.” This narrative privileges the colonial-settler perspective, rendering invisible the colonial history of the prairies and the combination of persecution and genocide and good faith that precipitated the signing of treaties. Gantefer’s characterisation denies white privilege and the forced reserve system that made towns like Melfort and Tisdale possible.

For example, during that summer of 2002 (while Gantefer was defending his “sophisticated” riding), the residents of Yellow Quill (one of those “nearby Aboriginal communities) were able to drink their water for the first time since 1995. In contrast to Tisdale’s claim to “sparkling lakes and rivers,” Yellow Quill boasted “Canada’s poorest drinking water⁷¹” (Peterson 2004). Yellow Quill was also, in 2001-2002, the focus of an Aboriginal Healing Foundation (2001) project entitled “Claiming Victory,” convened to “address the legacy” of sexual and physical abuses suffered by residents in residential schools

⁷⁰ According to Statistics Canada’s website, in 2001 the population is 5,360; the Aboriginal population (2001) is 430 and the visible minority population is 115 (30 Chinese, 15 Filipino, and 65 Korean).

⁷¹ Chief Robert Whitehead explains that, to bathe, he would have to mix a gallon of bleach in the bathwater (McNinch forthcoming). For more on Yellow Quill’s water, see www.safewater.org/research/yq2.htm.

“and the impacts of sexual and physical abuse and unresolved trauma.” The horrific water conditions and continuing damage of colonisation are made invisible, and never enter into the hegemonic discourse; in their denials of racism, Zimmer and Gantfoer evade the white privilege that allows them to “ignore or be blind to their own racism and to not see how their own whiteness has been defined by those they have othered” (McNinch, forthcoming).

It is this same privilege that affords Tisdale resident L.B. Kolbenson the right to take offence; in a letter to the editor of the *StarPhoenix*, Kolbenson writes that Hughes’ “blanket statement that the population in our area values young aboriginal women less than young Caucasian women is not only incorrect, but insulting and demeaning” (2 July 2002). From his perspective, his community “is made up of farmers, teachers, health-care workers, office workers, factory workers, First Nations people, Europeans, Asian immigrants, and families tied to the land for many generations.” This list is curious and demonstrative; he lists by occupations (tax-payers), then ethnicity. In terms of the latter, the ethnic Europeans are not immigrants but the Asians are (forever); the noted First Nations people occupy no discernible immigrant status but are separated from the “families tied to the land for many generations”—denying the First Nations peoples’ “tie” to that land predates the many generations of [white European] settlers and occupants. He accuses Hughes of advancing “the ideas that promote racism,” but is unable or unwilling to recognise the racialisation inherent in his very description of the population of Tisdale.

These defences, proffered against accusations of racism, belie the working of hegemony to incorporate and silence (while substantiating) the concerns voiced by Hughes and King: the accused are among the in-group of tax-payers (implied: not Aboriginal); the Aboriginal communities (like the Yellow Quill First Nation) are “nearby” but not part of these

“sophisticated” communities that are, nonetheless, benevolently “tolerant” of their proximity. The racist predicates of these defence strategies are obscured, shrouded “within the mythical norms that define ‘Canadian-ness’ as being White, male, Christian, heterosexual, and English-speaking. Because the rhetoric of racism is illusive, racism finds it easy to hide itself” (Henry and Tator 2002, 37)—from those who enjoy the privileges afforded to them within that norm of “Canadian-ness.” The dominant discourses proffered by these defenders demonstrate how Tisdale and Melfort’s aspirations to inclusion, tolerance, and liberalism are, as Henry and Tator write, “juxtaposed with popular conservative ideology” and the speakers “slide ambivalently between the two” (38). Hage (2000) explains that multicultural tolerance is

a strategy aimed at reproducing and disguising relationships of power in society, or being reproduced through that disguise. It is a form of symbolic violence in which a mode of domination is presented as a form of egalitarianism. (87)

Zimmer, Gantefoer, and Kolbenson demonstrate how this works, illustrating the inability of liberal multicultural “tolerance”—putting up with non-European cultures but ensuring they are understood as Other—to be critical of how the dominant maintains dominance.

This narrative provides a necessary context for the discussion (or elusion) of race, as it explicates the local and specific forms of democratic racism that frame this case. Hughes’ comment is framed as a pre-emptive strike. In providing a venue for Zimmer, etc. to delegitimise Hughes⁷² concerns, the *StarPhoenix* both fuels the public interest in this case and establishes the us-them dichotomy that it consistently denies. Notably, white mayors and MPs and residents retain the invisibility of their whiteness, and are never grouped as white, although the term “Aboriginal groups” is deployed unproblematically. van Dijk (1998) explains that “references to white groups are rare, even when the news reports are

⁷²King’s substantiation of Hughes’ argument goes uncontested; as a First Nations person, he (unlike Hughes) is not perceived as a white traitor.

about white hostility and discrimination” (199). Aboriginals are discursively constructed as a group with shared interests; whites are not. Whiteness is elided and concerns of white groups are framed as those of citizens or residents or “tax-payers.” Constructed by the *StarPhoenix* to sustain interest in this case in advance of the preliminary hearing, this narrative of white communities rallying to deny racism⁷³ is juxtaposed with the other dominant narrative—about how the hearing would affect M.C.

Framing and Blaming Race:

“This case has attracted widespread attention because...”

If M.C.’s fears are compartmentalised and extricated from the context that founds and fuels those fears, so is the outrage that her family and concerned groups and individuals express in reaction to perceived bias (e.g. RCMP videotaping defendants’ statements but not the victim’s). The media discourse operates on the pretense of equality and objectivity; allegations of inequality are decontextualised from the social and historical context *and* the questionable practices in this case that substantiate such allegations. Coolican notes that “Aboriginal groups have expressed outrage that the three accused were released from custody without a bail hearing” (28 August 2002). The family’s outrage at the treatment of M.C. is inserted into that of “Aboriginal groups”; the former is individualised, situated in this case—M.C. as daughter, niece, sister, cousin—while the latter is an expression of outrage about this case as indicative of systemic inequalities faced by Aboriginal people. The *StarPhoenix* makes no distinction in its reductive, discursive efforts to dichotomise this case into two convenient sides. Anti-racist and women’s groups, along with individuals who do not identify themselves as allied with any group, are also vocal—through letters to the editor and in talk and text circulating in public and private spheres—about the inequalities of this

⁷³ As I demonstrate below, this narrative paves the way for *StarPhoenix* editors to deny the role of racism in Kindrat and Brown’s acquittal while reporters use the perceived “controversy” (which it helped to create) to heighten the drama around the case and justify its coverage.

case, interrogating discourses that sexualise and racialise M.C. But the complexities of these expressions, and the intersecting and overlapping voices expressing them, are denied. Outrage and fear are compartmentalised as Aboriginal concerns. Two camps are being constructed: Aboriginal and non-Aboriginal (white). More accurately, the camps are *them*—the homogenised Aboriginals (van Dijk 1998, 199)—and *us* (whites, the *StarPhoenix* reporters and readers, the residents of Tisdale, the taxpayers, etc.). Race is always already a dominant framework of interpretation, and a host of narratives can be easily activated in the pursuit of “news.”

Both the differentiation of M.C. from other sexual assault victims and sexual assault (particularly racialised sexual assault) and the positioning of her supporters and those critical of the process as one side (them) is a process of Othering. In the discourses active here, “Indianness” is constructed “as alien to ‘whiteness’ and inimical to colonial goals” (Comaskey and McGillivray 1999, xiv)—i.e. they purport fairness and equality while keeping the colonised in their “place.” This compartmentalising is common in cases of abuse, assault, or murder involving Aboriginal victims. For instance, in the Pamela George case and the murder trial of John Martin Crawford, critics of the juridical process and discursive constructions that racialised and sexualised the victims were categorised as feminists or anti-racists or Aboriginals, whereas in the French-Mahaffy murders, outrage about the crime and Bernardo (if not Homolka) was assumed to be universal. In this case, the *StarPhoenix* offers the interpretation that this is a matter of concern for Aboriginal people (or, to a lesser extent, feminists), and “regular people” may be sympathetic and concerned about this poor victim, but not similarly outraged.

Interestingly, the *StarPhoenix* justifies its interest in the case in terms of race. Coolican writes that the case “has drawn widespread attention and sparked controversy over its racial overtones” (Coolican 28 August 2002)—this assessment appears verbatim and with slight variation throughout the paper’s coverage (30 August 2002; 12 February 2003; 20 May 2003). “Widespread” is vague—no details are given to substantiate or elaborate on how far and wide this attention is spread. In this, the *StarPhoenix* justifies its obsessive coverage while eliding its contribution to this so-called widespread attention. “Overtones” suggests that the racial elements are subtle or elusive (not explicit or real). This assessment also prioritises and exploits racialisation but not sexualisation; this case drew attention before the race of the child victim and her alleged attackers were introduced because she is a 12-year-old child allegedly gang-raped by three men; this is continuously and effectively made invisible, consumed by a race frame (while working to make race invisible). That it “sparked controversy” both ignites and fuels the division of Aboriginal from non-Aboriginal (which can be further exploited and exaggerated to heighten the drama). For instance, Coolican elaborates, explaining that “previous court appearances by the three men were marked by loud confrontations outside the courtroom between outspoken spectators on both sides” (28 August 2002).⁷⁴ Binary oppositions are explicitly delineated and unequal power is discursively equalised.

The discursive implications of framing of this “widespread attention” justification are worth exploring, since it recurs in different forms at different times. The *StarPhoenix* wants

⁷⁴ This refers to what the *StarPhoenix* has already written about the case. For instance, Warick writes that “tension has been high both in and out of court.” In an attempt at balance in explaining this “tension,” he writes that M.C. supporters “loudly whispered several disparaging comments from the gallery during the proceedings” and supporters of the accused “shouted profanities outside court when reporters attempted to photograph the men” (26 June 2002). “Loudly whispering” is oxymoronic and, structurally, equated with “shouted profanities.” The former is also not explained; to whom were the “disparaging comments” directed or what were they about? The profanities were not racial; rather, they were directed at the media—who must be part of the tension equation. In this example, inequalities of power are obliterated, protest is equated with profanity, and as the two sides constructed by the media are equalised by the media.

widespread attention, and is putting a lot of resources getting it, by attracting and focusing the public gaze upon the case. What is presented as an objective observation, distanced from the paper's contribution *to* that attention, is both justification for more coverage and generative of more attention. At the conclusion of the hearing, Coolican refines this statement, attributing the attention not to controversy over racial overtones but to race: it is attracting widespread attention "because the accused are white" (30 August 2002). Race is explicitly identified as the reason for this attention, re-inscribing colonial divisions (us v. them). Coolican is telling readers why this is news (justifying and valorising her profession), but selectively and exploitatively. Notably, she does not write that it is because the accused are white men and the girl is an Aboriginal and a girl-child; in fact, the accused are only *white* because M.C. is identified as Aboriginal. As Henry and Tator (2002) explain, "Whiteness is invisible to those who possess it. Most White people perceive themselves as colourless and therefore without privileges and subjectivities" (9-10). M.C.'s not-Whiteness brings Whiteness into being. White is always already "the colour of domination" (Razack 1998, 11).

If Coolican had written that this case has attracted widespread attention because the accused are white *and* the accuser is Aboriginal, her observation may have been accurate; if M.C.'s attackers were Aboriginal, this may have been a mere brief in the *StarPhoenix*—not considered newsworthy enough to sustain reader interest over five years. In Saskatchewan, precedent ensures that the disappearance, rape, and/or murder of an Aboriginal woman alone cannot generate "shock waves"; it might not even make the papers (Goulding 2001). Razack (2002) explains that it was *not* the murder of Pamela George that made it big news, but "the arrest of two young middle class white men for the murder of an Aboriginal woman working as a prostitute [that] sent shock waves through the white population of this small prairie city"

(124). It was the whiteness of the accused brought into being by the racialisation of the accuser; the whiteness and class of the accused in contrast to the brown-ness and class of Pamela George made that (and this) case a media event.

Coolican's framework of interpretation also suggests this would *not* have attracted widespread attention if the victim was white (because then the men would not *be* notably white); this deflects attention away from other newsworthy factors, e.g. M.C. is a child and this is a gang rape of a child. This is not, of course, an accurate assumption; in such a case, attention would be justified because of interest in a little girl being gang raped by three men—if all parties were white (if all were Aboriginal, it might not be news at all, as I noted above). This demonstrates the discursive power of framing; because the *StarPhoenix* frames this case as a race issue, it uses race to justify coverage and how it is covered. If the race frame was not available (i.e. all parties were white), words *child* and even *paedophile* may have been used to describe victim and accused, providing an altogether different framework of interpretation; alternatively, she may have still been sexualised, but the discursive construction of her sexuality as deviant or contributory would have been different (see Meyers 1997; Doe 2003).

Coolican's explanation for the "widespread attention" is repeated, verbatim with a twist, in an unattributed news brief on February 12, 2003: "The case has attracted widespread attention because the accused are white." The accused are *not* introduced as white in the brief's lead: "Trial dates have been set for three Tisdale men accused of raping a 12-year-old aboriginal girl"; they are only raced to explain (and valorise) the media attention and only because she is raced Aboriginal. By no means did this case receive widespread attention (self-generated by the *StarPhoenix*) because the accused are *white*. This only "makes sense" if

readers add up all the pieces: understanding that “aboriginal” and “12-year-old girl” (given in the lead) bring whiteness into being. The *StarPhoenix* maintains *this* line throughout its coverage, but it undergoes another semantic refinement: it recurs in an article the day before the start of the Edmondson trial, but “white” becomes “Caucasian” (20 May 2003). Whiteness is further removed from power, in this discursive turn to biologise, putting forth white and Aboriginal as biological, not discursively constructed, categories. Each time there is a development in this case that the *StarPhoenix* deems newsworthy, there is a similar justification for *why* it is newsworthy: because the accused are white/Caucasian, not that she is Aboriginal and they are not.

This also serves to put the blame for that attention on advocacy groups—specifically, Aboriginal groups, feminists, etc., perpetuating the Othering. For instance, when the Crown and NWAC lose their appeal of Edmondson’s conditional sentence in the spring of 2005, the article about the decision⁷⁵ is accompanied by a “human interest” story on the impact of the case on the community of Tisdale and, to a lesser extent, on Edmondson’s family (his mother) and M.C. In “Tisdale residents moving on after high-profile sex case” (21 April 2005), Darren Bernhardt writes about the town “recovering” from the “unwelcome national spotlight” (the gaze of papers like the *StarPhoenix*). He “explains” that the original trials garnered much attention from a number of advocacy groups and organizations concerned with issues around racism (i.e. the victim is Aboriginal and the accused are all “Caucasian”), sexual exploitation, public policy and women’s rights (21 April 2005). This shifts the motivation for that spotlight from the press (which would implicate Bernhardt and his paper in the unwelcome attention) to advocates for M.C., from race (whiteness produced in constructing Aboriginality) to anti-racism critics (and feminists). Here, the discourse shifts onus, from “because the accused are white/Caucasian” onto, specifically, those who sought to

⁷⁵ See “Court of Appeal upholds sentence in sex assault case” (French, 21 April 2005).

make visible the power relations that the court and media preferred to deny, elide, or relegate to special interest concerns. Sympathy is aligned with poor Tisdale, the victim of the unwanted attention attracted not by Edmondson, Kindrat, and Brown, but because of those “concerned with” imbalances of power; in this, Tisdale is analogous to its own poor boys who got themselves mixed up with an Aboriginal girl who, with her anti-racists and feminists, caused all this commotion. The underlying reasons why all of the named groups were paying so much attention to the trial and making race and sex visible are not explicated; the imbalances of power that necessitate their efforts are delegitimised, even blamed for unwanted (read: unnecessary) attention.

Manoeuvring Through: Interrogating the *StarPhoenix*

Recalling Macdonald (2003), the *StarPhoenix* does not *produce* the ideas, values, myths, and knowledge organised, activated, and produced to make meaning in this case; rather, reporters and editors *reproduce*, manoeuvring through “pre-existing and competing discourses” (2). In the following chapter, I shift from a chronological analysis to focus on the overlapping discursive frameworks of interpretation constructed by primary definers and opinion leaders. In this, I hone in on the *StarPhoenix*’s manoeuvres in and through pre-existing and competing discourses active in the courtroom—medical, legal, discourses of sex, race, rape—are translated into media discourse, written by the *StarPhoenix* for its readers in a way that effectively marginalises then blames M.C. for Brown, Kindrat, and Edmondson’s sexual violence against her.

CHAPTER FOUR

Trust me, this will take time but there is order here, very faint, very human.

—Michael Ondaatje, *In the Skin of a Lion*

Approaching Discourse: Outlining the Power-Knowledge Nexus

In this chapter, I interrogate talk, text, and juridical and medical discourses, weaving them in and out of Canadian law, using the groundbreaking work by those interdisciplinary feminist and anti-racist scholars introduced above and drawing from their multiple and overlapping approaches and findings. This polyphonic analysis seeks to explore how the productive nature of discourse can help us to understand the propensity of primary definers—experts, journalists, and institutional authorities—to deny not only the sexism and racism inherent to this crime and this case, but also the particular history and political, social, and cultural context of Saskatchewan...this time, this place. While the object of inquiry is the *StarPhoenix* coverage of this case, the line of inquiry seeks to problematise not only media discourse, but the power-knowledge of authorised speakers and dominant discourses of rape. This analysis, then, is an interrogation of how sexualised violence—irrevocably entwined, here, with race—is talked about in the courtroom as well as how it is communicated to the public. I also seek to interrogate why hegemony is working to incorporate this into a corresponding utopian worldview that bears little resemblance to the material time and place within which this discursive event is constructed. My analysis is, in a way, a discursive collage, an arrangement of contexts, talk, text, and histories that “aspires to a level of complexity...that remains true to the actual complexity and contradictoriness” (Gitlin 1980, 303) of this story and how it is told. My objective is, always, to create enough disorientation

to allow alternative narratives to surface, to leak out and unsettle the assumed common sense of dominant narratives.

In this analysis, I focus on discursive events that shift the narrative framework once the *StarPhoenix* commences its courtroom coverage, considering how the media discourse defers to the interpretations of this case put forth by primary definers to make sense of what happened to M.C. This involves a tracing of the where and how the *StarPhoenix* relies upon the testimony of experts, lawyers, and the judge for their interpretations, to interrogate how and why particular narratives are preferred and how the hegemonic formations force Othered voices to *respond to*—almost always in a defensive position—and seldom *produce* discourse.

Seeing M.C.

By the time M.C. first takes the stand in that Melfort courtroom, the *StarPhoenix* has been creating anticipation around her appearance for almost a year. Maintaining this condition has forced reporters to figure her through the talk and text of those who would speak to them (mostly family spokespeople) and through the details about her assault and its impact upon her. She is invisible, mysterious, a curious figure who—as discursively framed—caused this hullabaloo. This is due, in part, to the publication ban in effect throughout the preliminary hearing. This creates a unique situation for the press, producing coverage that differs greatly from that of the subsequent trials in which there is no ban—where discourse (selectively) spills out of the courtroom and onto the front page of the *StarPhoenix*. This case is (has been made) news, but the ban makes reporters unable to actually report on the hearing proceedings. The talk and text inside the courtroom are off-limits, so a story must be created out of talk and text *outside* the courtroom. The publication ban ostensibly protects the victim (and the accused, while the court determines whether or not to proceed to trial)

from the public, but not from the accused, the court, and court observers. As Jane Doe (2003) explains, publication bans “drive the media crazy” (90); the *StarPhoenix* is dependent upon whoever will speak to its reporters to maintain the public interest in this case and the momentum of its coverage.

At the end of the preliminary hearing, M.C. testifies, and the *StarPhoenix* can finally see her—if not relate what she says—for its readers. Judge Goldstein does allow the use of the screen and video-link to protect the witness, so she can perform the role of good witness, facilitating the “full and candid account” required of her. Coolican (29 August 2002) describes this so-called protected space: M.C. can see only the Judge, the court clerk, and the five lawyers (two representing Regina, the Queen, and three representing the accused). Not said: M.C. has no representation; it is the Queen who seeks justice. In this space, she is the subaltern, the colonised subject (Spivak 1988). Her sight, body, and speech are policed. At least six of the people she can see are white men (no details are given about the court clerk); she cannot see her family or supporters. They, along with the accused and the press, are screened from her sight, but are watching her on television screens via video link. The dominant media frame is one of *protection*; it assumes that M.C. has nothing to fear from the judge and lawyers, eliding the immense power the court has over what she says and how she says it, over her body, over whether or not she is believed. The objective of her testimony is to help the judge determine whether or not the Crown has a case; she is to provide the evidence of rape. In this, she is subjected to the power of the court’s institutional gaze; she is constituted in discourse, an object and subject of power-knowledge. She is expected to perform her role as witness without fear; she is “safe” (but all she can see is white patriarchy and institutional power).

Coolican constitutes M.C. as a discursive subject: one forced to take on the subjectivities used to describe her and subjected to the gaze of her attackers and the press, who she cannot see but who are able to gaze upon her image (watching her on a television screen like the victim in a courtroom drama). There will be no photographs of her; readers must rely on reporters to describe her. Since she cannot report on the questions asked or M.C.'s responses, Coolican compensates by providing readers with "the sights, smells, and sounds of the news" (*Canadian Press* 2004, 161). Her description of the scene in the courtroom plays upon this anticipation, titillating readers with the image of the "frightened 13-year-old aboriginal girl" (29 August 2002).⁷⁶ She is "protected" from seeing them seeing her; she becomes spectacle, the object of the gaze of voyeurs and peeping Toms "carefully kept out of sight." Coolican paints a vivid portrait: the three defendants, "dressed in nearly identical dark pants and white shirts, their feet and arms twitching with tension," who "stared fixedly at her image on a TV screen a few feet from their faces." Their attire is uniform and familiar—i.e. it is small-town dressed-up, the sort of outfit worn on hockey game days (but not to funerals). In her over-complete description of the defendants watching M.C., Coolican works to make her subjective observations seem objective and disinterested. For instance, she observes what she defines not as tremors or shaking, but *twitching* arms and feet (curious in itself—that Coolican is looking at their shoes under the table). She attributes their physical reaction—"twitching"—to tension. Coolican "forgets" that she is a third-person narrator, not

⁷⁶ Notably, while the occasion of M.C.'s testimony occupies the lead, and the first few paragraphs of this article are concerned with this spectacle, the headline screams: "Father sues bar owners, daughter's alleged attackers." (*StarPhoenix* 29 August 02). Headlines are, most often, not written by the reporter who writes the article. van Dijk (1991b) explains that headlines "summarise the most important information in the report. That is, they express the main 'topic'" (50). Here, this main topic does not emerge until the second half of the article. The headline refers to a lawsuit filed by M.C.'s father in July—a month before—against the defendants and the Mistatim Hotel and Café owners, Lorne Brown and Darlene Hill. This news then is not "new," but it has not been previously reported by the *StarPhoenix*. As I mentioned above, the father becomes, in the trial coverage, a major actor when it is alleged in the Edmondson trial that he sexually abused M.C. The headline, here, seems out of place, but if this allegation was voiced in the preliminary hearing (which would have been unreportable because of the ban), this headline and invocation of "old news" at this time may have been a way for the *StarPhoenix* to introduce the father as greedy, filing a lawsuit against the three accused and the bar owners, knowing it could later report on his alleged links to M.C.'s victimisation (making it seem he was trying to profit from *his* alleged crimes).

omniscient; she does not know what is in their heads or what is causing them to twitch. She *decides* to portray them as tense, rather than a plethora of other possible explanations: nervousness, anger, or *arousal*. They are, after all, three rapists gazing upon the one they interpellated as Pocahontas, a body they violated: perhaps they were projecting their fantasies of domination or violence or sexual gratification once more on their victim. Coolican's observations are, then, not *objective*. Her over-complete description reveals what she sees (or wants to see), from her perspective and within her framework of interpretation.

Consider her description of M.C.: first frightened, then “giggling shyly” under the gaze of the judge, lawyers, and clerk, turning “grave and uncomfortable” once questioning begins. Coolican sexualises this girl-child in womanly terms, describing her as a “petite, attractive girl”—*petite* rather than small or little (petite is usually an adjective applied to women, small or little describes a child) and *attractive* (adult woman) rather than pretty (girl). This slippage is crucial: at this moment, framing of M.C. begins to shift from child-victim to sexual aggressor. Notably, any measure of her attractiveness or unattractiveness is unnecessary and, here, prejudicial; the attractiveness or unattractiveness of the accused rapists is not so measured—they are described as “clean-cut,” evacuating them of sexuality. In describing M.C. as attractive, Coolican is also invoking a host of rape mythologies: e.g. rape is about desire not power and violence; men cannot help themselves, rape victims “ask for it” by the way they dress or act” or are only raped if they are sexy and young and attractive; once aroused, a man cannot control himself (WAVAW); likewise, petite adds to her femininity, not her smallness (i.e. her physical vulnerability to the men).

While *StarPhoenix* readers are precluded from hearing what is said, reporters are not.

Coolican heard the lawyers' questions and M.C.'s responses and watched it all on the video

screen. Both the scene itself and Coolican's discursive construction of it are pornographic, rife with titillating details: three men twitching as they stare fixedly upon their forbidden object of desire/disgust/shame, readers imagining the scene on the gravel road, a petite and attractive girl-child, frightened under the gaze of cameras and eyes, morphing into shyly giggling, coy nymphet, then becoming uncomfortable, protected yet vulnerable. These frameworks of interpretation overlap and work together—the colonial subject protected by the Queen and benevolent colonisers, the damsel in distress protected by white knights. What is framed as observation is, in this analysis, the stuff of bodice-rippers and exploitation flicks and courtroom dramas, not the objective reporting called for by the Canadian Press (2004): “stick[ing] to the facts without editorial opinion or comment” (because these are “not wanted in CP copy”) (14).

The description of M.C. at the preliminary hearing establishes the direction the coverage takes in the subsequent trials. She becomes less a child and more an attractive, sexually mature, sexually aggressive, and psychologically disturbed woman. While the publication ban allowed, temporarily, for the insertion of voices and stories from the perspective of M.C. and her family, that space becomes closed off. Her family and supporters undergo a relative shift: once caring and concerned about her welfare, they are transformed into actors complicit with her victimisation as they become framed as deviants, along with M.C. Meanwhile, the three men on trial emerge as good prairie boys who got into trouble with a little Indian girl.

Synopsis: the Trials

In his statement to the RCMP, played in court, Edmondson admits to “trying” to have sex with M.C. and *failed* because he could not get an erection. He says the same of Kindrat and

Brown. Kindrat makes a similar claim. Brown denies that anyone was engaged in any sexual activity at all, consensual or otherwise.

The Crown is not arguing that any of the men ejaculated, but because investigators found someone's semen on M.C.'s underwear, it must be accounted for. This is how forensics manages to override M.C.'s privacy rights (Du Mont and Parnis, 1999a). Surreptitiously, investigators match the semen to her father's DNA. The assumption is then carried forth that her father is guilty of sexually assaulting her and that, moreover, this is acceptable evidence to bring forth to the court (despite provisions in the Criminal Code against the introduction of a victim's sexual history, abusive or otherwise).

This opens the door for the defence to introduce M.C.'s sexual and psychological history, under the auspices of forensic science. Paediatrician Anne McKenna, testifying as an expert in child sexual assault, suggests that sexually abused children can, in some cases, act in sexually unpredictable ways. This is a hinge. The defence frames this theory of sexual unpredictability as a fact—that this behaviour is characteristic of all sexually abused children—and elides the “children” part. With some semantic twists and discursive manipulation, M.C. becomes sexually *aggressive*. The defence creates a portrait of M.C. as, then, the sexual aggressor and the *StarPhoenix* supports it. For example, Brayford (Brown's lawyer) rhetorically asks (and insinuates) that M.C. is “the one that's been sexually aggressive?” and Edmondson weakly responds with an “I guess so” (24 June 2003) but the *StarPhoenix* exploits and amplifies this non-committal, hesitant response in the headline “Girl, 12, sexual aggressor, court hears”—as if Edmondson swore up and down that M.C. virtually attacked him. This characterisation of M.C. is seemingly irresistible—it affords primary definers with a way to blame M.C. for the rape without making them sound like

unfeeling monsters beating up on a child (which McKenna's authority affords). It is also taken up by the judge, the most authoritative primary definers, who uses this particular verbiage in his bestowal of a conditional sentence on Edmondson (following the acquittal of Kindrat and Brown). How this crime is discursively constructed in the courtroom and carried forth by the *StarPhoenix* into the public sphere, verbatim and, for the most part, uncontested. As I will demonstrate, discourses—"the practices that systematically form the objects of which they speak" (Foucault 1989, 54)—interconnect and overlap to form M.C. and this event, creating a dominant framework of interpretation that blames the victim or, more insidiously, excuses the perpetrators.

"Tried to have sex with..."

Edmondson's videotaped statement to the RCMP, following the assault, opens his trial. Both his words and how they are framed establish the primary first-person definition of "the incident." Under the headline "Accused admits trying to have sex with 12-year-old" (21 May 2003), Warick reports that Edmondson "admits he and two of his friends bought alcohol for a 12-year old aboriginal girl, drove her to a secluded gravel road, and tried to have sex with her." Recall that headlines are highly subjective and intentional; they command our attention, in affective and often biased ways, and spell out (in glaring boldface) what is at issue, what is news, what is absolutely essential in the article it heads. Thus, the most relevant information in *this* article is Edmondson's admission that he "tried to have sex" with a 12-year old girl. He does *not* admit to sexual assaulting or raping her, or even having sex with her; rather, he says: "I did try [to have intercourse with her]⁷⁷ but I was too drunk." In Edmondson's version, the sexual assault was a failed sexual encounter; he explains away the taint of rape (i.e. violence). Rather than deny that there was sexual contact, he admits to

⁷⁷ Warick made a substitution here, inferring that Edmondson's speech is sanitised for public consumption.

some but not to all (this strategy works in concert with the claim that she “looked old enough,” i.e. invoking issues pertaining to the age of consent). Paraphrasing Edmondson’s statement, Warick writes that, “while she lay on top of him on the front of the car’s⁷⁸ hood, the other two men attempted sex with the girl. ... He couldn’t actually tell if the others actually had intercourse, because he was still kissing her at the time” (21 May 2003).

Edmondson’s version of events diminishes his culpability in very particular ways.

Drunkenness is put forth as an excuse for things getting out of hand *and* as evidence that, even if he was attempting to rape M.C.⁷⁹ he did not “succeed” because he was too drunk. He also evades his role as witness; he was too preoccupied with kissing M.C. to see if his friends succeeded at that which he, himself, failed.

I want to consider this version of events for a moment. Edmondson is on his back on the hood of a truck, three to four feet off the ground, kissing a now-intoxicated 89-lb child lying on top of him. He is holding her so she does not slide to the ground. Brown and Kindrat are standing on the gravel approach, taking turns “attempting” to have sex with her from behind, “trying” to penetrate her vagina and/or anus. This is a gruesome, horrific scene; my alternative description unsettles and problematises the banal portrait painted by Edmondson. His version is, thus, as manipulative as mine; each describes the same event, but using dichotomous narrative frames. I mentioned before that the word *paedophile* is never used to describe the perpetrators; similarly, *gang rape* (which my version explicates and his does not) is never used to describe the crime.

⁷⁸ Notably, it was a *truck*, not a car. There is a vast difference, visually and physically, between lying on the hood of a car and lying on the hood of a truck. Truck hoods are considerably higher and squared off (i.e. lacking the gentle incline of a car hood). (It is this picture, of him hoisting her up on the truck hood and holding her there while his buddies took their turns—or “tried” to—that is burned into my brain.)

⁷⁹ In whatever words Warick cleansed from his testimony (I wonder if he said he tried to “fuck her”).

It was on the hood of that truck that Edmondson “tried to have sex with the girl, but could not get an erection” (21 May 2003). As the headline and this paraphrased testimony indicate, the *StarPhoenix* defers to Edmondson’s overemphasis on his inability to achieve an erection, reinscribing fallacious conceptions of sexual assault as necessarily connected to penetration. Construed as failure, Edmondson’s inability invokes a dominant framework of interpretation for this case, in which

three flaccid penises are tendered as proof of innocence, bogus witness to heterosexuality because penetration is the standard by which the exercise of manhood is proven. The lack of an erection or ejaculate preserves the phallic status quo. (McNinch, forthcoming)⁸⁰

In this narrative, Edmondson desired her, intentionally applied force to her, sought to rape her, but his penis failed him. Reforms to the Criminal Code and precedent-setting case law⁸¹ technically removed the requirement of penetration (and corroborating evidence, such as defensive wounds) from the definition of the crime of sexual assault, but Edmondson’s own emphasis on his flaccid penis and the defence’s discursive obliteration of this “law” (by reemphasising penetration and defensive wounds as evidence of sexual assault) is framed, by the *StarPhoenix*, as a viable explanation: i.e. Edmondson tried (intent) but *failed* to have sex with (rape) M.C.

Edmondson’s definition of the act reveal his own adherence to rape mythologies:

particularly, that what he and his two friends did to M.C. on the hood of that truck was not rape because no one penetrated and no one ejaculated (and if they did, he did not see it).

⁸⁰ McNinch explains that, in this context, “a limp penis is coda for the shame, humiliation, and anxiety inherent in the hysteric and homoerotic position of white heterosexual privilege symbolized by sexual assault.” See McNinch (forthcoming) for a thorough analysis of the roles homoeroticism and white settler masculinity play in the discursive construction of this case.

⁸¹ Under Section 265(1) of the *Criminal Code*, a person commits an assault when: (a) without the consent of another person, he applies force intentionally to that other person, directly or indirectly; (b) he attempts or threatens, by an act or a gesture, to apply force to another person, if he has, or causes that other person to believe on reasonable grounds that he has, present ability to effect his purpose; or (c) while openly wearing or carrying a weapon or an imitation thereof, he accosts or impedes another person or begs. Section 265(1) applies to “all forms of assault, including sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm and aggravated sexual assault” (265(2)). See also footnote 28 (above).

This framework of interpretation is taken up unproblematically by *StarPhoenix* reporters (betraying a preference for his version, in which this is all a big misunderstanding). Implicit in interpretations that the media present to their readers “are orientations towards the events and the people or groups involved in them” (Hall et al. 1979, 57). In taking up Edmondson’s vocabulary, the media discourses construct him as a sympathetic figure. The narrative is oriented in the direction of his thoughts, interests, and perceptions—which privilege patriarchal frameworks of interpretations, maintaining the “phallic status quo” in which a great emphasis is put on the male organ. In this, masculinity is implicitly linked to (among other things) the ability to achieve an erection and sustain it for the requisite amount of time. Warick’s description of Edmondson’s reaction to this mortifying⁸² admission facilitates that sympathetic impulse; he notes that, after signing the statement, Edmondson “leans his head against the wall, then slowly lowers his head onto the table.” (21 May 2003). This framing seeks to give meaning to this shocking crime in a way that, as Hall et al. (1979) explain, draws it into “the framework of the rational order of ‘things understood’—things we can work on, do something about, handle, manage” (166). We cannot, perhaps, handle the gang rape of a child by three men who do not fit what we have been told is the rapist profile, but we *may* manage, even “understand,” an embarrassed small-town boy-man who tried to have sex with a petite, attractive girl and couldn’t get it up because he was too drunk. McNinch (forthcoming) explains that, in the discourses around this case, “our Tisdale ‘white boys’ are not monsters; they are conceived to be ordinary people in unfortunate, compromising and ‘embarrassing’ circumstances.”

⁸² Perhaps his version appeals to a particular consensus knowledge, patriarchal and heteronormative, activating other men’s fear of such failure, real and imagined, perhaps evoking the embarrassment of every failed erection of male readers—or the judge, the lawyers, the interrogating officer.

Notably, the *StarPhoenix* often plays an educative role, providing explanations of the law around sexual assault *when it supports* the current framework of interpretation.⁸³ Here, no such education or clarification is proffered, even though what Edmondson is claiming is *not* sex (because there was no penetration or ejaculation) *is* sexual assault. This demonstrates the selectivity with which legal explanations are invoked; the *StarPhoenix* does nothing to dispel the myth that Edmondson's testimony is reproducing. While the mythology of rape is fixated on forced penetration, the legal definition of sexual assault incorporates the different forms that constitute sexual violence,⁸⁴ deemphasising penetration and focusing on violation and application of force. The Supreme Court of Canada interprets sexual assault as an assault "which is committed in circumstances of a sexual nature, such that the sexual integrity of the victim is violated."⁸⁵ Penetration is, in terms of Canadian law today,⁸⁶ a moot point; it is the violation of M.C.'s sexual integrity that makes this sexual assault. In theory, the law does reflect agreement with Brownmiller's (1975) declaration that "all acts of sex forced on unwilling victims"—that includes unconscious and intoxicated and incapacitated and underage—"deserve to be treated in concept as equally grave offences in the eyes of the law, for the avenue of penetration is less significant than the intent to degrade" (378). While the application of this law is, demonstrably, subject to interpretation, none of this information is provided by the *StarPhoenix*, which never explains to readers that "trying to have sex," in the scenario Edmondson describes, is as much an act of sexual assault as if he had succeeded in penetrating her. By omission, the *StarPhoenix* reifies prevalent rape myths.

⁸³ For instance, the age of consent is brought up often, particularly regarding M.C.'s "lie" that she was 14 not 12 and the defence's argument that the three men thought she was the age of consent.

⁸⁴ See footnote 81 (above).

⁸⁵ *R. v. Chase*, [1987] 2 S.C.R. 293 at 302.

⁸⁶ See Bill C-127 (1982) and footnote 28 (above).

“Trying to have sex” is not used to describe the incident in any articles written before Edmondson’s utterance, but *is* used in almost every subsequent article as innocuous and unproblematic background:

Brown, Kindrat, and Dean Edmondson allegedly picked up the then- 12-year-old girl in their truck, got her drunk, and tried to have sex with her on a road near Tisdale. (26 June 2003)

Kindrat states all three men engaged in sexual activity with the girl. He said Edmondson and the girl were on the hood of the truck when Brown approached them with his pants down and attempted sex with the girl. Kindrat said he tried to do the same after Brown, but could not get an erection because he was drunk. (18 July 2003)

The three were charged after a Sept. 30, 2001, evening in which they allegedly picked the girl up on the steps of a bar, gave her beer in their truck and tried to have sex with her on a road near Tisdale. (21 April 2005)⁸⁷

The *StarPhoenix* allows Edmondson, accused rapist, to frame the incident—a frame that, as the above excerpts demonstrate, remains intact throughout the ensuing coverage. This demonstrates the power of this primary definition to construct an interpretive framework that plays down the violence and degradation inherent to sexual assault, reframing it within the dominant discourses of patriarchy while privileging the power of the man who perpetrated that violence to name and frame it as non-violent. It also positions Edmondson as an insider (i.e. an upstanding young man, a good Tisdale boy worthy of the benefit of the doubt). This deference to his description demonstrates that the *StarPhoenix* chose him over M.C.; they preferred *not* to take up her version—i.e. she blacked out from intoxication and woke up to a man kissing her and he and two others trying to take off her pants and “sexually touching” her lower “private part” with their penises (Warick 23 May 2003).

Edmondson’s focus on penetration is a masculinised understanding of sex and what is and is not sexual assault—one apparently shared by Kindrat. In his “emotional” statement to the

⁸⁷ See also: 23Jun’03.

RCMP, Kindrat “admits he tried to have sex with the girl, but was too drunk and could not get an erection. He said Brown also tried just before him with his pants down, but added that he doesn't know if there was actual intercourse” (Warick 17 Jun 2003). Because Warick paraphrases rather than quotes Kindrat, it is not clear if Kindrat used the words “tried to have sex” or if Warick used Edmondson’s verbiage to relate what Kindrat said. Both Kindrat’s statement and how Warick frames it demonstrates the effectiveness of the failed erection narrative. Whether or not they recognise it as such, in their statements to RCMP, two of the three accused admit to criminal sexual assault, and Kindrat swears that the third, Brown, pants down, took his turn on M.C. while Edmondson held her on the hood. Only Brown claims that no sexual activity took place between M.C. and any of the men—and, just in case Kindrat and Edmondson were admitting guilt in their respective statements, he claims “I did not see anything” (Warick 18 Jun 2003).⁸⁸

The ease with which Edmondson and Kindrat slip into this discourse betrays a problem that contextualises this case in a culture that permits violence against women. Meyers (1997) explains the representation of a rapist “as a monster or psychopath” allows men—like Edmondson and Kindrat—“to distance themselves from the perpetrators of these crimes” (10). The three accused share numerous characteristics—age, class, race—with high profile “look-like-good-boy” rapists of girls (e.g. Bernardo) and Aboriginal women (e.g. Ternowetsky and Kummerfield)—but neither the *StarPhoenix* nor the accused themselves are recognisable as “rapists.” Brownmiller (1975) argues that the continual discursive reproduction of the erroneous portrait of the rapist as psychopath or madman offers men and, in particular,

⁸⁸ When RCMP Const. Phil DeGruchy’s asked Brown why M.C. said there was sexual activity, he replied: “Honest to God, I don't know. We thought we were doing her a favour” (18 June 2003).

impressionable adolescent males, who form the potential raping population, the ideological and psychologic encouragement to commit their acts of aggression *without awareness, for the most part, that they have committed a punishable crime, let alone a moral wrong.* (391, emphasis hers)

Edmondson, Kindrat, and Brown's testimony demonstrates a collective, societal, cultural failure to communicate that what they did to M.C. *is sexual assault*. I am not, in any way, diminishing Kindrat and Edmondson's culpability for their actions. Rather, I want to highlight the problems inherent in how they defend their actions. Why do these men find it acceptable to believe—or pretend to believe, as part of their defence strategy—that their drunkenness frees them from responsibility, that (as Brayford says) kissing is the “green light” of consent to any sexual activity that follows (24Jun'03), that their failure to penetrate infers a failure to sexually violate M.C., and, moreover, that failure to penetrate means that there was no sex at all, forced or otherwise. Two of three defendants defer to these age-old defences and/or excuses, and the *StarPhoenix* is complicit in circulating them to readers, reifying these seemingly immutable rape myths.

These culturally and socially reinforced cognitive patterns of perception are of great concern because the *StarPhoenix* does not print anything that dispels or contests this “belief.” Thus, the framework of interpretation conflicts with what women and girls are taught about what sexual assault is (any unwanted, non-consensual sexual act)—and what the law defines it as—and, as such, reaffirms rape victims' fears that they asked for it, that it wasn't really rape, that something they did or said made their rapist think they consented, that trying to rape isn't rape and it's not sex without penetration. We need to find ways to break this frame, to dismantle these persistent patriarchal patterns of cognition, if we are ever going to win this implicitly sanctioned war waged on girls and women. Obviously, this requires a redefinition of *sex*; we need to begin by obliterating the male-focused, penis-fixated, Bill Clinton-esque

definition of sex as penetration. It requires vigilant contestation of these still-dominant discourses on rape including a concerted attack on male-centric interpretations of consent and a repositioning of rape as a violation of women's rights.

Discursive Constructions: Power-Knowledge and Expert Testimony

In the *StarPhoenix*, consensus knowledge about society in which it operates, taken-for-granted "common sense," and myths and stereotypes about rape and Aboriginality (particularly those localised and specific to Saskatchewan white settler culture) converge with seemingly-incontrovertible expertise and knowledge. Through discourses that purport to be objective (implying detachment, knowledge, expertise, professional training, authority, cultural capital, symbolic power, fact not opinion), primary definers and experts guide readers through the case in a way that confirms what readers "know."

The *StarPhoenix* relies upon the speech of those whose discourse is authorised—those in whom our society invests competency. Foucault (1990) directs us to attempt to determine who—and what discourse—is authorised to say and not say, and to identify the silences and the not said (27). M.C. is required to speak of her assault; she has no authority, except as suspect witness. Over the course of her testimony, she is rendered *incompetent*. Her stumbles through acceptable courtroom discourse publicly derided (e.g. her reported misspelling penis when she resorts to writing rather than speech in her testimony in the Kindrat-Brown trial). She can neither speak in the language she is expected to speak nor be relied upon to explain what happened to her (for this, the court and media rely upon experts, steeped in institutional authority and rife with power-knowledge and expertise).

In courtroom discourses, M.C. occupies shifting subject positions, from child to woman. The same child-ness that is erased to delegitimise her victimhood is reinvoked (when convenient, to support the dominant narrative) to put her sexuality into a specific regime of discourses. Those authorised to speak of her sexuality are granted more authority over her than if she were an adult woman; ironically, that authority includes the power to transform her from girl-child to woman (even when that speaking authority stems from paediatric knowledge, activated *because* she is a child). The practices and measures to talk about, control, restrict, and police sex, proliferating since the Victorian age (Foucault 1990), ruled out children's ability and authority to speak of their own sexuality; this discursive realm is reserved for qualified speakers—teachers, doctors, administrators, and parents. Children are enclosed in “a web of discourses which sometimes address them, sometimes speak about them, or impose canonical bits of knowledge on them, or use them as a basis for constructing a science that is beyond their grasp” (30).⁸⁹ Experts claim dominion over fact and truth; they claim dominion over the ability to explain M.C. to the court (and, ostensibly, to M.C.). In addressing how McKenna (and, to a lesser extent, Somer) speaks about (and constructs) M.C., we can identify interventions of power and how they are tied up with the multiple discourses working on this girl-child—and how their testimony and the *StarPhoenix's* parroting of it confirmed sexist and racist myths through her alleged scientific discourses.

By virtue of their credentials—as the expert in child sexual abuse, McKenna has more symbolic power than Somer, the general practitioner—these doctors have power over to regimes of truth. They speak for and about M.C. in open court, naming and dissecting and framing her testimony, *imposing* their discourse on her and constructing her in ways that alienate her from her experience. M.C.'s account is only credible if they support it or

⁸⁹ Foucault could have been writing about this case (and, for that matter, about juridical discursive treatment of rape victims and the paternalistic tone the State adopts when it talks about Aboriginals).

incredible if they dispute it: “the credibility of the expert’s statement therefore results from the credentials of the author of the opinion and not from the credibility of the account” (Schissel 1997, 30). Neither doctor testifying in this case performed a rape kit; neither spent more than a few hours with M.C. Yet they, not M.C., are credible witnesses, possessing the symbolic power to speak about M.C. and to postulate hypotheses-taken-as-fact about what happened to her and how it happened.

Invoking the myth that victims should bear the evidence of extreme physical struggle against their attacker(s), the *StarPhoenix* reports that M.C. “had minor cuts and bruises on her back, buttocks, and inner thighs, smelled of alcohol, and was thrashing about hysterically” when examined by Linda Somer, the Tisdale doctor who testified: “I was afraid she must have had something awful happen to her.” (22 May 2003). Du Mont and Parnis (1999a) explain that the heavy reliance on medicolegal (so-called “forensic”) evidence collection from the sexual assault victim is a return to the requirement of *corroboration*; they argue that the introduction of forensic collection and expert medical testimony allows corroboration to slip back in, making it even more vehemently pursued in rape trials,⁹⁰ as evidenced in Harradence’s (Edmondson’s lawyer) cross-examination of Somer. He contests the forensic evidence (physical injuries), bringing corroboration into play (while explicitly invoking rape myths). The *StarPhoenix* supports Harradence’s tactic, telling readers “there were no marks on the girl’s wrists or neck, and no other signs of struggle” (22 May 2003).⁹¹ The defence’s strategy is to activate the myth that real victims fight back; the reproduction of it in the paper serves to confirm the veracity of this myth. In these terms, M.C.’s body should corroborate her

⁹⁰ Corroboration is specifically *not required* for a conviction; in fact, the judge “shall not instruct the jury that it is unsafe to find the accused guilty in the absence of corroboration” (*Criminal Code* R.S. 1985, C-46) s.274). DuMont and Parnis (1999a) explain that this section is due to Bill C-127 (1983), after great efforts made by women’s groups to reform Canadian sexual assault laws.

⁹¹ No signs, that is, other those numerous cuts and bruises on her back, buttocks, and inner thighs.

story through defensive wounds.⁹² For instance, in his charge to the jury in the Kindrat-Brown trial, Judge Kovach invokes the signs-of-struggle rape myth and the language of corroboration, reiterating that there were no "defensive injuries" on M.C.; he ineffectively qualifies this with a "reminder" that "just because (the girl) didn't put up a fight does not mean she consented" (Warick 26 June 2003).

Harradence also raises the possibility that M.C. sustained these injuries while hospital staff were "trying to restrain the hysterical and uncooperative girl." Notably, Somer's use of "hysterical" is taken up by Harradence to substantiate this—insinuating that the physical marks are M.C.'s fault for being *hysterical*. She is actively *hystericised*, actively associated with the long history of this troublesome word, which came to English from Latin, derived from the Greek *husterikos*—"of the womb."⁹³ In medical and psychiatric terms, hysteria is "a functional disturbance of the nervous system, of psychoneurotic origin" (*OCD*), but neither Somer or Harradence seem to be using the word in this way; rather, they seem to be referring to her behaviour in the lay sense of hysteria, as "a wild uncontrollable emotion." Somer defends her staff and dismisses Harradence's accusation, but does not revoke her gendered characterisation of M.C. as hysterical. Harradence's rhetorical strategy, though, effectively sexualises M.C. while facilitating doubt about the injuries and where they came from. He uses M.C.'s reaction to the violence as a way to discredit the very evidence that backs up her complaint—evidence that, in theory, is not required to substantiate rape but, in practice, remains embedded in legal discourse.

⁹² That she weighed 89-lbs and was alone on a deserted road with three adult men, that she was intoxicated from the beer they gave to her, that, given the circumstances (remote location, size inequalities, etc.), resistance would have been futile and perhaps deadly—i.e. that they had complete power over her—is ignored.

⁹³ There have been numerous approaches to what is called "hysteria," but despite the morphologies and semantic variations, the word never loses its original feminine connotation. For example, seeking to disassociate hysteria (which affects the "fairer sex") from the uterus, Prof. David Wark, M.D. (1888) explains in *The Practical Home Doctor for Women and Children* that "the unwholesome state of mind produced by reading too much of the exciting light literature of the day powerfully predisposes [women] to the development of hysteria" (215). See also: Foucault (1990).

The “numerous minor cuts and bruises” were recent and there were “far too many to be sustained in normal play” (Warick 24 May 2003). *Play* is a loaded term. In medico-legal discourse, “normal play” means consensual sexual activity, an enjoyable activity for the sake of pleasure or amusement. Play, in the context of a child, also invokes child’s play, “the spontaneous activity of children” (*OCD*). McKenna, the court’s “expert” on such matters, testifies that the injuries on M.C.’s knees that suggest “she fell or was forced down” (Warick 24 May 2003)—a decidedly ambiguous determination (“fell” from intoxication? as in a childhood game? forced down in forced sexual assault?). On cross-examination, McKenna “admits” to Harradence that there could be an “innocent explanation” for the injuries. The cuts and bruises remain, but the interpretation constructed by this expert is revealed as subjective. McKenna then suggests that *Somer* could be responsible for the M.C.’s injuries—that she “could have caused” (24 May 2003) a tear (noted nowhere else in the *StarPhoenix*) to M.C.’s vagina in her initial examination.⁹⁴

Jane Doe (2003) contests the hegemonic conception of violence, indicative in these discursive battles around corroborative physical injuries, that permeate legal discourses and common sense notions about rape. In her rapist’s trial, his lawyer asked her if her rape was violent; she was rendered silent, unable to fathom that, “despite everything we know about the violent nature of rape, he asked if my rape had been violent” (72). The inclusive “we” illustrates a disconnect between what her audience knows and what he *should know*—that there is no such thing as non-violent rape. In response to her silence, Doe explains that the judge “instructed me that because I had not been cut or stabbed with the rapist’s knife, because he hadn’t beaten or mutilated or (most decisive of all) killed me, I must answer that

⁹⁴ The *StarPhoenix* does not report what *M.C.* said caused this tear.

my rape had not been violent” (72).⁹⁵ To Jane Doe, violence is inherent to rape. She illustrates the chasm between her understanding of rape and that of the legal definition of rape and common-sense notions of rape circulated by the media. Non-violent rape is an oxymoron. Violence, writes Judith Butler (2004) “is surely a touch of the worst order, a way a primary human vulnerability to other humans is exposed in its most terrifying way, a way in which we are given over, without control, to the will of another” (28-29). Butler’s definition of violence maps on to Doe’s definition of rape. Violence *is* rape; rape is violence. The medicolegal emphasis on corroboration denies or evades the inherent violence of rape, reproducing rape mythologies in its insistence that the body bear evidence of that violence.

While the reforms that placed rape in the category of assault were meant to encapsulate the violence of the crime, it recreates the expectation that evidence of that violence should be visible. Sexual violence is conflated with non-sexual assault—there should be scars, as visible as the black eyes and shards of glass in bare knuckles after a bar fight. This reemphasises the body only and not the mind as the site of sexual violence. Rape is, in so many cases, an invisible crime. How do you collect terror from a vaginal swab or degradation from a fingernail scraping? Those cuts and bruises on M.C. are visible marks, yes, but the suicide attempts and her confessed fear of men and tears and silences on the stand—these are the scars of rape. Rape is always about violence, that imposition of will on another. Rape exposes that vulnerability and reinscribes the particular vulnerability of women and children to men. The court and media’s focus on scars or not, scars from play or not play, misses the point completely—or deliberately.

⁹⁵ This is the understanding of rape in which what happened to M.C.—that Edmondson took the pants off a drunk (because they got her drunk) child while she was blacked out and forced himself on her, using his penis as a weapon, then hoisted on the hood of a truck and held her on top of himself while his two friends attempted to get it up so they could “successfully” rape her—is not violent either.

**Medicalised Discourses and Protection of Power:
Un-making a Child, Un-making a Victim, Making Doubt**

Beyond the pretence of objectivity that allows medicolegal primary definers to make assessments as to the “evidence” of rape, M.C.’s subjectivity also undergoes a major shift. Bolstered by the symbolic power of her expertise and cultural capital of her title, McKenna subjects M.C. to/makes her a object of medical discourse, detailing her injuries and making (knowledgeable) inferences about them. McKenna’s statements operate under the logic of her standing as a “paediatrician who specialises in child sexual abuse” (Warick 24 May 2003), trumping Somer’s credentials through her specialisation (as indicated in her ability to accuse Somer and staff of causing M.C.’s injuries, specifically the vaginal tear). Proceeding from this position of authority, McKenna tells the court that M.C. “was ‘very attractive’ and had reached full physical maturity” and that she “looked older . . . I thought maybe 13 or 15” (Warick 18 June 2003). Notably, there is a difference between a reporter writing that the victim is attractive and an expert (paediatrician/doctor/sexual abuse specialist) testifying to it in court (and the *StarPhoenix* quoting it). In both cases, the adjective is problematic, loaded, and unnecessary, but in the former it is designed to set the scene for readers, while in the latter, we are to assume this is an expert assessment. The same applies to McKenna’s assessment of M.C.’s age,⁹⁶ which lends her credibility to the overall defence strategy that argues that the girl looked “old enough” to consent.

In *Blaming Children*, Bernard Schissel (1997) reminds us that

⁹⁶ Compare McKenna’s authority to that of Darlene Hill. co-owner of the Mistatim Hotel, named in a lawsuit that claimed she was negligent in serving M.C. liquor and, while knowing she was intoxicated, allowed her to leave with three men. Subsequently, Hill (as part of her defence strategy) claimed that M.C. looked 15 or 16 years of age (Warick 22May’03); this would not get her off the hook for serving a minor, but it might help with the negligence charge. Hill’s culpability is tied to how old she thought M.C. was. In contrast to Hill, who has something at stake and speaks with little professional authority (although she is expected not to serve anyone under the age of 19), McKenna’s opinion about M.C.’s age is assumed to derive from expertise.

professional knowledge is often uncertain and contradictory... [K]nowledge is essentially created and not discovered, and knowledge in even the most 'hard' sciences (such as the medical and physical sciences) changes depending on its political and historical context" (30).

McKenna's expertise is purported to be vested in twenty years of experience dealing with sexual abuse cases. As such, this expertise requires some contextualisation. Foucault (1998) explains that expressions of power must be described in the context in which struggles are taking place, that they are "particularised and local in their nature" (75-6). In Saskatchewan, the symbolic power and authority of doctors and psychiatrists has been under fire: accusations of misconduct in sexual assault trials are making their "knowledge" less certain, their authority to put forth regimes of truth more unstable. McKenna's power-knowledge is not problematised by the court or the *StarPhoenix* (who headline her as "expert"), but she herself is engaged in the struggle to maintain it.

In an interview with the *Medical Post* in 2004, McKenna speaks to the growing trend of Saskatchewan doctors refusing to do sexual abuse examinations for police and social services. This is due, according to McKenna, to high profile sex abuse cases in Saskatchewan in the 1990s—in particular, the false allegations against and malicious prosecutions of the Sterling family and a police officer in the "Satanic Sex Scandal" in Martensville⁹⁷ and the Klaussen family in Saskatoon.⁹⁸ These cases have made physicians wary of potential liability for wrongful prosecution and accusations of misconduct; McKenna herself has had almost a

⁹⁷ In the early 1990s, nine people (including foster parents and police officers) were charged with a series of sexual crimes, stemming from allegations that of heinous sexual assault, sodomy, torture, and satanic rituals. As a result of malicious prosecution in that case, a police task force called for overarching national changes to the investigative approach to child sexual abuse allegations. For more on this case, visit the CBC's *fifth estate* website at www.cbc.ca/fifth.

⁹⁸ Twelve members of the Klaussen family of Saskatoon were charged with "heinous" sexual abuse crimes against three foster children in the care of some members of the family. One of those three children, Michael, came forward during the prosecution and admitted that it was he who was abusing his two younger sisters, and the Klaussens were innocent. For more on this case, visit the CBC's *fifth estate* website at www.cbc.ca/fifth.

dozen complaints against her filed with the College of Physicians and Surgeons.⁹⁹ McKenna explains that “nobody wants to do it anymore—including me, by the way. I’m fed up with it. I’m tired of having complaints made to the college...I’m tired of the judicial system. It never lets you get a straight sentence out.” (Driver 2004). McKenna’s frustration involves a perceived usurpation of the power-knowledge of her and her peers by not only the juridical system, but also by people—like the Klaussens and Sterlings—who can and do complain to the College, a body that has the power to discipline and punish *and* revoke symbolic power. The matter for “frustrated” and unwilling medical experts, beyond interpretation and testimony, is one of legitimacy and cultural authority in the larger social field.

Power is not absolute. The institutions and discourses of power are interconnected and overlapping, but *proprietary* about and protective of that power. The players involved here demonstrate this process in action: the judge protects his power by policing the court, the specialist overrides the authority of the general practitioner, the doctor protects herself by defending the credibility of her profession and warning her peers to protect themselves (i.e. safeguard that power). Yet, there is a place for lay people in the mechanisms of hegemonic power: they can complain—to the press, to groups and coalitions, to the courts, and to professional regulatory bodies. Power is never absolute or guaranteed; it depends upon the credibility of authorised speakers and the institutions they represent. If doctors are perceived as liars or seen to be using their power to persecute innocent people, that credibility is stripped away. McKenna advises doctors they “can protect themselves against” such liability

⁹⁹ McKenna is interviewed in support of a Dr. Joel Yelland and complaints of unprofessional conduct against him made to the College of Physicians and Surgeons of Saskatchewan arising from his examinations of the children who falsely accused the Klaussens. The complaint alleges that Yelland “based his medical reports more on the subjective history told to him than on his own objective examinations of the children and made statements of fact based solely on unsubstantiated allegations of the children rather than on his physical examinations” (Driver 2004).

and accusations by focusing only on “physical signs,” and leaving the rest to the police and social services.

All any physician needs to do is say, ‘the hymen is intact’ or ‘the hymen is not intact’ [or] ‘there is evidence of significant injury’...we describe the injuries only. We can also describe, and I do, the demeanour of the child. I've had children get totally hysterical (as the examination progresses). ... All I'm doing is reporting the facts and that's how I cover myself. (Driver 2004)

Thus, McKenna’s approach to victims is policed to protect her power-knowledge and, in warning other doctors, her professional authority. McKenna is reacting to recent high profile cases in which her peers, prosecutors, and police were misled by, from one perspective, child victims seeking to “please” them. The fallout casts doubt on the symbolic power of her expertise, creating a climate in which the child is an object not only of study and scrutiny, but also of suspicion. McKenna takes it further; children cannot be depended upon to truthfully testify to their experience. Only the “facts”—physical signs (that corroborate or do not, even though corroboration of this nature is not required) and observations of demeanour—count. Thus, two utterances are placed in opposition: the testimony cannot be trusted, but the traumatized body must cooperate and corroborate. This is how McKenna approaches M.C. and this suspicion is carried into her testimony.

In this case, though, no one gathered those “facts” from M.C.’s body—a Sexual Assault Evidence Kit (“rape kit”) was not performed. McKenna explains that she assumed Somer should have gotten all of “that evidence” and recorded all of those “physical signs” and did not. McKenna’s testimony (Warick 24 May 2003), outlines what Somer *should* have done: photographed M.C. and her injuries, performed the requisite pelvic exam, and taken measurements of the “minor but numerous” cuts and bruises. Somer did not, and neither did McKenna (because she assumed Somer did). McKenna’s accusation is that, in not doing

these things, Somer did not protect herself (and other doctors, namely McKenna).¹⁰⁰ McKenna is, in effect, recouping her credibility by admonishing Somer for her transgression, as the College of Physicians and Surgeons recoups its credibility by admonishing Yelland and McKenna and other doctors who are seen to transgress. This scenario demonstrates the *process* of hegemony—never absolute, always working, morphing, “alert and responsive to the alternatives and opposition which question or threaten its dominance” (Williams 1977, 113). Contextualising McKenna’s testimony within these discourses, and the localised and particular culture in which they operate, illustrates that McKenna’s personal credibility, and that of her profession, is at stake.

It also helps to explain why McKenna is adamant about videotaping statements by victims: not necessarily to alleviate the trauma for the victim but to “protect” interviewers, be they police or doctors, against liability and accusations of misconduct. She expresses concern that M.C.’s statements to police were not videotaped, explaining to the court that it is “easy for the interviewer to ask leading questions” to “get a desired answer. Children want to please the interviewer” (Warick 24 May 2003). She implies that the interviewing officer may have led M.C. into accusing the three men to please the him¹⁰¹—insinuating that the police can be fooled, either by leading a witness to say what they want them to say¹⁰² or believing a victim’s lie (here, McKenna does believe that M.C. was assaulted, but by her father, not the

¹⁰⁰ In addition to the need for protection underlined by McKenna, performing the rape kit examination is standard procedure when there is any suspicion of sexual assault. The kit needs to be performed within 72 hours; M.C. was hospitalised for that amount of time. What role did judgements about the veracity of her claim, in conjunction with her race, age, and state of intoxication, play in the decision not to perform the exam? The only DNA evidence mentioned in the *StarPhoenix* (semen that did not match the accused) was collected from her underwear, after the fact. Thus, while M.C. did *not* claim that any of the three men ejaculated, any other DNA that could have corroborated her statement was not collected (fingernail scrapings, hairs, pre-ejaculate) by Somer or McKenna. For more on SAEK and forensic collection, see Du Mont and Parnis (1999a).

¹⁰¹ As Detective St. Lynn Kantautas, head of the Sexual Assault Child Abuse Team for the Durham Regional Police, explained to *The Fifth Estate* about the effects of the Martensville case: “you have to protect the child, but you also have to protect the accused. ... We have to be totally impartial. We assess all aspects of the case—including the credibility of the victim.”

¹⁰² The desired answer, in the Klaussen case, was that the Klaussens, not the child, were abusing the children.

three accused). In this, McKenna diverts from the possibility (expressed in her advice to her peers in the *Medical Post*) that doctors, like herself, can also be fooled; she is protecting her expertise by elevating it over that of the police.

While these high profile cases of wrongful prosecution may cause McKenna to police herself and approach M.C. with suspicion, Harradence uses them to support his defence strategy. Harradence is an effective rhetorician; he employs his discursive power to create M.C. as liar in court and through the press. As part of his strategy, he invokes “Martensville” (a loaded signifier), activating a frame that creates more suspicion of M.C.’s testimony (augmenting suspicion with which rape victims are always-already approached). The Martensville case, in particular, is part of the shared knowledge of Saskatchewan residents and Harradence alludes to its dominant frameworks of interpretation: the children lied about the sexual abuse (or were *led* to lie to please the investigators) and overzealous police and prosecutors can ruin the lives of innocent people. Warick (never inserting himself as questioner, as it would undermine his position as objective observer) writes: “When asked why [Harradence] raised the issue of the Martensville sexual abuse scandal in court last week, he said ‘you can draw your own conclusions’” (27 May 2003). This is an explosive suggestion—particularly since Warick quotes it in an article about M.C.’s foster mother’s testimony that her father sexually and physically abused her—and Warick provides a venue for Harradence to pose this to *the public* who shares an understanding of what “Martensville” means—inviting them to “draw their own conclusions” (knowing what his deliberate connection between the two unrelated cases infers). Warick allows Harradence to *publicly* associate M.C. with the children (who suffered discursive violence, if not the physical and sexual violence they alleged) of the Martensville case. Harradence’s insinuation invokes Martensville to remind jurors, the court, and the public that children can lie. The dominant discourses that emerged in the aftermath

insinuated that people need to rethink the innocence of children, in that their desire to please may supplant their ability to tell truth.

This created a discursive wave, with serious effects: fearing such persecution and prosecution, authorities and experts approach sexual assault and abuse victims with suspicion and great trepidation. Bound up in all of this is the fear of wrongful accusation, particularly in relation to the charge of rape. Additionally, while false or malicious accusations of rape are very rare, the myth that women and children lie about rape out of shame or to get attention is continually reproduced, as are the perceived weaknesses of child witnesses¹⁰³ (e.g. a propensity to lie, fantasise, and “misremember,” not to mention difficulties in communicating and explicating abuse) (McGillvray and Comaskey 1999, 87). All of these factors contribute to the difference between the number of sexual assaults and those reported, between those reported and those in which charges are laid and, of those, the elusiveness of justice for victims (i.e. guilty verdicts) who see their cases brought to trial (Du Mont and Parnis 1999, 1999a; Doe 2003).

Victim of Whom?

This context and these narratives cannot be extricated from this case and its discursive construction. The Edmondson and Kindrat-Brown trials and the reportage about them are a product of this time and this place. Within this context, the “surprise revelation” (Warick 21 May 2003) that the semen on M.C.’s “light blue panties” allegedly matched her father’s DNA is able to activate these familiar narratives to divert attention away from Edmondson, Kindrat, and Brown and onto M.C.’s father—reframing perceptions of her mother, family, supporters, Aboriginals in general, and creating doubt around M.C.’s testimony. Warick

¹⁰³ The misdirected allegations in Klaussen’s case were an anomaly, and involved a lot of officers, doctors, and prosecutors trying to make their careers through the sex abuse case of the century.

does not write that the semen matched her father's DNA: he writes that "it belonged to the girl's *own* father."¹⁰⁴ The horror that is absent in his clinical and unemotional descriptions of testimony about the crime at issue is made explicit in reference to the now-presumed possibility of incest. Parker, the Crown prosecutor, attempts to mitigate the damage, explaining that the father has not been charged and no complaint has been made against him.¹⁰⁵ Warick also reports that Parker "is not alleging that the three ejaculated, so this information does not change the case" (21 May 2003). This DNA haunts the Crown, because it *does* change the case—or at least the dominant framework of interpretation. The defence seeks, through "experts" and "evidence," to make the girl a victim of her father, not of these three men, *and* re-focuses on the need for corroboration and on penetration as essential to sexual assault.

The pervasiveness and potential influence of the media discourse on how this trial is interpreted and framed is not isolated to the audience of courtroom outsiders. Like me, and thousands of others, McKenna learned that the semen stain on M.C.'s underwear was matched to "her own father" and read it within the *StarPhoenix* framing of it as a "surprise revelation." Sitting at the breakfast table, reading this same article, did she mentally calculate this "evidence"? Did it provide her with a new framework for interpretation for her interview with M.C. and alternative explanation for her injuries and behaviour? Did it bias or sway her

¹⁰⁴ In an article on *injusticebusters.com*, Shelia Steele (2003) explains that M.C.'s father's DNA was collected from a cigarette butt he discarded outside the courtroom in February 2002. Steele writes that the cigarette butt "was used to compare with material from the girl's panties, which were turned over to police after the girl got out of hospital three days after the rape."

¹⁰⁵ M.C.'s father was charged with five counts of sexual assault in January 2005, but M.C. was not one of the complainants. Despite this, the brief *StarPhoenix* article about those charges is dominated by background on the Edmondson and Kindrat-Brown cases (18 January 2005). Because it makes explicit the link between these unrelated charges and M.C.'s sexual assault, the *StarPhoenix* forfeits the right to name the defendant (which would have been possible if his relationship to M.C. had not been included in the article). Thus, the *StarPhoenix* made a choice to connect these new charges to the man's alleged incestuous assault on M.C. to *make news* about the Edmondson and Kindrat-Brown cases (under appeal at the time) and, by implication, to support the defence's strategy, rather than identify him. This also implies that these charges and these victims are *not* newsworthy, except in connection to M.C.'s assault. The article also selectively neglects to mention that the alleged crimes occurred between 1986 and 1991 (when the man was 18-23); M.C. was born in 1989.

“expert” opinion? In the context of McKenna’s suspicion of children’s ability to testify to their own abuse, the possibility that M.C. was sexually assaulted by her father introduces the possibility that she was not assaulted by the three accused. On the stand, McKenna explains that this (now) was *not* a surprise to her because she noted “other, less recent damage to the girl’s hymen” (Warick 24 May 2003).¹⁰⁶ In this, she invokes a plethora of insinuations: the victim is not a virgin, she is not an innocent child, but a sexually active woman; her damaged—not broken—hymen may be the result of incest. The word “damage” insinuates violence, dismissing a host of possible explanations for the state of M.C.’s hymen (e.g. consensual sexual activity, self-discovery, an accident, etc.).

Forensic evidence collected from a sexual assault victim may give evidence of recent sexual activity not related to the crime at issue; in this case, it facilitates a focus on corroboration *and* M.C.’s sexual reputation (Du Mont and Parnis 1999a). The DNA collected from M.C.’s underwear is not from any of the suspects and, therefore, should not (in theory) be admitted as evidence in *this* case, but the match to her father is made public anyway—revictimising M.C., exploiting her, ignoring her right to privacy, reifying corroboration, and diverting blame from the accused while giving the court and public what they seek: a villain. In Feldberg’s¹⁰⁷ research on use of sexual reputation evidence, Du Mont and Parnis (1999a) explain that it “may be indirectly summoned through the legal querying of medical experts regarding the nature and extent of clinically-observed genital injuries.” That thin mucous membrane (on which so much value is placed in patriarchal society) cannot, in itself, tell the story that McKenna suggests it reveals but, in conjunction with the DNA and the suggestion of incest, McKenna makes it seem as if it can. Forensic evidence

¹⁰⁶ Recall McKenna: “All any physician needs to do is say, ‘the hymen is intact’ or ‘the hymen is not intact’” (Driver 2004).

¹⁰⁷ See G. Feldberg. (1997).

elides the non-requirement of corroboration, bringing with it sexual history that “can be used as a means of suggesting that the woman is unchaste or promiscuous, and therefore may have consented to the sexual activity with the perpetrator” (Du Mont and Parnis 1999a). For the defence, that the DNA matched her father and not a consensual partner may have changed the approach but not the strategy—i.e. to discredit the victim.

While McKenna refers to the hymen as damaged, not broken, her testimony insinuates that the M.C. is not a virgin—that, in conjunction with the revealed source of the semen on her underwear, insinuates incest. The possibility of these deductions deploys psychoanalytic discourses to “explain” M.C.’s sexuality—and privileges McKenna’s power to speak of incest (what Foucault (1990) calls the universal, repressive taboo (129)).¹⁰⁸ According to the *StarPhoenix*, McKenna “exposed several flaws in the investigation, and said some of the young girl’s physical and emotional trauma could have been caused by her father rather than the men accused” (24 May 2003). Throughout the trial, the possibility of incest becomes an assumption that is made to function as fact. It is used to permit M.C.’s sexual assault by Edmondson, Kindrat, and Brown, in that the alleged incest is used to substantiate evidence—her behaviour, physical injuries, and her testimony—that she was never a victim of these men because she was a victim of her father.

In diverting attention from the crime at issue and accusations against the rapists-who-don’t-look-like-rapists to alleged incest by an Aboriginal father, the semen “surprise” introduces a

¹⁰⁸ Foucault (1990) explains that “an entire politics for the protection of children or the placing of ‘endangered’ minors under guardianship had as its partial objective their withdrawal from families that were suspected—through lack of space, dubious proximity, a history of debauchery, antisocial ‘primitiveness,’ or degenerescence—of practicing incest” (129). These such politics helped to justify the removal of Aboriginal children from their families to residential schools, foster homes, and other state-run or -sanctioned institutions (where, in addition to their forced assimilation and attempted cultural genocide, many were sexually abused by their “protectors”).

narrative that may be preferred, by a predominantly white audience (jury and *StarPhoenix* readers), to the one offered by M.C. This preferred reading is facilitated by the confirmation of identities involved in the racialisation of the alleged incest; Aboriginality is evoked implicitly and explicitly. Warick makes no mention of *how* the father's DNA was matched to the semen,¹⁰⁹ but he does racialise it—under the rubric of forensics and statistics—in his statement that “only one in 11,000 First Nations men have the same DNA” (18 June 2003). First, “First Nations” is not a political and cultural designation, not biological racial category; while all such categories are artificial constructions, “Aboriginal,” not “First Nations” should have been used here. Second, the assumption that the DNA must belong to a First Nations/Aboriginal man is encoded in the statement; third, the racialisation of the statistical accuracy of the DNA (purported to be accurate enough to be accepted by criminal and family courts) is not only unnecessary but contentious.¹¹⁰ Warick's seemingly innocuous statistical factoid is an illustration of inferential racism at work (Hall 1981, 36); it is loaded with racialised suggestions and assumptions. Warick races the forensic evidence, implicitly deploying stereotypes and common sense notions of Aboriginality to make sense of it.

Razack (2002) explains that the details that did emerge about Pamela George (that her cousin was in prison and her father had been accused (albeit falsely) of a crime) “only confirmed the equation of Aboriginality with violence” (149)—as does M.C.'s alleged incest and Warick's inferential racism. It also positions M.C. within a colonial frame, deployed since European contact with First Peoples to justify the colonial project and cultural genocide. Within this frame, Aboriginality is made to mean backwardness, violence, dysfunction, and criminality; in this, Aboriginal females need protection (by the coloniser)

¹⁰⁹ See footnote 104 (above).

¹¹⁰ For an interrogation of the myriad of problems involved in DNA testing for racial genetic provenance of First Peoples, see Yona (2001).

from Aboriginal men. A familiar story seeps into this one—an old story, persistent and continually rewritten to justify colonisation. In removing M.C. from her home and her father’s alleged sexual and physical abuse, M.C. is thrust into the role of Spivak’s (1988) subaltern in a story of “white men, seeking to save brown women from brown men” (305).

These multiple and intersecting narratives are active in the frameworks of interpretation being put forth by Harradence: M.C. *is* a poor little Indian girl, abused by her father, a “victim” of her own culture and people. Sarah Carter’s work (1997) informs how characterisations of Aboriginal women served the colonial project. In dominant colonial discourses, Aboriginal women were framed as “victimised and subordinated within their own society” (162)—justifying intervention. Harradence underlines that M.C.’s father accompanied her to McKenna’s office; McKenna, Warick tells us, “admitted that the girl may have been in her altered emotional state because of her potentially abusive father’s presence rather than from the alleged assault by Edmondson” (24 May 2003). McKenna’s “admission” (of a possibility based on assumptions about circumstantial evidence and not any discernible “fact”) shifts the onus from one abuser to another possible abuser, shifting the framework of interpretation from one theory to another.

In an article about M.C.’s testimony in the Edmondson trial (23 May 2003), Warick devotes as much space to her father and familial situation as he does to her testimony. Implicitly substantiating accusations against the father, Warick explains that he was removed from the courtroom that day. Warick paraphrases the father’s “denial” of the allegations of incest and his disbelief that his semen was found on his daughter’s underwear. Warick also paraphrases the father’s assertion that “the defence is trying to distract the jury from Edmondson’s assault on the girl” (not *his daughter*). The father, vilified and demonised in court, has no credibility.

A discursive closure has been enacted upon him. The defence *is* (as part of its defence strategy) trying to distract the jury, but because this contention is coming from a man accused of these incestuous acts (i.e. whose alleged actions constitute that distraction), M.C.'s father's otherwise plausible accusation is framed as defensive and desperate. The credibility this man may have had as the father is destroyed by the taint of accusation that he is the abuser; his subject position has changed. He, too, is unqualified to speak; in this particular regime of truth, he sexually abuses his child. The "truth" and the lack of a charge against him, are moot—it is the regime of truth that matters.¹¹¹ In that regime of truth, everything he says as a father is tainted by these allegations and evidence against him; a discursive closure has been enacted upon him. Within this context of assumed incest, M.C.'s family is also framed as deviant. Warick repeats that the girl is in foster care, which is structured to support the inference that this is to protect her from her father. He observes that she "ran to him" outside the courthouse during lunch recess, until "a social worker led him away while she cried" (23 May 2003). He explains that she misses her family, and that she called them the night before her testimony (adding that the father says he did not discuss the case with her, framing it as a denial). That M.C. talks to her family, misses her family and seeks their support through this devastating ordeal is coded as suspicious, if not deviant. Warick also unnecessarily refers to her parents as her "birth parents," distinguishing them from foster parents while distancing them from M.C. Without explicitly mentioning race, Warick reifies stereotypes of Aboriginal families as dysfunctional, Aboriginal children as better off in the care of the state, and Aboriginal men as violent.

¹¹¹ My intention is *not* to defend the father against the accusations, only to explicate how it effectively diverts from the crime at issue. Aboriginal women and girls are subject to patriarchal forces from outside *and within* their communities—this is the gendered violence they experience continually. (The very need to explain my treatment of this issue is evidence of the success of the defence's tactic; I, too, seek to distance myself from the father, from being seen to defend him through my analysis of how this discursive strategy is deployed.)

Rape Victim → Incest Victim → Sexually Unpredictable → Sexual Aggressor

The discursive shift from M.C. as rape victim to incest victim offers a venue for a deployment of McKenna's expertise. The *StarPhoenix* never problematises her expertise, tarnished or otherwise compromised as it might be; she is vested with the authority to objectively and disinterestedly make sense of evidence (as if it exists in a pure, untainted, unbiased form). As such, McKenna's medicolegal expert testimony circumvents M.C.'s rights to protection and privacy—she is authorised to testify about M.C.'s:

1. virginity (intact or damaged/broken hymen)
2. recent sexual activity (semen on her panties)
3. physical injuries (sustained in normal play or during prior sexual encounters)
4. sexual maturity (woman not child: sexually active, looks older than she is, physically mature, menstrual)
5. urine test results (presence of alcohol)
6. behaviour (including any and all evidence to support McKenna's theory: the quantum leap from may-have-been sexually abused by her father to being a victim of sexual abuse to many such victims act sexually aggressive).

Interjected within McKenna's framework of interpretation, otherwise-normal details or observations are demonstrations of M.C.'s maturity and expressions of her sexuality. Her biological functions, namely that she started her period at 12, are presented as evidence of her womanhood and sexuality. McKenna also noted that she found it "unusual that the girl wore lipstick to her appointment" (Warick 24 May 2003). This is not "unusual": M.C. is part of the coveted "tween" demographic to which cosmetics are actively marketed; in the capitalist context, that M.C. is wearing lipstick is an indicator that she is a good consumer—but within the rape frame, lipstick is a device employed to sexually attract men.

McKenna's testimony supports the defence strategy to create M.C. as a sexually experienced and biologically mature young woman, undermining her child-ness (and to circumvent discursive associations of the accused with paedophilia). The more womanly the defence can construct M.C., the more plausible and acceptable the accused's *attraction* to her becomes.

McKenna lays the foundation for the defence strategies of mistaken age (she looked old enough), mistaken consent (she wanted it), and misplaced blame (i.e. the father is the real abuser and the accused are innocent victims of circumstance). M.C. herself emerges through multiple discourses, occupying multiple subject positions: the deluded patient (who requires the expertise of the doctor/psychiatrist to explain her behaviour), the nymphet (adorned to attract), the Squaw-posing-as-Princess (dirty, tainted), the sexual aggressor. Through the *StarPhoenix*, McKenna and the defence present numerous options that would “explain” (or explain away) the accusations against Edmondson, Kindrat, and Brown; the “something awful” (22 May 2003) that Somer feared happened to M.C. is given not one explanation, but several—all of which shift the onus from the accused to the victim.

To be effective, the defence must eradicate sympathy for M.C. or, at the very least, supplant it with empathy—an understanding of why she “lied” (i.e. because she was embarrassed or ashamed about the incest) or why she acted as she did (i.e. forced herself on the accused). McKenna testifies that child sexual abuse victims have a propensity to “sexual unpredictability” which, taken up by the defence, becomes a propensity to be “sexually aggressive.” The *StarPhoenix* reports that McKenna testified that “girls who have been sexually abused ‘usually’ act in a sexually unpredictable or aggressive manner” (23 May 2003). The “usually” is a direct quote, an indication that McKenna did not say that all girls act like this or that M.C. did in this case, but that “usually” becomes lost in how this theory is interpreted by the defence, the judge, and the *StarPhoenix*. In the discursive trajectory this theory takes, M.C. is constructed as sexually unpredictable and/or sexually aggressive. The alleged incest is made to make sense that this girl and her behaviour are to blame for her alleged rape, to explain why she would—as the defence argues—throw herself upon Edmondson, framing him as the victim of *her* sexual aggression and proclivity.

Uncontested and unproblematised, this became a dominant narrative for this case; any evidence to contradict McKenna's theory or the defence's manipulation of it were either not presented to the court or not selected for publication in the *StarPhoenix*.¹¹² The most obvious question—what is sexually *predictable* behaviour?—is not asked, demonstrating that the credibility and incontrovertibility of the statement derives from McKenna's symbolic power and purported expertise and not the statement itself (Schissel 1997). Norma Buydens (2005) explains that the pathological construction of M.C. as possibly sexually unpredictable and aggressive because of possible past abuse “was minimally disguised as medical opinion” (1). She explains that McKenna's theory “was out of step with the psychological literature, which suggests that sexual acting out, seen in a minority of victims, is much less common than underdeveloped sexual desire as an outcome of abuse” (i.e. it is not “usual” at all). Notably, McKenna's “minimally disguised medical opinion” remained virtually uncontested. The Crown did not call a doctor or psychologist or psychiatrist (i.e. an expert with the credentials required to challenge McKenna) to present Buydens's argument to the court. Rather, McKenna stands as the ultimate authority on forensic evidence and, thus, the behavioural effects of sexual abuse; the jury (and *StarPhoenix* readers) never hears that it may be more likely in such cases for a child like M.C. (a characterisation that is itself based itself on McKenna's assumption that she was sexually abused) to have and *underdeveloped*, rather than overdeveloped, sexual desire.

McKenna's testimony is the point of departure for a discursive trajectory that constructs M.C. as a complicit figure/instigator. Harradence manipulates McKenna's “expert opinion” to substantiate Edmondson's claim that M.C. “initiated sexual contact” by climbing into his

¹¹² The only semblance of contestation reported was the Crown's assertion that, because ejaculation was not a factor, the semen evidence does not change the case (21 May 2003).

lap and kissing him (29 May 2003). Further, Warick also reports that “Harradence again raised alleged sexual abuse the girl has suffered from her father, saying abused children can act in sexually unpredictable ways.” Here, the “alleged” remains attached to the incest and sexual unpredictability,¹¹³ which remains a *possibility*, not a fact. Further, Brayford’s (Brown’s lawyer) elides the ambiguity inherent in McKenna’s theory (the “usually”) and presents both the *possibility* of abuse and the *possibility* that this “usually” causes sexual unpredictability¹¹⁴ as *facts*: further, “usually sexually predictable” becomes “sexually aggressive.” The headline screams “Girl, 12, sexual aggressor, court hears” followed by the lead: “Defence lawyers [Brayford and Eisner] for two men [Brown and Kindrat] charged with sexual assault painted a picture Monday of a ‘sexually aggressive’ girl who convinced the men she was old enough to legally consent to sex” (Warick 24 Jun 2003). In questioning Edmondson,¹¹⁵ Brayford poses his assertion as a question—“She’s the one that’s been sexually aggressive?”—to which Edmondson answers, “I guess so.”¹¹⁶ Even Edmondson seems uncertain of this preposterous suggestion, but Brayford manages to convince the most important person in the room of the veracity of this characterisation: Judge Kovach.

Sitting in Judgement

Jane Doe (2003) explicates the formal, ritualistic, and unassailable power of the judge in a courtroom: “His word cannot be questioned. He does not have to explain. He answers to no

¹¹³ Again, this unpredictability is given no comparative reference (i.e. no explanation of what is sexually “predictable” behaviour).

¹¹⁴ Buydens (2005) argues that this is an “illogical proposition” (1) but the Crown appears to have called no expert witness to contravene McKenna’s theory or the defence’s manipulation of it.

¹¹⁵ Edmondson testified for the defence in the Kindrat-Brown trial, but not in his own defence at his trial.

¹¹⁶ The first person to have used *aggressor* to describe M.C. was, evidently, the RCMP officer who interviewed Edmondson on the day of the assault. The officer suggested to Edmondson that he “may have been drinking, reacting to peer pressure, responding to the girl having come-on to him, and so on, saying that for all he knew the girl might have been the aggressor” (Edmondson Appeal 2005). This is not reported by the *StarPhoenix*, even though reporters would have heard this in Edmondson’s trial; thus, in the paper’s mediated accounts, the proposition is linked directly to the professional opinion of McKenna, the expert, and not to this RCMP officer’s discursive tactics—activating rape myths (i.e. she asked for it, she wanted it)—in procuring Edmondson’s “confession.”

one” (63). The judge has the ultimate power over the regime of truth and, thus, the power to decide if the victim is “lying or telling the truth” (63). Doe argues that, in sexual assault cases, this “truth” is tied up with the judge’s impression of the victim: “how angry you are and if that anger is justifiable or in proportion,” whether or not you are supported by family and friends, whether or not you speak English. The judge decides “how serious your rape was and what penance or sentence the rapist will receive. If any” (63).

The severity of a sentence is to reflect the severity of the crime; in the social contract, we entrust the judiciary take up a jury’s guilty verdict and, if necessary, determine a punishment that fits the crime. In sentencing Edmondson, Kovach says of the guilty verdict: “There is certainly doubt in my mind” (05Sept’03), deferring to McKenna, citing her determination that abused children may exhibit “unpredictable sexual behaviour” (5 September 2003). His explanation of his doubt specifically privileges the defence’s interpretation and application of McKenna’s theory: he tells the court that “the girl may have been a ‘willing participant’ or ‘the aggressor’ in the incident.” In this, McKenna’s actual testimony and the conditions upon which it was based have been forgotten. Recall that Brayford’s manipulation of McKenna’s theory (from “usually sexually unpredictable” to “sexually aggressive”) occurred in the Kindrat-Brown trial (i.e. the second trial), *not* Edmondson’s (the first), but Kovach uses Brayford’s discursive construction of M.C. to make a judgement about Edmondson’s sentence—i.e. using utterances from the Kindrat-Brown trial to mitigate Edmondson’s crime and diminish his culpability.¹¹⁷ If another judge had presided over the Kindrat-Brown trial, testimony and statements from that trial would not have been incorporated into Edmondson’s sentence.

¹¹⁷ Edmondson was tried and convicted before Kindrat and Brown were tried and acquitted, but was not sentenced until after their acquittal.

Kovach's discursive power requires contextualisation. In return for this power, there is an expectation that Kovach will exercise it responsibly. As Hall et al. (1979) explain, the law is above (or outside) the operations of the government and above the citizenry. This ideological positioning, and its "rituals and conventions," help to "shield its operations from the full blaze of publicity and the force of public criticism" (33). The juridical system and, in particular, the judiciary, are shielded by the fiction "that all judges impartially embody and represent 'the Law' as an abstract and impartial force" (33). Thus, while judges act as powerful primary definers (i.e. their words reproduced and disseminated by the press and have great influence over how people understand this case), they are shielded from criticism (reifying the fiction of their impartiality). Kovach's words bear that "above us" authority yet he provides some of the most problematic frameworks of interpretations for this case, demonstrating once again that hegemony works very hard to protect fiction as fact.

Kovach's bias toward the defendants is apparent in how he speaks about the defendants throughout both trials and, most importantly, in how he instructs the jury as they begin deliberations in the Kindrat-Brown trial. He defines for the jury what is at issue, what they are charged to consider, and lays out a framework of interpretation for their deliberations. In his charge to the jury in the Kindrat-Brown trial, Kovach called the accused "boys" not once, but *six* times (Warick 26 June 2003). Warick observes that that this "raised the ire" of Parker, the Crown prosecutor, who called the naming "inappropriate," especially because while he called the two adult perpetrators "boys" he never referred to M.C. as a "girl" or a "child"—he called her "Ms." In referring to the defendants as boys, Kovach is constructing them as boys, not men—creating what Parker calls an "unwarranted sympathy" for them. Parker is fully aware of Kovach's discursive power; he insists that Kovach refer to them as "men," but Kovach elides his discursive power. Defending himself against this charge,

Kovach explains that he “warned the jury that he might refer to the accused a number of different ways and not to read anything into it” (26Jun’03)—completely obfuscating power relations between himself and the jury.

While Kovach claims there is nothing to “read into” his slippage, this is not the first time he has been criticised for calling accused rapists “boys” in a courtroom—it is a pattern. Prior to being called to the bench, Kovach was a defence lawyer. One of his most high profile clients was Steven Kummerfield, convicted of manslaughter in the rape and murder of Pamela George in 1992. As part of his defence strategy in that case, he constantly described Kummerfield and his co-defendant, Alex Ternowetsky (also men in the 20s) as boys. As part of his effective strategy to strip George of personhood and focus on the promising lives of Ternowetsky and Kummerfield, Kovach argued that these “boys did ‘pretty darn stupid things,’ but they did not commit murder” (qt. in Razack 2002, 124-5). In that case, while his tactics may be considered reprehensible, he was a defence lawyer acting on behalf of his clients; his discursive manipulations were part of his defence strategy. His role, though, has shifted dramatically, and so has his power. That he is using the same tactics here, as a judge (a position that demands the appearance of objectivity), is reprehensible, and a flagrant abuse of his discursive power in that role. Yet he neither admits fault nor recognises that power. Rather, he negates Parker’s insistence that he stop using the word “boys”—simultaneously asserting his authority and eliding his discursive power. Kovach’s self defence is preposterous. The jury is looking to him—as they are told to do—to name what is at issue and provide jurors with the framework of interpretation *they require* to bring a verdict. He is charged with being objective and unbiased but, in referring to the defendants as boys, reflects a sympathy for them that is decidedly un-objective and biased and, in fact, diminishes the responsibility of the men for their crimes. Kovach is also providing the jury with the means to insert the

defendants into a “boys will be boys” narrative: boys do stupid things, boys get drunk, boys get into trouble with girls.

Kovach instructs (as is “standard”) the jury to ignore “anything and everything” they may have heard about the case in the press and from any other source (26 Jun 2003). He is presenting conflicting messages to the jury (and, through reporters, to *StarPhoenix* readers), telling them to ignore everything they hear outside court (i.e. only pay attention to what he *permits* to be said), but not to read anything into what he says (i.e. even if it may sound like he is sympathetic to “the boys,” it is just a word he is using to refer to them). This raises an important point about the expression of discursive power over frameworks of interpretation that illustrates how hegemony works to rein in criticisms that challenge that power. In a scathing letter written to the *StarPhoenix* (25 September 2003), Robert J. Gibbings (authorised to speak from his position as president of the Law Society of Saskatchewan) defends Kovach by defending the juridical system upon which his authority rests. He publicly admonishes the *StarPhoenix* for reporting that “advocacy groups and others” (denying his own advocacy role) noted that Kovach defended Kummerfield. Gibbings also alleges that the *StarPhoenix* “editorialised” in describing that case as one that “inflamed racial tensions throughout the province.” Gibbings calls this a “clear, and scandalous, imputation...that Kovach was racially motivated by his representation of an accused person while a lawyer.” As Gibbings’ defence illustrates, the judge’s history is officially off-limits. Citing the institutional line that a lawyer’s job is to defend his client to the best of his ability—this is what makes the system “work”—Gibbings argues that defending a client in a sexual assault case “does not mean that the lawyer is in favour of sexual assault, any more than representing a drug dealer means the lawyer is in favour of the use of illicit drugs.” Gibbings is enacting discursive closure on any criticism of Kovach that derives from his prior

work as a defence lawyer. The issue is not that he defended Kummerfield, but how he defended him: by sexualising and racialising George and activating rape myths to construct his client as a sympathetic figure. This, then, raises important questions about what Kovach deems to be acceptable discourse in his courtroom as a judge.¹¹⁸

This letter exemplifies a convoluted approach to race and a gross misunderstanding of discursive power and systemic racism. What is at issue in criticising Kovach is not that he defended Kummerfield or whether or not he makes judgements based on race¹¹⁹—rather, it is how Kovach’s courtroom discourse (as a lawyer and, more importantly, as a judge) reproduces racism and sexism, particularly in his treatment of defendants accused of violence against Aboriginal women.¹²⁰ His dismissal of criticisms about this slippage explicates his opinion—implicitly, explicitly, or otherwise—that this is acceptable courtroom speech and belies his arrogant perception that this does not unduly influence how the jury interprets the defendants and their culpability. Razack (2002) argues that the language Kovach used in defending Kummerfield “contributed to masking the violence of the two accused and thus diminishing their culpability and legal responsibility for the death of Pamela George” (125). Thus, in his own career as a defence lawyer, Kovach found it acceptable to use rape and race mythologies to defend his clients; in turn, he sees no need to censure Harradence, Brayford, and Eisner’s use of similar tactics in defending Edmondson, Brown, and Kindrat. In fact, he

¹¹⁸ To wit, Gibbings adds that “the suggestion that the sentencing decision was somehow racially motivated, it might be pointed out that, since his appointment to the bench, Kovach has acquitted a First Nations (sic) who was charged with the sexual assault of a white person.” This is a convoluted defence. There is no context provided, no details about this assault or case; that Kovach acquitted “a First Nations” is, in and of itself, evidence that Kovach is *not* racially biased.

¹¹⁹ Insisting that race did not play a role in the Ternowetsky and Kummerfield trial, Kovach told Barb Pacholik of the *StarPhoenix* that the accused “are a couple of pretty damn good boys as far as I’m concerned. ... Had it not been for the alcohol, they would never have found themselves in this position, and that’s why the whole racial thing sort of burns me” (21 December 1996).

¹²⁰ In his defence of Kummerfield, he put George on trial, arguing that she consented to rape because she engaged in a contract as a prostitute. At sentencing, Kovach explained to the jury that Ternowetsky and Kummerfield “were out in the country doing what happens apparently on that road on a regular basis... This is a fairly common area for that type of activity to be taking place. [George] wasn’t stabbed forty times. There wasn’t a hammer used” (quoted in Razack 2002, 150).

condones and supports their tactics by himself calling them boys. For instance, he does not question Harradence's accusation that M.C. lied "to these boys" (23 May 2003) and allows Brayford to call them boys throughout the trial (19 June 2003; 28 June 2003). In one article, Warick removes the contentious word from a direct quote from Brayford's cross examination of M.C., replacing "boys" with "(the men)"—the parentheses covering for Brayford's deliberate discursive slippage. At another point, Warick (intentionally or not) falls into using the term himself in an article written about the Crown's appeal of the Kindrat-Brown acquittal—which explicitly speaks to how Kovach calling the accused "boys" may have influenced the jury (24 July 2003). "Boys" is, apparently, infectious. If not for Parker's objections (and those raised by anti-racist and feminist trial observers), the moments of slippage from men to boys may have gone unnoticed and remained uncontested, as the "good ol' boys" frame took over. Still, these contestations do little to dispel the notion that these men *are* good boys who do not look like rapists. As the frequent use of "boys" by the defence lawyers and Kovach, Kovach's denial of the implications of this, Gibbings letter defending Kovach, and Warick's own use of the term to describe the defendants indicates, this is not recognised as discriminatory speech. The power to define includes the power to make power and bias invisible and to enact discursive closure on those who are seen to be "making something out of nothing."

CHAPTER FIVE

**Looking for Trouble:
Reactivating Rape Myths in the re construction of the Victim**

In advance of the Edmondson and Kindrat-Brown trials, descriptions of the crime were provided to the media via RCMP spokespeople, Crown prosecutor Parker, defence lawyers Brayford (for Brown), Harradence (for Edmondson) and Eisner (for Kindrat), members of M.C.'s family, and various other sources; testimony and arguments from the preliminary hearing were banned. This limited what the public “knew” about the crime in all “news” reported throughout the two years leading up to the trials. Thus, the *StarPhoenix* constructed a background synopsis—a sentence or two in each article, provided as a refresher to readers. M.C. was always described as a 12-year old Aboriginal girl (always small-a) whose name and identity were protected by a publication ban. She was also, in many cases, notably “not from Tisdale.” In most, Edmondson, Kindrat, and Brown were named; the 12-year-old Aboriginal girl “told police the three men, all in their 20s and from Tisdale, picked her up one Sunday afternoon in September 2001. She was looking for a ride in Chelan, near Tisdale” (20 May 2003). The details provided by the *StarPhoenix* in these synopses varied little between the fall of 2001 and the spring of 2003.¹²¹

In each account, reporters repeat this “background”: *she was looking for a ride*. This seemingly innocuous factoid makes M.C. the catalyst for the crime in question—her risky behaviour precipitated the events, akin to how media framed (and continue to frame) women and girls

¹²¹ For example: “She told police the three men picked her up while she was looking for a ride in Chelan and sexually assaulted her after taking her to a bar in a neighbouring town on Sept. 30, 2001” (30 August 2002); “The trio are accused of sexually assaulting the girl on Sept. 30, 2001 after picking her up while she was looking for a ride in Chelan, near Tisdale” (31 August 2002); “She told police three men picked her up while she was looking for a ride in Chelan. She was sexually assaulted after being taken to a bar in a neighbouring town on Sept. 30, 2001” (12 February 2003). See also: 4 October 2001; 16 October 2001; 28 August 2002.

missing and/or murdered along the Highway of Tears as hitchhikers, Pamela George as a prostitute, and the missing/murdered women from Vancouver's Downtown Eastside as prostitutes and/or drug-addicts and/or living on the street. Read: if she had not been looking for a ride, none of this would have happened. What every *StarPhoenix* reader would know—but is made to forget—is that if you want to get out of a Saskatchewan hamlet the size of Chelan, there are few options; there is no public transportation, no taxi-cab, no Greyhound bus. Much like the towns and reserves along the Highway of Tears, depending on people who have cars or hitching rides are the only ways to get anywhere.

Also, dominant discourses work to portray these three men as nice boys who look like nice boys; this works in concert with that “common knowledge” of what rapists are supposed to look like. But, that M.C. may, too, have thought that they didn't look like rapists—they told her she could “trust” them (23 May 2003; 19 Jun2003)—is forgotten. The implication is that *we* are to trust them to tell the truth, to not be rapists because they do not look like rapists and/or because they are nice boys, but that she did—that is inexcusable, risky behaviour. This contradiction remains uninterrogated. The media discourse reinforces the culture of fear in which women are supposed to live—if we do not trust anyone, never walk alone, never take a ride with a stranger, never unlock our doors or walk in parks alone at night, we can avoid rape. It is our *responsibility*. The media discourse about M.C.'s rape serves, then, as both “a warning to women and a form of social control that outlines the boundaries of acceptable behaviour and the forms of retribution they can expect for transgression” (Meyers 1997, 9).

M.C.'s “transgression” is amplified by the accusation that where she encountered the men—outside the Chelan Hotel—was in itself asking for trouble. On at least eleven

occasions,¹²² in their background synopsis of the sequence of events on the day of the sexual assault, *StarPhoenix* reporters reiterate that, when Edmondson, Kindrat, and Brown first encountered M.C., she was sitting on the steps of the bar. This, in conjunction with the oft-repeated “fact” that she was looking for a ride, reinforces the framework of interpretation in which she is to blame because she *put herself at risk*. Chelan is not a town, not even a village: it is a hamlet, population: 52. That Chelan even still *has* a bar is remarkable and, in a place this size, this so-called bar also serves as hotel and restaurant, housing the only public washroom and payphone for miles. In Chelan, there is nowhere to sit *but* on the steps of the bar, or a stone’s throw from them. Despite knowing this—as *StarPhoenix* reporters would also have known—that she was sitting on the steps of the only business in Chelan is framed as a factor in M.C.’s growing list of transgressions (risky behaviour, taking a ride from strange men, drinking beer, being attractive, lying about her age, etc.) that blame her for her rape. This context is elided—the bar steps are framed as degenerate space¹²³ and, by sitting there, she put herself at risk, making herself vulnerable to whomever may be coming out of that bar. Framed in this way, her vulnerability is a taken-for-granted assumption that, in turn, provokes “questions of complicity” (Meyers 1997, 9): was she asking for it? why was she making herself vulnerable to potential drunks coming out of the bar? did she provoke it?

In his summation in the Kindrat-Brown trial, Brayford capitalises on such questions, supporting and reinforcing such rape myths. He tells the court that the three men encountered M.C. on the steps of the bar and “not on the school grounds” (24 June 2003). There is no school in Chelan, let alone school *grounds*, but Brayford’s insinuation—one that

¹²² See the *StarPhoenix* 29 August 2002; 21 May 2003; 23 May 2003; 19 June 2003; 25 June 2003; 17 July 2003; 24 July 2003; 4 September 2003; 5 September 2003; 31 July 2004; 18 January 2005; 12 May 2005.

¹²³ Razack (2002) uses *degeneracy* to “denote those groups Foucault describes as the ‘internal enemies’ of the bourgeois state—women, racial Others, the working class, people with disabilities—in short, all those who would weaken the vigorous bourgeois body and state” (126).

reinforces her perceived complicity—goes unchecked; Warick, who reports Brayford’s comment, does not provide the reader with this information.¹²⁴ Brayford’s rhetoric also insinuates that the steps of the bar are a degenerate space and, by being in it, M.C. invites or implies consent to violence. The implication is that while M.C. was not in what is normally perceived as a degenerate space, her presence made it so. She was in *white* space, a space in which a young Aboriginal girl would seem out of place—so out of place that the men identify her as Pocahontas.¹²⁵

Recall that she testified that, upon encountering her (in this space where their presence is unquestioned but hers is exceptional), one of the men said, “I thought Pocahontas was a movie”—interpellating her as Pocahontas. The speaker presumes that the other two men share his white, patriarchal, colonial understanding of *Pocahontas*—attractive, young, erotic, sexually available, awaiting discovery by them. This naming, and every recorded and reported utterance that followed, indicate that Edmondson, Kindrat, and Brown (like Ternowetsky and Kummerfield, in their encounter with Pamela George) “seemed to possess a collective understanding” of M.C. “as a thing” (Razack 2002, 140). This objectification, sexualisation, and racialisation of this girl-child is something that “their exclusively white worlds would have given them little opportunity to disrupt” (140). Notably, that her attackers identified her as Pocahontas is never repeated in the *StarPhoenix* as part of the background of this case (in contrast, that they “found her on the steps of the bar” is almost always reiterated); it only appears as a direct quote from M.C.’s trial testimony. The colonial nature of this encounter is, thus, effectively elided by the *StarPhoenix*. Within the media

¹²⁴ Again, thanks to quotations from the trial transcripts provided in McNinch’s forthcoming article, I am able to see how Brayford’s insinuation is taken up by Judge Kovach in his judgement that, if M.C. “was a young girl going from volleyball practise after school or something and hopped into the car with three guys, it would be a wickedly different situation, in my estimation. Like I think the complainant’s background here is obviously a significant factor, at least from my perspective” (*R. v Edmondson*, 784, qt. in McNinch, forthcoming).

¹²⁵ See pages 45-48 (above).

frame clamped over this event, discursively reinforced by the defence, M.C. is to blame for not only putting herself in harm's way, but for being so damn pretty, like a Pocahontas waiting to be discovered by these three men. M.C.'s attackers triply inscribe her as young, Aboriginal, and female in a colonial encounter; while cases like those of Pamela George and Helen Betty Osborne could/should have informed the framework of interpretation constructed to explain what happened to M.C., the *StarPhoenix* seeks to make all such context and precedents *invisible*, actively denying the intersection of race and age and sex. Rather, M.C.'s every move is constructed as a transgression that directly contributed to her rape, reproducing the conditions that produced that rape (and will produce more rapes).

Mediated Discourse: Reporting on M.C.'s Testimony

The *StarPhoenix* reports on M.C.'s testimony, but it is not M.C. speaking. Her story is told in heavily mediated snippets, quoted from her testimony and often paraphrased by reporters; her voice is subsumed in framing devices and always-already mapped onto the ongoing narrative written by the *StarPhoenix*. After almost two years of articles, editorials and columns, and letters to the editor that name and frame her and tell her story without her consent or input, debate her guilt or innocence, argue how old she looks, enact discursive closure on those who seek to make the role of race visible, etc., a framework of interpretation has already been plotted and narrated. What can she possibly say to change it? Where does what she says fit into this story now?

Recall that Edmondson's statement was played on the first day of his trial; even to the "untainted" jurors (who surely read about or heard about this case before assuming duty), M.C. is always already in the position of denying his story (and what the media has appropriated to make *its* story), not telling hers. In her testimony in Edmondson's trial, she

must work against his narrative of the event—including contradicting his claim that she “was saying she loved me and wanted to have sex” (21 May 2003). McKenna has deconstructed and reconstructed her injuries and behaviour within medical and psychoanalytic discourse, figuring her as attractive and likely sexually unpredictable or aggressive and probably abused by her father. The defence and Crown have laid out their “facts” in their opening statements and interviews with reporters. Somer, RCMP officers, bar owners...each have contributed to an overall narrative in which she may be a sympathetic figure, but is, ultimately, to blame. Warick introduces her testimony as “her version of the event” (23 May 2003), reinforcing Foucault’s theory that there is no Truth, but “regimes of truth.” Hers is but a *version*.

The article on M.C.’s testimony in the Edmondson trial bears the headline: “Teen cries while describing assault” (23 May 2003); this is deemed to be the most important information in the article. Headlines offers “retrieval clues” (van Dijk 1998, 228) to help readers understand articles, and to encode them within a preferred framework of interpretation. In this headline, the sexual nature of the assault (as sexual violence and anti-woman violence) is evacuated and, by identifying her as a teen (she has turned fourteen and is now, almost two years *after* the assault, the legal age of consent), the frame shifts from that of a girl-child to that of a near-woman, over the age of consent. The *StarPhoenix* only frames her as a teenager in this particular article—reporting her first public statements about the rape.¹²⁶ That this “teen cries” may evoke sympathy, but less than “child cries” or “girl cries.” The word “teen” indicates her shift from childhood to teen-hood, even though, at fourteen, she is barely that. Notably, she is describing not her rape or even her sexual assault, but

¹²⁶ In fact, this is the only headline in the archive at issue here—from 2001 to 2006—in which she is identified as a teen. In previous headlines, she is identified as “12-year-old” (4 October 2001), “Rape victim” (25 June 2002), “Girl” and “child” (28 August 2002), “girl” (12 February 2003; 22 May 2003), “12-year-old girl” (21 May 2003)—and only four days later, when the report is about the victim’s alleged assault by her father, the teen is again framed as a girl-child: “Young girl assaulted by father, court hears” (27 May 2003).

“assault.” The sexual nature of the crime and child-ness of the victim—retrieval cues to which *StarPhoenix* readers have become accustomed—are conspicuously removed from the headline *for this story*, in which we are, finally, able to read “her story.”

In setting the scene, Warick overdescribes what this *teen* is wearing: “a green nylon hooded shirt and black pants” (23 May 2003).¹²⁷ This “teenage” attire, in contrast to the black trousers, tie, and white shirt worn by Edmondson, is framed as inappropriate; the implication is that either she does not know the codes or is flouting them. Warick also races her—small-a Aboriginal—as he and his fellow *StarPhoenix* reporters have throughout the coverage. To reiterate, in this ongoing coverage, Edmondson, Kindrat, and Brown are always described as being “from Tisdale” while M.C. is not “from” anywhere. She is notably *not* from Tisdale; she is *Aboriginal only*—belonging to no place, from no place, dislocated and removed from land, nation, and community.

Having framed M.C. as such, Warick proceeds with his construction of her testimony. It is in this moment that she first testifies that the men came out of the bar and one of them¹²⁸ identified her as Pocahontas. As I demonstrated in Chapter Two, a host of assumptions are bound up in this utterance. Further, in this identification, power relations are made explicit but the media discourse seeks to make those very relations *invisible*—this naming of M.C. remains uninterrogated throughout the *StarPhoenix’s* coverage.¹²⁹ M.C. testifies that she accepted a ride because one of the men said: “Don’t worry—you can trust us” (23 May 2003). In her testimony, she takes responsibility for the lies she told them: that she was

¹²⁷ In the second trial, he follows suit, describing her in “a blue jean jacket, jean skirt, mini-socks and sandals” (19 June 2003).

¹²⁸ She does not refer to any of them by name in her testimony, or if she does, it is not reported.

¹²⁹ McNinch (forthcoming) interprets this utterance as one “intended by the men and taken by the girl as a compliment, even though it stereotypes racial difference and defines power relationships like any sleazy pickup line.”

fourteen, her name was Rochelle, she was from Saskatoon. She explains that she said she was 14 because she “just wanted to be older”—not to say: “I am the legal age of consent.” It was not a ploy to get them to have sex with her or to invite or permit any and all behaviour. She did seek anonymity in a false name, age, and address; to the three men, this may have led to assumptions that made what they did to her permissible (i.e. she would not be missed, that her race, age, and city home made her a convenient, disposable Pocahontas, available for their pleasure, to which they felt entitled). While reporters and primary definers used her “lies” to indicate complicity, no one ever accuses the three men of lying to her in their (paternalistic or sarcastic) claim that she need not worry, that she could trust them.

She testified that she did drink the beer they gave her and fell asleep. She says: “I remember waking up....I remember waking up to...one of the guys kissing me and touching me” and another “trying to pull down my pants and I was pulling them back up” (Warick 23 May 2003). She fell asleep (lost consciousness) again, waking up to “those guys doing stuff to me.” Warick draws attention to her semantic choices: while she says the men were “sexually touching” her, she again uses “stuff” to describe what they were doing to her lower (adjective used by Warick—indicating that she may have gestured or pointed to her vaginal area) “private part.” He points out, twice, that she “wouldn’t elaborate.” “Wouldn’t,” not “couldn’t”: her inability and/or refusal to explicate the details of her assault is contextualised as stubbornness and insolence. Warick drew a map, but used her child’s vocabulary and shame to highlight ignorance, not child-ness or innocence, and certainly not the inaccessibility to or alienation from anatomical discourse or the humiliation and/or fear inherent in talking about such intimate violence in open court. Throughout the article, Warick interjects observations of her behaviour (she “broke down” and was “crying repeatedly”)—supporting the headline, that what is at issue is a teen crying, privileging his

interpretations of her behaviour and not her words. Warick's construction of M.C.'s testimony reinforces myths that women are emotional and hysterical, and, possibly, unreliable subjects. In conjunction with the headline, he also activates Somer's characterisation of M.C. as "hysterical" (22 May 2003).

Ellipses scattered throughout the selected quotations illustrate Warick's description of her "pausing frequently and covering her face with her hands" (23 May 2003). She looked at Edmondson once, but "only for a brief moment." She was also "soft-spoken" and "had to be asked to speak up numerous times." Warick's observations exemplify two of the "professional imperatives" guiding crime news identified by Steve Chibnall: *titillation* ("which sacrifices understanding for superficial, sensational details") and *dramatisation* ("which directs attention away from the meaning of an event through emphasis on the sensational") (qt. in Meyers 1997, 21). For example, in relating her testimony in the Kindrat-Brown trial, M.C.'s words are subsumed in Warick's titillating and sensational details about her attire (jean skirt, mini socks) and dramatised descriptions of how she behaves: "She alternately cried, covered her face, breathed heavily and yawned" (19 June 2003). He writes that there were "frequent periods of silence, some lasting 10 minutes or more" and she "appeared extremely uncomfortable and stared at the floor throughout. She had to be asked several times to speak up, as her answers were often inaudible."

Crown Prosecutor Parker attempts to cloak her, to protect her by standing between her and Edmondson, but his objective is to "get" her testimony. In our juridical system, structured as it is in dominance, a victim is a prosecutor's means to an end; McGillvray and Comaskey (1999) explain that victims' interests are "subordinated to broader justice goals" (87). In the Kindrat-Brown trial, Parker asks her to identify the man who pulled down her pants in the

truck and Warick writes that she “refused” (19 June 2003)—again framing her fear as insolence. Within this, he taints her utterance: “I don't want to look at him.” Warick follows this with *her* explanation, in *his* words: “adding she's afraid of him.” *Adding*, not *explaining*; her fear is presented as an afterthought, a response to facing her attacker undermined by his assessment of it as refusal to cooperate. When Parker asked her what then happened outside the truck, Warick continues to frame her testimony within her behaviour: “She paused for several minutes, then said she couldn't answer ‘because I don't like saying it.’” She is being revictimised, stripped bare in open court, forced to reiterate yet again what these men did to her while they and numerous others gaze upon her. Jane Doe (2002) writes that the worst part of testifying was that

the rapist got to watch me too, to listen to and relive what he had done to me—the fear he had filled me with, the ways my life changed. He got to experience all over again the power hard-on that drove him. To vicariously rape me again. (71)

Jane Doe explicates the fear that silences M.C.; Warick does not. Rather, he frames M.C.'s behaviour as stubborn, blameworthy, even insolent. She is not performing her prescribed role: to testify.

In attempting to procure that testimony in the Edmondson trial, Parker asks her to write what she cannot speak. Warick quotes what she writes, verbatim: “they were using their penus (*sic*).” Reproduction of her misspelling is unnecessary; why reproduce it, when so much of what she says is already paraphrased and mediated? Is it to indicate that she is a child, or ignorant—i.e. the *dumb* of the four Ds (dark, dumb, drunk, and dirty) of the Aboriginal stereotype noted by Lobo and Talbot (1998, 173)? The Oxford Concise Dictionary defines *sic* as “used, spelt, etc., as written (confirming, or calling attention to, the form of quoted or copied words).” It is used, in this quote, “after a word that appears odd or erroneous to show that the word is quoted exactly as it stands in the original.” Warick could

have paraphrased or corrected the spelling error, but in reproducing it, he indicates that she is not *qualified* to articulate her experience. She cannot *say* penis, and, as Warick's *sic* makes clear, she cannot *spell* it. The "penus (*sic*)" is indicative of the symbolic annihilation of M.C.

Warick frames her as an unqualified and unreliable witness, corroborating the defence's discursive strategy to undermine her credibility. For instance, in cross-examination, Harradence takes advantage of both her silence and her limited explication while building a case for her lack of credibility. He notes "inconsistencies" in her statements to police, "where she mentions certain aspects in one statement but not in others" (23 May 2003); her intoxication and blackout are not interjected to explain these inconsistencies. He also "suggests" that she was "coached" in her testimony, recalling McKenna's testimony about child-witnesses wanting to please and being susceptible to suggestion (and the repercussions of believing them, e.g. the Sterling and Klaussen cases). Harradence gets her to "admit" that she "has talked to a large number of people about the alleged incident,"¹³⁰ and that "she has seen frequent news reports on the case" (23 May 2003). He is using the publicity he helped generate against her credibility¹³¹—and Warick, who has authored numerous articles on this case, elides his role in tainting M.C.'s credibility.¹³² The accumulation of *suggestions* of incredibility create the discursive groundwork for Harradence's shift from calling her *inconsistent* to naming her a *liar*: "You lied to these boys about your name. You lied to these individuals about your age. You lied to them about where you lived" (23 May 2003). She has already testified to all of this to the court, but Harradence reiterates it to enact the frame

¹³⁰ Warick's obvious paraphrase; M.C. would never call her sexual assault "alleged."

¹³¹ M.C. "admits" to watching reports about herself and her case; McKenna "admits" that she first heard about the DNA "match" from the *StarPhoenix*. This speaks to the pervasive influence of the media, and how media discourse can provide a framework of interpretation for this case to not only the public, but to those actively involved. M.C. is aware, then, of how she is being framed, reinscribing her fears of testifying. The testimony upon which the *StarPhoenix* reports is, at times, metanarrative: making visible that the people involved in this real-life courtroom drama are also characters in the ongoing media drama.

¹³² Throughout the trials, you could not pick up a local paper or tune into a Saskatchewan radio or television station without hearing something about this case.

liar—and, in repeating it verbatim in the *StarPhoenix*, Warick privileges Harradence’s framework of interpretation. Harradence also manipulates her admission that she had a beer to imply that she consented to intoxication—making her the architect of her blackout and whatever happened to her while she was in that state: “You decided you were going to have another beer. No one forced you to have another beer.” Harradence discursively constructs M.C. as a liar, effectively illustrating that she “consented” to most of that day’s events. In the flow of hegemonic discourse, from courtroom to public, Warick disseminates this inflammatory suggestion to his readers, substantiating it and giving it credence by printing it without any semblance of a response or defence (by M.C. or the Crown) to this rhetoric.

Summarising Harradence’s cross-examination, Warick writes that “she couldn’t remember how her pants came undone, how she ended up outside the truck, or whether her pants were off when she left the truck. She also can’t remember if she saw any of the men’s penises” (23 May 2003).¹³³ The latter statement refocuses attention on the penis. It challenges her assertion that they were touching her with their penises (i.e. how did she know they were penises if she did not see them); it also reactivates Edmondson’s contention that they (collectively) could not get erections while reifying myths that sexual assault requires penetration. Warick does not report the questions Harradence asked that prompted this testimony, nor does he quote M.C. verbatim. This paragraph, paraphrased as such, is distanced from the speakers and their speech; in the structure of this article, it acts as a summary of the rest of her testimony under cross-examination—evidence of her unreliability as witness, her inability to testify to the crimes against her, supporting Harradence’s naming, framing, and blaming.

¹³³ She already testified that she was in and out of consciousness and Harradence already established that her memory is incomplete.

In cross-examining the victim (reproducing victim-blame, delegitimising victimhood), the defence brings together all of the medical, legal, and psychiatric discourses that have constructed M.C. throughout this discursive event to activate intersecting myths and stereotypes that will create “reasonable doubt.” Crenshaw (1992) explains that in rape cases,

the inquiry tends to focus more on the woman’s conduct and character rather than on the conduct and character of the defendant. As a consequence, rape law does less to protect the sexual autonomy of women than it does to reinforce the established codes of female sexual conduct. (408)

Defence attorneys use these codes to annihilate victims’ credibility. If a woman is raped while walking home alone in the dark, she is accused of inviting rape by walking home alone in the dark (Sebold 1999). If a woman is raped on a date, what she drank, what she wore, and any consensual activity prior to the violence is used against her (Meyers 1999; Doe 2002; Brownmiller 1975). That M.C. trusted these men, that she got in their truck, and that she drank beer are three big no-nos; she broke the codes of conduct and made herself vulnerable to rape. Harradence ensures that M.C. reiterates her story in a way that highlights her complicity in accepting the ride *before* she consumed any alcohol (selectively highlighting her sobriety when she got in the truck, ignoring her subsequent intoxication), reiterating that “none of the men forced her to drink” (23 May 2003). He explicates that she did not seek assistance from the staff or patrons in the Mistatim bar—ignoring that, at that time, they had not yet betrayed her trust. Harradence’s cross-examination indicates his shift of trajectory, from the subject as unreliable witness to the subject as consenting and willing participant. Harradence is a calculating rhetorician. If he has persuaded the jury (and, through Warick, some of the *StarPhoenix* audience) that M.C. is a liar, he can move in to destroy any remaining credibility while also offering an explanation for her lies that will give the jury (and readers) sufficient “reasonable doubt” and access to discourses that justify that doubt.

Harradence interrogates M.C. about what Warick calls “the alleged sexual abuse the girl has suffered at the hands of her father” (23 May 2003).¹³⁴ While M.C. “admitted her father beat her and her mother,” she “denied Harradence’s assertion that he sexually abused her. This information was allegedly disclosed by the girl’s foster mother.” The dubious DNA evidence is transformed into confession through the introduction of the foster mother as corroborating witness. Again, Warick frames what M.C. says as denial. It no longer “matters” (in this case) whether or not M.C.’s father sexually abused her. In this regime of truth, the DNA, supported by the foster mother’s testimony, construct alleged incest as truth; all explanations given by experts and primary definers corroborate that truth and discursively situate it as integral to this case (i.e. use it against her).

Harradence’s power-knowledge gives him *carte blanche* to defend his client by using his discursive power to create M.C. as a liar—and in preferring his perspective and voice, Warick affords him power over media discourse, too. Throughout reportage of Harradence’s cross-examination in the Edmondson trial, M.C. is referred to as “the girl.” She is faceless and nameless. Details about her behaviour (crying, asked to speak up, looking at the floor) that contextualise reportage of her testimony to the Crown are notably absent from that of her testimony under cross-examination. Warick does not describe her physical reactions to Harradence’s questions and accusations, privileging his speech, silencing hers. Harradence virulently attacks her on the stand, forcing her to reiterate all of her previous testimony in a way that exaggerates her complicity and suggests a wanton disregard for her own safety.

¹³⁴ Warick again displays a preference for titillating, sensational details, which enables Harradence’s strategy; “the alleged sexual abuse by her father” or a reference to the DNA match without reference to any allegations (since she has not made any) would have sufficed.

In the Kindrat-Brown trial, prompted by Parker (who, in his representation of the Crown, is her only pseudo-ally), she repeats some of her previous testimony (the Pocahontas comment, the men's promise that she could trust them, admits that she lied about her name and age and that she drank the beer offered to her). As I noted above, she also testifies that she remembers "one of them pulling my pants down and I tried to pull them back up" (Warick 19 June 2003). Parker asks her if she wanted to have sex with any of the men: "No," she said loudly." He then asks her if she knew "what they were going to do to you when you got into that truck"—again, she replies "No." But here the testimony stops. When asked to reiterate the crime, she says she cannot, "because I don't like saying it." Unlike in the Edmondson trial, Parker cannot cajole her into testifying any more explicitly. M.C. has been effectively silenced, rendered unable to testify to what happened to her.

In the *StarPhoenix* version of this scene, the Crown's case is frustrated by M.C.'s inability to articulate and her silences—framed as her lack, not Parker's. Her silence is a boon to Kindrat and Brown—even though she has testified on numerous occasions, only her testimony in this court "counts" in this trial. Because of her inability to testify to most of the details that would incriminate Brown, and because Edmondson testified that he did not see Brown sexually assault M.C., Brayford, Brown's lawyer, asks only one question (less a question than a forced reiteration of her lie): "You told (the men) you were 14 and were about to have your 15th birthday. Is that correct?" She responds: "yeah." In this, Brayford makes his defence strategy apparent: he makes age of consent the only issue. He does not need to attack M.C.'s credibility in her presence; he can do this alone in his summation. Eisner does not bother asking her any questions.

Because the RCMP did not videotape her original statement, and because M.C. is rendered unable to testify, her version of the event goes unrecorded in the Kindrat-Brown trial; the court, then, relies constructions of her and the event by the defendants, McKenna's expert interpretation of her injuries and psychological state, limited forensic evidence (that has been used almost exclusively to implicate her father and support theories around the alleged incest), and Parker, Brayford, and Eisner. Denike (1999) explains that "only women's personal histories, including their sexual activity, and their medical, therapeutic, or psychiatric records, are used as evidence to impugn their credibility when they testify as witnesses." In contrast, the male defendants are afforded all constitutional and legal protections available. Their sexual histories are off limits. Parker is not allowed to ask Brown and Kindrat if they occasionally or habitually picked up children and/or Aboriginals and gang raped them. Their former and current sexual partners are not brought before the court. The *StarPhoenix*, too, seems to observe the conventions and rules of the court; there is no expose on the defendants' private lives, no investigative reports on their sexual histories. The suspicion of M.C.'s behaviour, in court and in the *StarPhoenix*, demonstrates that she is always already on trial—if the defendants are presumed innocent, she is presumed guilty.

This elementary notion is illustrated by Harradence's comments following her testimony in Edmondson's trial. When asked why Edmondson would not be taking the stand in his own defence, Harradence said his client "is not obligated to prove anything here. It's up to the Crown to prove its case" (23 May 2003). This quotation is an explicit reminder that Warick is making subjective choices about what to print and, therefore, disseminate to the reading public who is trying to make sense of this trial. His privileging of the defence and, thus, the defendants (of their speech and rights while tramping on hers), gives the defence strategy (and it is always a strategy, devised and designed to exonerate the defendants) force as *truth*.

The Crown is M.C.'s sole representative in much of the media discourse, and he is not her representative, but that of law and order and ever-elusive "justice," with his own professional legitimacy at stake. What the *StarPhoenix* chooses to print—i.e. what is selected from all of this courtroom discourse and, as the last Harradence quotation demonstrates, what is offered in response to leading questions outside the courtroom—demonstrates a subjective, hegemonic preference for primary definitions and, in particular, the primary definers on the defence side of this case.

Judging M.C.

In his summation to the jury in the Edmondson trial, Harradence focuses on the Crown's perceived inability to make its case, telling the jury that they must base their decision on the law (as if it is straightforward and unassailable). He reiterates his case: Edmondson believed M.C. was 14 (the age of consent): the Mistatim bar owner¹³⁵ said she looked older than 14, she lied about her age—demonstrating "her ability to be less than truthful." He also repeats McKenna's expert medical testimony that M.C. was physically mature (anatomically and biologically a sexually experienced woman) and that abused children can be sexually unpredictable (eliding the contradiction that she is expected to be seen as woman in the first instance and child in the second). M.C. "initiated sexual contact" by sitting in Edmondson's lap—framing this as an overtly sexual rather than childlike behaviour. Denike's (1999) research¹³⁶ demonstrates that "defence tactics of personally attacking complainants, and making use of discriminatory myths to do so, are used almost exclusively in sexual assault proceedings." Harradence deploys every possible myth he can to blame M.C. for the assault. In his summation, he proclaims that Edmondson is "entitled to a verdict of not guilty."

¹³⁵ Recall that this bar owner, Darlene Hill, served an intoxicated child and allowed her to leave with three intoxicated men and faced criminal negligence charges.

¹³⁶ See also: Meyers 1999; Doe 2002; Razack 2002.

Entitled is a suitable word, but what entitles Edmondson is not “the evidence” but his privileged place in the hegemonic hierarchy.

Brayford’s summation in the Kindrat-Brown trial eradicates the last vestiges of M.C.’s credibility. In response to what little she did testify to, he “invites” the jury to “disbelieve her” (Warick 25 June 2003). In this summation (duly reported by Warick), Brayford constructs her as a scheming minx who took advantage of three nice boys: M.C. “jumped” into Edmondson’s lap and started kissing him meaning she consented to all sexual activity thereafter—“What could be more consensual than that?” (25 June 2003).¹³⁷ Brayford accuses her of lying about the men trying to take off her pants and then, in case the jury believed her, minimises it—telling them that “tugging on someone’s pants is not a sexual assault” (but it is). Again, neither Kovach nor Warick contradict Brayford’s misinformation. Eisner takes a different tack, empathising with the jury and the difficult decision they have to make. He admits that the case is “deeply disturbing” and that “clearly these young men made a mistake”—a mistake, not a criminal offence. Contradicting her testimony, Eisner says that M.C. never said “no.” According to him, she lied, she did not say no, she kissed Edmondson and jumped in his lap, she initiated sexual activity, she implied consent—she is to blame, she did this, it is her fault. In reporting Eisner’s words, Warick does not write that she testified that she did say no (not even feigning balance at this point).

While in the Edmondson trial, M.C. is able to testify to most of the violence against her; in the Kindrat-Brown trial, she cannot. She ceases to perform the duty the Crown requires of her. The conditions that contribute to her silencing and the context of her testimony are

¹³⁷ During Edmondson’s testimony the previous day, he called this the “green light” of consent (24Jun’03).

made invisible,¹³⁸ then forgotten. Paraphrasing Brayford's response to Brown and Kindrat's acquittal, Warick writes that "the Crown's case fell apart when the girl failed to give details of the September 2001 encounter" (27 June 2003). Deflecting his own responsibility for that failure, Parker agrees that it "made it more difficult to prove the case," adding that she "is almost the only person that we could rely on to give that evidence. There were no other eyewitnesses." Careful not to implicate the system in her silencing (e.g. the RCMP's failure to videotape her statement, the failure of the judge to protect her in the courtroom, the failure of the publication ban to protect her familial and sexual history from the press, the failure of those entrusted with power to use that power to protect and not blame her, the systemic racialisation and sexualisation of this child at every turn) or himself (his own failure to present a compelling case with or without her testimony and to keep the focus of the trial on the perpetrators), Parker substantiates the defence (and *StarPhoenix*) claim that M.C. is to blame for the acquittal of Kindrat and Brown.

As hegemony works to incorporate the acquittal into something that can make sense of this travesty of justice, Parker, the defence, the *StarPhoenix*, and other primary definers use her silence—not her *silencing*—to demonstrate, rather, that the system worked. That is to say that if she had testified (i.e. performed her duty), the jury would have been able to convict. In an editorial following the acquittal of Kindrat and Brown, esteemed *StarPhoenix* editors use their discursive power to explicate how this illogical conclusion makes sense, explain to their readers that,

[g]iven the girl's refusal at trial to testify as to the details of the assault—the conviction of a third Tisdale man involved, Dean Edmondson, attests to the fact of

¹³⁸ For instance, if the RCMP had videotaped her original statement, she may not have had to testify at all. In Kovach's court, protective measures that could have been made available to facilitate her testimony—the screen and/or video-link that Judge Goldstein allowed in the preliminary hearing—are denied to her. She may have also have been deterred by the media's construction of her testimony in the Edmondson trial, or been unwilling to relive the trauma of that testimony.

an assault—jurors were left with evidence solely from Edmondson and Kindrat as to what happened. (28 June 2003)

From “objective” perspective, it is her fault if the jury does not convict because she *refused* to provide them with the testimony they needed to make that decision. The editorial also uses this refusal to deny the role of intersecting racism and sexism in this case. Reaffirming readers’ desire to believe that the justice system is what it purports to be—egalitarian, colour-blind, fair, objective—editors proclaim that, because of her refusal to testify, “the outcome was predictable, not because a racist jury was biased against a Native girl but because jurors had no compelling evidence to convict.”

CONCLUSION

Lisa Priest (1989) chose the title *Conspiracy of Silence*¹³⁹ for her book on the public secrets around the rape and murder of Helen Berry Osborne in 1971. In the Tisdale Case, few could be accused of using silence *per se* to cover up the crime, but the cacophony of talk and text serve a similar objective. As I have demonstrated, this case is talked and written into near oblivion to silence the victim, 12-year-old M.C., a Saulteaux Cree girl of the Yellow Quill First Nation—and cover up her sexual assault by three white men, Dean Edmondson, Jeffrey Kindrat, and Jeffrey Brown and the conditions that produced (and are certain to reproduce) this racialised, sexual violence.

In and through my analysis of the *StarPhoenix*, I make visible the proliferation of discourses that permit, excuse, and explain-away this crime and the conditions that created it. In the story constructed by the *StarPhoenix*, power, context, race, and sex as conditions of production of this rape are made invisible. The *StarPhoenix* coverage demonstrates how an unproblematised reliance upon primary definers (e.g. McKenna, Brayford, Kovach), racialised and sexualised frameworks of interpretation, and uninterrogated processes of power-knowledge and hegemony-at-work produces and reproduces the conditions that permit and entitle white men to rape Aboriginal girls and women. Acoose (1995) argues that the images of Indigenous women in Canadian literature (and, as I have demonstrated, media discourses) “perpetuate unrealistic and derogatory ideas, which consequently foster cultural attitudes that legitimise rape and other kinds of violence against us” (71). As we see in this case, defence attorneys exploit these ideas in pursuit of exoneration of their clients,

¹³⁹ “Conspiracy of Silence” refers to the public secret of Osborne’s abduction, rape, and murder in The Pas in 1971—no one came to trial until 1987. Of the four men involved, only two were brought to trial, and of those, only one was convicted. This is also the name of the 1992 CBC film based on Priest’s book, directed by Francis Mankiewicz.

presenting medicolegal experts to support them, framing theory as fact and sexist discourse as medical, psychiatric, and legal discourse, constructing regimes of truth that resonate within the court and are carried out of the courtroom via the media, reinforcing rape myths in society-at-large. Judicial culture is not outside the culture in which this rape and this trial take place. Sexist and racist discourses pervade judicial, legal, and medical discourses; there is no “outside” discourse, no pure discourse that does not operate within the dominant discourses of a culture.

My analysis of the *StarPhoenix* locates media discourse as always-already in discourse, working within multiple and interrelated discourses of power, systems of domination, and hegemonies. This story is told in a way that “we” are supposed to be able to live with—without disrupting hegemonic order. Jane Doe (2003) writes that

the pathology and predictability of the media’s response to rape and sexual assault fascinate me. It fits perfectly with the broader legal and social understanding that each rape is an isolated incident, and each raped woman is an agent of her own rape. The media are the final voice, the blindest eye; journalists and reporters are the truest ally in the construction of women as victims, and the manipulation of our fears—real and constructed. (Doe 2003, 208)

In the *StarPhoenix*’s story, the victim is a *victim*, but not of these three men. She is a poor Aboriginal girl, victimised by her own father, looking for trouble, and this is made to explain how she took advantage of these three men, good boys from Tisdale. In this story, all of the players are “victims,” the rape a tragedy brought about by circumstance.

As we have seen, opinion leaders—the judge, lawyers on both sides (none of them on M.C.’s side), doctors, and journalists—exert their power-knowledge to protect the status quo. They position themselves as disinterested and objective to enact discursive closure on detractors and challengers—who are effectively marginalised as self- or special-interested, biased, and

unobjective. In this scenario, First Nations leaders who call for fair Aboriginal representation on juries are the racists and Bob Hughes is a bigot for suggesting small-town folk may not value Aboriginal girls as much as white girls. The racism inherent to this case is vehemently denied, even as it leaks out all over the pages of the trial transcripts and spills over into the *StarPhoenix*.

In his *StarPhoenix* column—an actively Othered venue for the explication of alternative narratives of this case (the “Aboriginal” column)—Doug Cuthand asks: “If three Indian men picked up a white girl and sexually abused her, would they be treated with kid gloves? Would the judge blame the victim?” (12 September 2003). Contrary to the relentless pursuit of racelessness in the dominant discourses constructed about this case, the answer to his question is *no*. The narrative constructed to name, frame, and explain this crime and, in particular, this victim, is a regime of truth particular to this time, this place, this context, and it relies upon the premise, within this time and this place, that the bodies of Aboriginal women and girls are *rapable*. The seemingly complex and presumed objective characterisations of M.C.—the “sexually unpredictable” or “sexually aggressive” medicalised and psychologised subject, Edmondson, Kindrat, and Brown’s colonial “discovery” of her as Pocahontas, Brayford’s portrait of the steps of the Chelan Hotel as degenerate space *because of her presence in it*, the manipulation of her vulnerabilities as young, Aboriginal, female, and intoxicated as permission to take off her pants and poke penises at her orifices—all rely upon this premise.

The colonial violence against Aboriginals and, in particular, sexualised colonial violence against Aboriginal women, the settler mythology of the prairies, the trivialisation of sexual harassment, the infantilisation of women, girls, and people of colour, the Princess/Squaw

stereotypes—each and all intersect and overlap, permeating the discourses activated to make this victim into the perpetrator and aggressor or, at the very least, a willing participant. Suzanne Pharr writes that men “abuse women because they can, because they live in a world that gives them permission” (cited in Meyers 1997, 27). Pharr’s declaration takes on new meaning here, because what gave Edmondson, Kindrat, and Brown permission to sexually assault M.C., and gave them access to discourses to that entitle them to that permission, is never only her sex and age but always these factors in conjunction with her race. The discourses of permission to rape M.C. are particular to Aboriginal women and girls, and while they rely upon the rape mythologies that apply to all women, cannot be disconnected from the particularised and specific intersecting discourses of race with sex and sex with race. The M.C. constructed on the pages of the *StarPhoenix* is, thus, a rapable object. The dominant discourses in this case serve the defence of these three men and, thus, their prerogative’ to rape her. The media, medical, juridical, forensic, and psychiatric discourses used to explain and then appropriated to explain away what happened to M.C. and make her responsible for her rape demonstrate this. These are always-already hegemonic struggles—and this case is a study in hegemony working. Hegemony recuperates, incorporates, works to create a narrative that reaffirms dominant juridical, patriarchal, white supremacist, and colonial-settler narratives.

In conclusion to what is not concluded

In the end, nobody will win. Race relations are taking a beating. Lawyers don’t come cheap for the defendants. Saskatchewan gets another black eye and a redneck image. And, at the end of the day, it’s the victim, a little girl, who is bearing the most pain and needs to see justice prevail. (Cuthand 12 September 2003)

In March 2007, Kindrat and Brown will be retried. Razack (2002) offers a portrait of what it would mean to for the *StarPhoenix* to “deliberately introduce history and social context” into

this trial (156). First, “we would have to ask questions about the activities of the accused. How did they routinely conduct themselves? What is the role of violence against women in their activities?” These questions would be necessarily be located within “the historical and social context of Aboriginal-white relations” in and around Tisdale, Saskatchewan. Secondly, to appreciate M.C.’s brutal sexual assault, details about her life, “once again historically contextualised, would have to be on the record to counter the historically produced response to her as a woman whose life”—in M.C.’s case, her body, her integrity, her enjoyment of her life and rights and freedoms—“was worth very little” (156).

In this case, the rights of the accused would not be allowed to supersede the rights of the victim. While the court may maintain rules (problematic rules that also need to be challenged) that protect the sexual histories of the accused, the media are not confined to the same rules. Using Razack’s model, the *StarPhoenix’s* construction of the next trial would involve an inquiry into Kindrat and Brown’s sexual histories, their attitudes toward and past sexual with encounters women and Aboriginal women in particular. Have they engaged in consensual three-on-one sexual activity before? Have there been prior accusations or charges brought against them? Has their sexual history included sex with Aboriginal women? With underage girls? With underage Aboriginal girls? With intoxicated women? Are they paedophiles?

This narrative would interrogate the casualness with which these men approached M.C. and their immediate identification of her as Pocahontas—a racialised, sexualised, fantastic construct—that they were entitled to conquer. It would recognise the encounter as a colonial encounter of white settlers with the colonised Other on their turf, and admit the notion that they perceived her “as the (gendered) racialised Other whose degradation confirmed their

own identities as white—that is, as men entitled to the land and the full benefits of citizenship” (Razack 2002, 126). It would challenge the social and historical context in which this sexual assault took place and not, as we saw here, permit mayors and MPs to dismiss how this context produced not only the three men who committed this crime, but the culture that denies race and sex while permitting racist sexist violence.

It would also involve a questioning of the authority and power-knowledge upon which experts and primary definers rely. For instance, McKenna’s assessment of M.C.’s sexuality would be framed as professional opinion mitigated by her own struggles to maintain her authority in the context of challenges posed to it. It would remind readers that Brayford, Harradence, and Eisner, as lawyers for the defendants, are in no way objective or unbiased—that their purpose is always-already to exonerate their clients by discrediting the victim. It would not permit Kovach’s penchant for language that diminishes young white “boys” culpability in cases of sexual violence against Aboriginal women to go unchecked. It would offer space and afford privilege to anti-racist, feminist, First Nations voices and frameworks of interpretations as primary definers—acknowledge their authority and expertise and knowledge, not dismiss them as reactionary or self-interested or inflammatory.

In this, the *StarPhoenix* would acknowledge M.C.’s personhood and humanity, connected to her community and First Nation of Yellow Quill. Her voice and experience would be acknowledged, privileged; her right to speak and the courage it takes to speak, in this oppressive and dehumanising forum, would be recognised. In this, she would be recognised as a *legitimate* victim, not an unwanted and inconvenient disruption of a hegemonic worldview that is incapable of incorporating her story as it is, so must make it into something that works within it. The violence against her would be reconnected to the social,

historical, and cultural context of colonialism and patriarchy; it would be contextualised within (not divorced from) violence against Aboriginal women and girls. Her case would not be individuated, but recognised as part of a pattern of violence. It would be contextualised within the exploitation of Aboriginal girl-children on the strolls of Saskatchewan cities, the rapes and murders of Aboriginal women and girls, the history of sexualised violence against Aboriginal women throughout colonisation of the prairies. It would be informed by the Aboriginal Justice Inquiry of Manitoba's (1999) findings, taking into consideration that Edmondson, Kindrat, and Brown may have been, like Helen Betty Osborne's killers, "operating on the assumption that Aboriginal women were promiscuous and open to enticement through alcohol or violence" and shared in their belief that young Aboriginal women are "objects with no human value beyond [their own] sexual gratification" (8).

This may be an idealised, even utopian, scenario—but not an impossible one. It would be a small step towards the required rethinking of this case that might permit M.C.'s story, her tale from the front, to permeate and contribute to the dismantling of dominant discourses that will otherwise ensure that this happens over and over and over again.

* * *

I feel very angry, violated, sad. I was touched in places I didn't want to be touched...Everyone treated me different. Some of my friends didn't want to be friends (anymore). ... Now I'm scared of older men—they make me very nervous.

—M.C., Victim Impact Statement
(*StarPhoenix* 4 September 2003)

WORKS CITED

- Aboriginal Healing Foundation. "Claiming Victory." Yellow Quill First Nation Project. http://www.ahf.ca/newsite/english/funded_projects/pull_project.php?id=3065.00 (accessed February 15, 2006).
- Aboriginal Justice Implementation Commission. 1999. *Report on the Aboriginal Justice Inquiry of Manitoba: The Death of Helen Betty Osborne*. Vol. 2. <http://www.ajic.mb.ca/volumeII/toc.html> (accessed November 30, 2005).
- Acoose, Janice/Misko-Kiskikàwihkwè (Red Sky Woman). 1995. *ISKWEWAK—Kah' Ki Yaw Ni Wahkomakanak: Neither Indian Princesses nor Easy Squaws*. Toronto: Women's Press.
- Amnesty International. 2004. "Canada: Stolen Sisters: A human rights response to discrimination and violence against Indigenous women in Canada." http://www.amnesty.ca/resource_centre/reports/ (accessed December 10, 2005).
- Barthes, Roland. 1972. *Mythologies*. Hill and Wang: New York.
- Bourdieu, Pierre. 1990. "Social Space and Symbolic Power." *In Other Words*. Cambridge: Polity, 1990. 123-139.
- Brownmiller, Susan. 1975. *Against our will : men, women, and rape*. New York: Simon and Schuster.
- Butler, Judith. 2004. *Precarious Life: The Powers of Mourning and Violence*. New York: Verso.
- Buydens, Norma. 2005. "The 'Melfort' Rape and Children's Rights: Why *R v Edmondson* Matters to All Canadian Kids." *Saskatchewan Notes*. Canadian Centre for Policy Alternatives. 4:1.
- Canadian Newspapers Association. "Canadian Circulation Data." <http://www.cna-acj.ca> (accessed January 10, 2006).
- The Canadian Press Stylebook: A Guide for Writers and Educators*. 2004. ed. Patti Tasko. 13th edition. Toronto: Canadian Press.
- Carter, Sarah. 1997. *Capturing Women: The Manipulation of Cultural Imagery in Canada's Prairie West*. Montreal/Kingston: McGill-Queens University Press.
- Comaskey, Brenda and Anne McGillivray 1999. *Black eyes all of the time: intimate violence, aboriginal women, and the justice system*. Toronto: University of Toronto Press.
- Concise Oxford Dictionary of Current English*. 1995. Oxford: Clarendon Press.
- Crenshaw, Kimberlé. 1992. "Whose Story Is It Anyway? Feminist and Antiracist Appropriations of Anita Hill." *Race-ing Justice, En-gendering Power: Essays on Anita Hill, Clarence Thomas, and the Construction of Social Reality*. ed. Toni Morrison. New York. Pantheon Books. 402-440.

- Criminal Code. R.S.C. 1985. c. C-46.
- Denike, Margaret. 1999. "Dignifying equality: the challenge of reform in sexual assault proceedings." *Canadian Woman Studies*. 19:1-2. 81-85.
- Department of Justice. 2005. *Programs and Initiatives: Legislation*. "Criminal Code: Publication Bans, Exclusion Orders and Facilitating Testimony."
<http://canada.justice.gc.ca/en/ps/voc/voclegcrim.html#pubban> (accessed September 12, 2005).
- Didion, Joan. 1980. *The White Album*. New York: Pocket Books.
- Disney. "Pocahontas."
<http://disney.go.com/vault/archives/characters/pocahontas/pocahontas.html> (accessed May 5, 2006).
- Doe, Jane. 2003. *The Story of Jane Doe*. Random House Canada: Toronto.
- Downe, Pamela J. 2005. "Aboriginal Girls in Canada: Living Histories of Dislocation, Exploitation and Strength." *Girlhood: Redefining the Limits*. eds. Yasmin Jiwani, Candis Steenbergen, Claudia Mitchell. Montreal: Black Rose Books.
- Driver, Deana. 2004. "Complaint leaves few MDs willing to do sex assault cases: Saskatchewan doctor accused of unprofessional conduct in reviewing abuse." *Medical Post*. 40:35. September 21, 44. <http://www.proquest.com> (accessed August 15, 2005).
- Du Mont, Janice and Parnis, Deborah. 1999. "Judging women: the pernicious effects of rape mythology." *Canadian Woman Studies*. Spring-Summer. 19.1-2. 102-9. Concordia University Libraries. CPI.Q. (accessed August 15, 2005).
- — —. 1999a. "Rape laws and rape processing: the contradictory nature of corroboration." *Canadian Woman Studies*. Spring-Summer. 19.1-2. 74-8. Concordia University Libraries. CPI.Q. (accessed August 15, 2005).
- England, Jennifer. 2004. "Disciplining Subjectivity and Space: Representation, Film and Its Material Effects." *Antipode* 36:2. 295-321.
- Ericson, Richard V. 1998. "How Journalists Visualise Fact." *Annals: American Association of Political and Social Sciences*. 560: November. 83-95.
- Feldberg, Georgina. 1997. "Defining the Facts of Rape: The Uses of Medical Evidence in Sexual Assault Trials." *Canadian Journal of Women and the Law*. 9: 89-114.
- Fifth Estate, The*. CBC News. <http://www.cbc.ca/fifth/archives.html> (Accessed March 3, 2005).
- Foss, Krista. 2001. "The Cree girl and the white men: Child's explosive story of sexual assault sparks native anger in rural Saskatchewan." *The Globe and Mail*. 12 November.
<http://www.proquest.com> (accessed August 10, 2005).

- Foucault, Michel. 1980. *Power/Knowledge: Selected Interviews and Other Writings 1972-1977*. Colin Gordon, ed. Pantheon: New York.
- — —. 1984. *The Foucault Reader*. ed. Paul Rabinow. New York: Pantheon Books
- — —. 1989. *The Archaeology of Knowledge*. Routledge: London.
- — —. 1990. *The History of Sexuality. Volume I: An Introduction*. New York: Vintage Books.
- — —. 1998. "What is an Author?" *Contemporary Literary Criticism*, ed. Robert Con Davis and Ronald Schleifer. 4th edition. New York: Longman.
- Gitlin, Todd. 1980. *The Whole World is Watching: Mass Media in the Making & Unmaking of the New Left*. Berkeley: University of California Press.
- Goulding, William. 2001. *Just Another Indian: A Serial Killer and Canada's Indifference*. Calgary: Fifth House Ltd.
- Green, Joyce. 2005. "From Stonechild to Social Cohesion: Anti-Racist Challenges for Saskatchewan." *Presentation to the Canadian Political Science Association. A9(b): Theory, Policy and Pedagogy of Decolonisation*. University of Western Ontario. June 2-4. www.cpsa-acsp.ca/papers-2005/Greene.pdf (accessed January 7, 2006).
- Green, Rayna. 1998. "The Pocahontas Perplex: The Image of Indian Women in American Culture." *Native American Voices: A Reader*. ed. Susan Lobo and Steve Talbot. New York: Longman. 182-192.
- Hage, Ghassan. 2000. *White Nation: Fantasies of White Supremacy in a Multicultural Society*. New York and Australia: Routledge and Pluto Press.
- Hall, Stuart. 1975. "Introduction." *Paper Voices: The Popular Press and Social Change, 1935-1965*. A. C. H. Smith, Elizabeth Immirizi, and Trevor Blackwell. London: Chatto and Windus). 11-24.
- — —. 1977. "Culture, the Media, and the 'Ideological Effect.'" *Mass Communication and Society*. ed. J. Curran, M. Gurevitch, and J. Woolcott. London: Edward Arnold. 315-48.
- Hall, Stuart, Chas Critcher, Tony Jefferson, John Clarke, and Brian Roberts. 1979. *Policing the Crisis: Mugging, the State, and Law and Order*. London: Macmillan.
- Henry, Frances and Carol Tator. 2002. *Discourses of Domination: Racial Bias in the Canadian English-Language Press*. Toronto: University of Toronto Press.
- hooks, bell. 1990. *Yearnings: race, gender, and cultural politics*. Boston: South End Press.
- Injusticebusters. <http://www.injusticebusters.com> (accessed April 5, 2006).
- Jiwani, Yasmin. 2006 (forthcoming). "Mediations of Gendered Violence: Across and Within Borders." Forthcoming chapter in *International Feminist Media Studies*. eds. Katherine Sarakakis and Leslie Regan Shade. Boulder, CO: Rowman & Littlefield.

- Jiwani, Yasmin and Mary Lynn Young. 2006a. "Missing and Murdered Women: Reproducing Marginality in News Discourse." *Canadian Journal of Communication*. 31:4. 897-920.
- Karim, Karim H. 1993. "Constructions, Deconstructions, and Reconstructions: Competing Canadian Discourses on Ethnocultural Terminology." *Canadian Journal of Communication*. 18.2. 197-218.
- Lawrence, Jane. 2000. The Indian Health Service and the Sterilization of Native American Women. *American Indian Quarterly*. 24:3, Summer. 400-420.
- Lobo, Susan and Steve Talbot, eds. 1998. *Native American Voices: A Reader*. New York: Longman.
- Lubiano, Wahneema. 1992. "Black Ladies, Welfare Queens, and State Minstrels: Ideological War by Narrative Means." *Race-ing Justice, En-gendering Power: Essays on Anita Hill, Clarence Thomas, and the Construction of Social Reality*. ed. Toni Morrison. New York: Pantheon Books. 323-363.
- Lyotard, Jean-François. 1999. "Lessons in Paganism." *The Lyotard Reader*. Oxford: Basil Blackwell. 122-154.
- Macdonald, Myra. 2003. *Exploring media discourse*. New York: E. Arnold.
- Mann, Michelle M. 2005. "Aboriginal Women: An Issues Background." Status of Women Canada. http://www.swc-cfc.gc.ca/pubs/ges_aboriginal/index_e.html (accessed January 5, 2006).
- McNinch, James. 2006 (forthcoming). "Queer Eye on the Straight Guys: Homoerotics and Racial Violence in the Narrative Discourse of White Settler Masculinity." *Journal of Gay and Lesbian Issues in Education*.
- Meyers, Marian. 1997. *News Coverage of Violence Against Women: Engendering Blame*. Newbury, California: Sage Publications.
- MissingNativeWomen.ca. <http://www.missingnativewomen.ca> (accessed August 30, 2005; domain currently suspended).
- Moorti, Sujata. 2002. *Color of Rape: Gender and Race in Television Public Spheres*. New York: State University of New York Press.
- Native Women's Association of Canada. 2004. "Court Challenge: *R v Brown and Kindrat; R v Edmondson*." <http://www.nwac-hq.org/court.htm> (accessed August 29, 2005).
- — —. 2004a. "Brown and Kindrat Factum Final." <http://www.nwac-hq.org/court.htm>. (accessed August 29, 2005).
- — —. 2004b. "Edmondson Factum Final." <http://www.nwac-hq.org/court.htm> (accessed August 29, 2005).
- Ondaatje, Michael. 1996. *In the Skin of a Lion*. Vintage Canada: Toronto.

- Peterson, Hans. "Yellow Quill's drinking water." Safe Drinking Water Foundation. <http://www.safewater.org/research/yq2.htm>. (accessed April 25, 2006).
- Pewewardy, Cornel. 1998. "Why One Can't Ignore 'Pocahontas.'" *Native American Voices: A Reader*. ed. Susan Lobo and Steve Talbot. New York: Longman. 193-195.
- Priest, Lisa. 1989. *Conspiracy of Silence*. Toronto: McClelland & Stewart.
- Razack, Sherene H. 1998. *Looking White People in the Eye*. Toronto: University of Toronto Press.
- — —. 2002. *Race, Space, and the Law: Unmapping a White Settler Society*. Toronto: Between the Lines.
- R. v. Darrach*. 2000. 2 S.C.R. 443.
- R. v. Edmondson*. 2005. SKCA 51. Canadian Legal Information Institute (CanLII). <http://www.canlii.org/sk/cas/skca/2005/2005skca51.html> (accessed April 30, 2006).
- R. v. Ewanchuk*. 1999. 2 S.C.R. 330.
- R. v. Mills*. 1999. 3 S.C.R. 608.
- R. v. Seaboyer*. 1991. 2 S.C.R. 577.
- Robinson, Lillian S. 1971. "Dwelling in Decencies: Radical Criticism and the Feminist Perspective." *College English*. 32:8. 879-889.
- Schissel, Bernard. 1997. *Blaming children: Youth crime, moral panic and the politics of hate*. Halifax, N.S.: Fernwood.
- Schlesinger, Philip. 1987. *Putting Reality Together: BBC News*. London: Methuen.
- Sebold, Ann. 2002. *Lucky*. New York: Back Bay Books, Little, Brown and Company.
- Sisters in Spirit. 2006. Native Women's Association of Canada. <http://www.sistersinspirit.ca> (accessed November 30, 2005).
- Smith, Andrea. 2003. "Not an Indian Tradition: The Sexual Colonization of Native Peoples." *Hypatia*. 18:2, Spring. 70-85.
- Spivak, Gayatri Chakrovoty. 1988. "Can the Subaltern Speak?" *Marxism and the Interpretation of Culture*. eds. Cary Nelson and Lawrence Grossberg. Urbana and Chicago: University of Illinois Press. 271-313.
- Statistics Canada. 2001 *Census of Canada: 2001 Community Profiles*. Catalogue No. 93F0053XIE. <http://www12.statcan.ca/english/profil01/CP01/Index.cfm?Lang=E>
- — —. 2003. "Sexual Offences." *The Daily*. Catalogue no. 11-001-XIE. June 25. <http://www.statcan.ca/english/dai-quot/>.

- — —. 2005. "General Social Survey: Criminal victimization." *The Daily*. Catalogue no. 11-001-XIE. November 24. <http://www.statcan.ca/english/dai-quo/>.
- Town of Tisdale. <http://www.townoftisdale.com>. (accessed April 11, 2006).
- van Dijk, Teun A. 1988. *News Analysis: Case Studies of International and National News in the Press*. Hillsdale, New Jersey: Lawrence, Erlbaum Associates, Publishers.
- — —. 1991a. "Media Contexts: The Interdisciplinary Study of News as Discourse." *A Handbook of Qualitative Methodologies for Mass Communication Research*. Klaus Bruhn Jensen and Nicholas W. Jankowski, eds. London: Routledge.
- — —. 1991b. *Racism and the Press*. London and New York: Routledge.
- Wark, David, M.D. 1888. *The Practical Home Doctor for Women and Children*. New York: Gay Brothers & Co.
- Williams, Raymond. 1977. *Marxism and Literature*. New York: Oxford University Press.
- Wikipedia contributors. "Tisdale." Wikipedia, The Free Encyclopedia. <http://en.wikipedia.org/wiki/Tisdale>. (accessed April 10, 2006).
- Women Against Violence Against Women (WAWAW). "Get Informed: Rape Myths." <http://www.wawaw.ca>. (Accessed September 30, 2005).
- Yona, Nokwisa. April 21, 2001. "DNA Testing, Vermont H. 809, and the First Nations." *The Multiracial Activist*. <http://multiracial.com/site/content/view/218/40/> (accessed July 19, 2006).

APPENDIX

StarPhoenix Articles Cited

October 4, 2001 – September 8, 2006

<http://www.proquest.com> (accessed August 2005 – September 2006)

- Bernhardt, Darren. 2005. "Tisdale residents moving on after high-profile sex case." April 21.
- Branch, Julian. 2003. "Group protests rape trial verdict in front of Melfort courthouse." July 17.
- Coolican, Lori. 2001. "Trio from Tisdale accused of raping 12-year-old." October 4.
- — —. 2001. "Tisdale court case captures town's attention." October 16.
- — —. 2002. "Girl to take stand at rape hearing: Relatives say child will be revictimized by facing men in court." August 28.
- — —. 2002. "Father sues bar owners, daughter's alleged attackers." August 29.
- — —. 2002. "Rape hearing set to conclude." August 30.
- Cuthand, Doug. 2003. "Nobody will win in aftermath of Tisdale case." September 12.
- French, Janet. 2005. "Court of Appeal upholds sentence in sex assault case." April 21.
- — —. 2005. "Sexual assault sentence appealed to Supreme Court." June 23.
- Gibbings, Robert J. 2003. "Comments about judge lack fairness, balance." September 25.
- Kolbenson, L.B. 2002. "Letter to the Editor: Tisdale/Melfort unfairly stereotyped." July 2.
- Mandryk, Murray. 2003. "Native leaders forgetting key role." July 18.
- Pacholik, Barb. 1996. "Racism not an issue: defence." December 21.
- Parker, James. 2002. "Racism comment rankles Tisdale." June 27.
- The StarPhoenix*. 2001. "Men accused of rape choose judge, jury trial." November 6.
- — —. 2002. "Men to face trial on rape charge." August 31.
- — —. 2003. "Men face trial for girl's rape." February 12.
- — —. 2003. "Trial begins for man accused of raping 12-year-old girl." May 20.
- — —. 2004. "Crown appeals sex assault acquittals." July 31.
- — —. 2005. "Date set for sex assault retrial." May 12.

- — —. 2005. "Man faces charges in sexual assaults." January 18.
- — —. 2005. "New trial scheduled in sexual assault case." January 10.
- — —. 2006. "March trial set for Tisdale men." September 8.
- Warick, Jason. 2002. "Change of venue urged in rape case: Fair trial impossible in Melfort, group says." June 26.
- — —. 2002. "Rape victim fears confronting accused in court: family." June 25.
- — —. 2003. "Accused admits trying to have sex with 12-year-old." May 21.
- — —. 2003. "Accused denies group had sex with girl." June 18.
- — —. 2003. "Acquittal 'outrageous.'" June 28.
- — —. 2003. "Crown appeals Tisdale acquittal: Judge erred in advice to jury, prosecutors say." July 24.
- — —. 2003. "Crown asks judge to put Edmondson behind bars: Defence argues for conditional sentence." September 4.
- — —. 2003. "Girl, 12, sexual aggressor, court hears." June 24.
- — —. 2003. "Girl clams up at Melfort trial." June 19.
- — —. 2003. "Girl's story wasn't truthful, court told." June 25.
- — —. 2003. "House arrest: Tisdale man avoids jail time for sexual assault." September 5.
- — —. 2003. "Judge riles prosecution by calling accused 'boys'." June 26.
- — —. 2003. "Jury begins deliberations in sexual assault trial." May 29.
- — —. 2003. "One person's conviction in Melfort doesn't mean others guilty: lawyer." June 17.
- — —. 2003. "Police handling of rape flawed, expert testifies." May 24.
- — —. 2003. "'Something awful' happened to girl: MD." May 22.
- — —. 2003. "Teen cries while describing assault." May 23.
- — —. 2003. "Tisdale pair not guilty." June 27.
- — —. 2003. "Young girl assaulted by father, court hears." May 27.