

Practioner Reflection

Writing for the Courts: Attending to Settler Colonialism, Senses, Social Algorithm, and Neurodiversity on a Gladue Writing Team

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Abstract

This article discusses the experiences of four members of a Gladue writing team who work collectively to write trauma-informed court reports used in show cause/bail hearings and sentencing hearings for Indigenous individuals in Canada. The team reflects on what it means to “sense justice” as one of Canada’s only Gladue writing teams and one that is comprised of neurodiverse / neurodivergent¹ individuals. By focusing on the lived experiences of Gladue Writers, this article describes what it means to *sense justice* and how these senses change between settings for those who are embroiled in doing the work of justice in a settler state. This article explores the sensory work of conducting trauma-informed interviews, and writing and representing documents in court. Insights will be from a team writing for a settler-colonial justice system while attending to their own sensory needs, and the social algorithms that surround justice encounters. Different strategies used by the team members will be discussed along with what it means to sense justice from divergent social locations.

Keywords: neurodiversity, neurodivergence, Gladue, settler colonialism, ableism, sensory profile, justice

Introduction

This article draws on the experiences of the four members of one of Canada’s only Gladue writing teams. Our team works collectively to

¹ This is a co-authored article. In the jointly written sections we will use the terms neurodiverse/neurodivergent. In the personal narrative sections this phrase might change to reflect the speaker’s preference.

write trauma-informed court reports that are used in show cause/bail hearings and sentencing hearings for Indigenous individuals in Canada, at no cost to the individual. In this article, we reflect on what it means to “sense justice” as a team comprised of neurodiverse/neurodivergent individuals engaged in the work of collectively writing Gladue reports. In exploring the lived experiences of Gladue Writers, we illuminate elements of what it means to engage in Gladue work in Canada. The article places the report-writing professionals at the centre, not as experts speaking on behalf of others, and not as an extension of the colonial norm of centering professionals instead of the people whose stories are being captured. Rather, we seek to describe what it means to our team to *sense justice*, and how these senses change between settings for those embroiled in doing the work of justice in a settler state.

The conceptual framework of “sensing justice” pushes the reader to consider how senses of justice bend and shift in response to one’s social location. In other words, it directs the reader to consider how one’s experience of the justice system is shaped by our background and lived experience, which includes our sensory perceptions or sensory profile. Similar to a tacit agreement that forms around the assertion that BIPOC individuals have different experiences with the justice system because of systemic racism and structural inequality, we argue that one’s sensory profile is implicated in our experiences of the justice system. It is then compounded for members of our team who are neurodiverse/neurodivergent and BIPOC. As such, each member on our Gladue team has different experiences in the justice system based on their social location *and* sensory profile.

To explore this further, we analyze the social location of each team member, to demonstrate the role of neurodiversity/neurodivergence and the antagonisms of ableism and settler colonialism that shape and reshape how we do the work we do in the justice system and how our experiences shape those engagements. To illustrate this, team members share what we do in our workplaces, as neurodiverse / neurodivergent individuals, to facilitate our ability to write court reports. Through the lived experiences of our team members, we explore the labour that goes into having a supportive workplace, and the impact of engaging in systems that are structurally violent for the accused

and report writers alike. Juxtaposed against the practices of the controlled workspace, we also share what it means to go into normative spaces.

The challenges and structural violence of the spaces and practices we describe are fortified by colonial pomp and the violent impatient pace of ableism. Often writing multiple reports a month requires team members to move cautiously between these spaces, all while being attentive to the object at hand – a court report that deals in the ongoing impacts of settler colonialism as told through the oral history of an Indigenous individual before the courts. To make this work as humane as possible for those that we write for and for ourselves as a team, we have focused on developing a workspace in which our diverse sensory needs are attended to. We must understand our own sensory needs and be mindful of the sensory needs of others on our team. This requires us to be vocal about what we need, as individuals and as a team. From a sensory perspective, sound levels or different sounds in a space can be disruptive to different team members, which means people’s attention cannot be focused on the work at hand. An individual’s sensory profile includes sight, smells, textures, and sounds. To accommodate, and support our team, we adapt. Adaptations can sometimes make it appear that people are very casual, but we balance sensory needs against expectations of “professionalism.” For example, if we are working in a conference room and there is a disruptive smell (such as lingering perfume, the off gassing of the adhesives used in flooring, the smell of unchanged garbage), we can eliminate that disruption by relocating to another meeting space to best meet the sensory needs of everyone on the team. The goal of all of this is to best support one another, and ourselves, so we can focus on the intricate work at hand. The fewer distractions and disruptions we have, the more attention and energy can remain with the narrative of the individual for whom we’re writing. As a team, we produce our best work when we are attuned and adapting to our different sensory needs.

Background/Literature

Before moving into a discussion about team structure and strategies, we will offer some background about the type of work we do and the political context therein. We will start first with word choice and the

reason that we use “neurodiverse” / “neurodivergent” throughout. For some team members, neither word necessarily resonates. At the core of this discussion is the question of diversity vs/and divergence. For example, one team member notes that “neurodiverse” does not work for them because it implies that only divergent people are part of that diversity, when neurodiversity, by definition, includes all neurotypes, including neurotypical people. For others, the language of neurodiversity might be used at times because it is more commonly understood by a broader audience and therefore has the capacity to broaden abilities to share social location.

What is Gladue?

All individuals in Canada who identify as First Nations, Inuit, or Métis are entitled, under section 718.2 (e) of the Criminal Code, to have their personal and historical circumstances – as they relate to their experience as an Indigenous individual – considered during sentencing (*What are Gladue Principles?*, n.d.; Parrott, 2014). As such, Indigenous individuals who are facing sentencing may have a Gladue Report prepared for consideration (Parrott, 2014). A Gladue report is a document presented before a sentencing or bail hearing to provide the presiding judge with recommendations regarding an appropriate sentence for an Indigenous individual who has been found guilty of a crime (*What are Gladue Principles?*, n.d.). This report delves into the individual’s personal background and the ways in which colonial practices have affected both them and their community (Native Women’s Association of Canada [NWAC], n.d.). Its foundation lies in the landmark 1999 *R v Gladue* case, which questioned section 718.2 (e) of the Criminal Code, mandating the court to consider the unique circumstances of Indigenous offenders (NWAC, n.d.).

The mitigating aspirations of the Supreme Court of Canada (SCC) ruling in *R v Gladue* (1999) were effectively meant to address a symptom of settler colonialism. Settler colonialism is a specific form of colonialism that began with the forcible displacement and attempted erasure of Indigenous populations and their culture from their lands, for the purpose of foreign settlement and exploitation of resources (Clogg, 2020; Wolfe, 2006). The main goal of settler colonialism is not only to extract resources, but to establish a new society on the appropriated land (FemNorthNet, 2016). Indigenous peoples

were subjected to discriminatory policies that forced them onto lands with limited resources, enforced Indigenous children's attendance at residential schools, and restricted their rights to hunt and fish (FemNorthNet, 2016). The devastating effects of settler colonialism and the policies that followed are still very much present today, with a disproportionate number of Indigenous people incarcerated, experiencing poverty, and struggling with addictions issues more so than Canadians of European descent (FemNorthNet, 2016; Clogg, 2020).

Within the constraints of settler colonialism, the Gladue writing team seeks to not only write the court reports but to do so in a way that meets the needs of the team itself. Specifically, the members of the team identify as sharing one key social location: neurodiverse/neurodivergent. Creating and fostering an inclusive workspace is a core element to our work.

An inclusive workplace culture offers a significant advantage by nurturing a variety of perspectives and diverse work approaches, stimulating innovation and creativity (Human Resources Professionals Association [HRPA], 2021; Luc, n.d.; Mahto, 2022). Studies indicate that teams incorporating neurodiverse/neurodivergent individuals in certain roles can achieve up to a 30% boost in productivity compared to those that do not (Mahto et al., 2022). Several strategies can help to foster a diverse and supportive work environment while also harnessing the full capabilities of neurodivergent employees. For example, making subtle adjustments to communication, like adding greater specificity or incorporating action-oriented language (verbs), can significantly reduce miscommunications (Mahto et al., 2022). People consume and interpret information in different ways, making miscommunication a substantial possibility. To mitigate this, leaders should use follow-up chats, recap emails, or recordings of conversations, all using plain language and avoiding jargon, to provide clarity for team members (HRPA, 2021; Mahto et al., 2022). Additionally, flexibility in the workplace is highly valued by many professionals, but can be particularly important for neurodiverse/neurodivergent individuals, as it provides the ability to work at their own pace and in their preferred location, while also allowing time for self-care (Luc, n.d.; Mahto et al., 2023). Lastly, in order to ensure the success and productivity of team members, and their perception of success and

productivity, leaders should customize tasks and responsibilities to align with each individual's strengths and capabilities, while also acknowledging their personal goals (Luc, n.d.; Mahto et al., 2023).

The shared social location of neurodiversity of the team members allows for us to think collectively about what it means to do this work and the role of the senses. McClanahan and South coined the term “sensory criminology” as an approach for examining and understanding our encounters with criminal and justice-related phenomena using all our sensory faculties, including hearing, sight, smell, touch, and taste (2020). Research in the field includes findings that discuss how sensory criminology provides a way to understand the ways in which power is wielded over others in institutional settings (Herrity et al., 2021; Warr, 2023) how an assault on the senses can occur in court settings (Russel et al., 2022), and the overlaps with research questions in the subfields of green and environmental criminology (Natali et al., 2022). Drawing on their work in bail courts in Australia, Russell et al. (2022) noted “numerous hostile and restrictive spaces and processes associated with the coerced movement of accused persons through the bail and remand system impede, restrict and sometimes overwhelm sensory experiences and expressions.” Their article focuses largely on the experiences of *other* individuals within carceral settings (the accused, the offender, etc.). This means, in practice, that what often takes centre stage is the perspective of the researcher or writer who explains the sensory challenges from their social location as observer versus participant. In this way, the author could be seeking to explain the sensory feel of a room that they are both a part of (they are in the courtroom), but in so doing, researchers are often positioning themselves outside of the justice system (they are not accused).

The SCC ruling enshrined the right to Gladue considerations. However, Gladue reports are simply not readily available. There are multiple roadblocks to people obtaining Gladue in different jurisdictions. Speaking specifically to Saskatchewan, the province has indicated it will not pay for Gladue Reports (Eneas, 2022). During this same time period, the rates of over-incarceration of Indigenous individuals continues to rise. Given the ongoing overrepresentation of Indigenous individuals, there is persistent pressure for interventions.

As an Indigenous-led team, we have a deeper understanding of the complexities and impacts of Gladue factors. With a team-based approach, we have enhanced capacity to work at a faster pace by dividing up the report into different parts that each of us specialize in. As a trauma-informed team that is attending to neurodiversity and the impacts of colonialism, we must build in respite and care for all team members.

What does this mean in practice? The following section will share insights from the team members who are writing for a settler colonial justice system while attending to their own sensory needs, and the social algorithms that surround justice encounters for a neurodiverse/neurodivergent team.

From Report to Court

Robyn

Robyn Pitawanakwat is the Community Director and has been involved in approximately 70 Gladue Submissions since 2020. They have served as the primary Gladue interviewer on nearly all of these reports, in addition to conducting collateral interviews. The team process mandates that Indigenous interviewers are lead interviewers and oversee the narrative that guides the entire report. As such, Robyn is required to conduct interviews, which can run as long as five hours in one seating, and to carry that story forward to make sure it is correctly captured in the submission. Robyn identifies as having a diagnosis of Autism and ADHD. Robyn speaks about their processes:

Typically I will call and book an interview for a time outside of business hours. In the past this has allowed for fewer interruptions and more privacy for the interviewee. I confirm that it will be a private space and that they won't be overheard by others.

On the day of the interview I try to manage my interactions with other people: coworkers, family and clients so that I am in a neutral state for a minimum of 30 minutes before the interview. I strongly believe that the interview requires a fully attentive interviewer; I don't want to be distracted by other matters or personal feelings. During the 30 minutes before the interview I will make sure that the interview guide and all the consent forms are print-

ed and set out; I will do tech checks and make sure everything is charged and functioning. I will also make sure to turn off notifications on any devices and to let others know that I will be unavailable for several hours. Normative expectations are that we are available to respond to anyone at any time; I have dealt with many people who are offended that I didn't reply to them while conducting an interview with someone else; this is also one of the reasons that I perform the interviews outside of business hours.

I set up the interview space to have as few distractions as possible and to have anything I might need within arms reach; this helps me feel regulated and is the only thing that I can predictably control during the course of the interview. Once the interview starts it often runs for three hours straight though I have had interviews go as long as five continuous hours.

Our Gladue writing project started during the lockdown of services due to the COVID-19 pandemic. It was intentional to try to find more ways that we can support clients when we can't physically meet with them or transport them to court. And as such, there was no expectation or possibility that we would be interviewing people in person. As this project continued and restrictions lifted, occasionally people would ask for in-person interviews. At first I considered in-person interviews but realized we neither had the transportation budget for the more distant locations, nor the permission of the institutions to bring in our recording equipment. I also noticed a feeling of panic in myself at doing interviews in person. I know that I'm not afraid of the clients and want them to have an experience that is as positive as possible for them. I reflected on the success of the project to that point and my ability to connect with people over the phone in ways that I cannot in person. I have a flat affect and an awkwardness that many people don't understand or like. Because my facial expressions don't match my attentiveness or my interest, then people often think I am uncaring, callous and cold. I am also often distracted by my own discomfort from sounds, textures, etc. Over the phone I can hyper-focus on the engagement with the person being interviewed. I can hear every word they're saying (provided there's a clear phone connection.) I can be attentive

and responsive and can often relax the interviewee enough for them to open up about their life experiences and even to share a laugh or two. I offer bits of my own life and experience and it helps open the door to people seeing me as a human - something that rarely happens during in-person interactions. I also think that my lack of shocked reaction helps the person being interviewed to not feel like an anomaly. I intentionally thank the interviewee for opening up to me and they often thank me for the conversation and we check in to make sure they're ok to end the call since we would have talked about many difficult topics. During the interview I may at times pace and stretch; I also regularly draw intricate designs on my skin as the interviewee speaks. This practice seems to have a connection with the more intense parts of their story and the times where they may be more passionate or upset about a subject. I find that I can better remember details of a story when I am putting the pen to my skin.

After the interview concludes then I often debrief the conversation with Michelle who now sits through the primary interview as well. We spend the time debriefing any parts that were upsetting and identifying themes to research for the written report. We also talk through any connection points that I may have with the interviewee and how I'm feeling. I often ruminate on the interview for several hours afterward and some of the content may impact me for much longer.

It has been affirmed by the Gladue writing team that I may continue to do my interviews in this manner and that I may choose my location. I generally do not attend court anymore as the other aspects of my job are largely administrative. I appreciate that many meetings are still over Zoom or other similar formats but have noticed a recent shift to expecting in-person meetings. I recognize that many people need to have more social engagement and that there needs to be a balance between in-person and virtual meetings. I often enjoy the in-person meetings as well but find them so draining of my social reserves that one in-person meeting is the equivalent of two or more days of virtual meetings.

The work setting might change on a daily basis for each team member. We have offices at the University of Regina that host our practi-

cum students and team members. However, these offices are not conducive to interviews for privacy reasons. We have access to sound booths through the School of Journalism, but these spaces do not always meet the sensory needs of all team members (or the scheduling needs of the individuals we are interviewing). For a range of reasons, team members might elect to work from home at times to adapt to their sensory needs and the work at hand. We navigate workspace adaptations each day and maintain open communication so the team knows where to find one another.

Robyn has implemented multiple adaptations to account for sensory needs and neurodiversity/neurodivergence. All of this came prior to receiving a formal diagnosis. Robyn shares:

My diagnoses are recent and while I have been aware of many of my differences and “deviations” since I was a child, I have not had shared language for many of these behaviours until more recently. I have a flat affect in my facial expressions most of the time; I have a flat tone to my voice that confuses people. I use concrete language and while I feel I am being direct many neurotypical people tend to assume I mean something other than what I am saying and react to me accordingly. I am awkward in social workplace situations and often don’t share interests or social locations with neurotypical colleagues. Despite my age I have never learned how to perform small talk as expected. I do not like eye contact and avoid it most of the time. I have hypersensitivity to sound and often need much quieter spaces than other people around me; regular volume spaces are very uncomfortable or painful to me. I have other sensitivities to smell, light, touch and more that I often find very distracting or uncomfortable but not painful. Awkwardness aside, there are many things I love about my differences: I love puzzles, math, origin of words and micro-learning. I enjoy neurodivergent spaces and the relaxation of expectations that comes along with that. I like how my brain can do a deep dive into subjects (though as I age this time has shortened significantly). Aging has been complex and many of my favourite differences (very strong visual memory, high mathematical skill, strong organizational ability) are declining at an alarming rate. The cognitive decline is what led to my seeking medical diagno-

ses; I had no expectation of the diagnosis of Autism despite having worked for a disability organization for several years. I have had to find adaptations for the cognitive decline including having to regularly disclose my memory issues to avoid the frustrations of colleagues and those I was supervising. I have transitioned into a new role that has a more specific workload and reduced hours.

Elisabeth

Elisabeth Girard has worked on reports since 2022, with the primary role being writer and interviewer. The team process involves delineation of tasks such that interviewers can take on writing and that the whole team is involved in different parts of the report writing itself. Sensory needs during an interview and sensory needs when writing are very similar. Elisabeth identifies as being neurodivergent and living with undiagnosed Autism Spectrum Disorder. Elisabeth shares more about these different modalities and accompanying sensory needs:

Setting up the space for writing Gladue Reports or interviewing for them requires me to create some distance between myself and other people. Leading into a day of interviewing or writing, I very often begin creating that space before I even get to work. I disengage from the world around me and minimize how many social interactions I lend my battery to.

I always seek a private and quiet space to do interviews, for a number of reasons. Some of which are obvious: it maintains privacy for the person being interviewed and quiet spaces produce better audio recordings. But I also seek private spaces when I am writing too, as it feels to me that people's stories deserve the same dignity of privacy.

The space needs to be big enough for me to move around in, which I do quite a lot in my work. I keep lots of things on my desk to fidget and stim with while I work. It is preferable if the space is completely private where no one might see these behaviours. The lights can't be too loud or disruptive and there needs to be minimal background noise. It also needs to be familiar to me, very familiar. Changes in environment are something I continue to

find deeply challenging as an adult. Each new space produces a number of sensory threats that could overwhelm my nervous system and a new social landscape to adjust my algorithm to. I could not handle the cognitive load of trying to manage such things while also navigating the many intricacies of writing, interviewing, or even just the spiritual labour that goes into producing Gladue submissions.

We don't interview people in person. My understanding is that this practice started during the pandemic and was kept later on because it made the most logistical sense at the time. Through my own experience and through conversations with our primary interviewer, I have come to deeply appreciate this approach. My gratitude is rooted in the fact it makes the work much more accessible to me, but more importantly because I think we produce better work because of it.

Elisabeth, who is often in an interviewing and writing mode, also has to reconfigure herself to sense justice in the courtroom. She shares:

It is no longer a fear of social rejection, but rather, that the work I have helped produce will suffer that same rejection. It is a fear of a very particular kind of failure – what if I am called to the stand and go mute? Who will speak for the Report? What if I have some sort of shutdown in court and stop taking in new information? How will I take any notes? What if “they” see me as socially unsound? Will the Report be seen as unsound too?

There are very few spaces I can personally think of where the authority of colonialism and settler norms are more pronounced than in Canadian courtrooms. Accordingly, it is one of the spaces I feel the least safe in. In that way, my mask protects me too. In the space between me and my mask there is sometimes room to breathe.

Rouhullah

Rouhullah Mohammadi is the Projects Liaison, with a workload that includes managing student interns and practicums as well as working with partner agencies and assisting with writing in the documents. As part of his background, Rouhullah has served as a frontline worker

and reflects on sensing justice in the courtroom:

My experience in the courtroom is best described as overwhelming. Prior to my arrival at the courthouse, I already feel stressed, anxious and uneasy. These feelings often do not go away until I am fully aware that I do not have to be present in the courthouse any longer. After navigating these feelings, I make my way to the courthouse. Once I step foot inside, the crowded line of individuals instantly exposes me to a number of different stimuli. Whether it is the unwanted shoulder bumping, various odours, constant speaking or noises, or even the way my shirt feels that day all contribute to sensory overload and even potentially a shutdown. During which, I may seem as if I am presenting normally, but this is not the case, as no information is being stored at all, but rather my body is actively trying to find how to better regulate itself. Once I have made it past the big crowd of people, and officially inside the courtroom itself, a number of other stimuli present themselves that makes it challenging for me to focus on the task at hand. These include but are not limited to: white noise, various conversations, sound of people either moving or getting up from their chair, when a new person walks on, hyperfocusing on the video during video court appearances, and temperature. While I do experience these various stimuli simultaneously, it is easy for me to hyperfocus on one form of stimuli and in doing so, becoming distracted for hours. Adversely, I find that I am also sensory or stimuli seeking at times and it too can be a problem within the courthouse.

At times, I have found myself to be uninterested during court proceedings because of the lack of “exciting,” stimuli within the courtroom. Additionally, because I struggle with patience, I find it very hard to sit still during long periods like court hearings. All of the areas require regulation in some form, some even in more profound ways than others. Ultimately, the experiences I refer to above have been mitigated to the best of my ability with the use of strategies I have implemented into my practice.

I typically use strategies that will not only help me within the courthouse but also before and after. My strategies before court includes but is not limited to: resolve as many uncertainties prior

to the court as you can (time, court location, courtroom number, layout of the inside of the courtroom, client info, lawyer info, etc...), dressing not only appropriately but also comfortably, over preparing or planning to ensure nothing is missed or forgotten, and as well as if possible having another colleague present as a presence of familiarity and certainty.

During the court proceedings themselves, I employ a number of tips in order to better look after my sensory needs. The courtroom often has a number of various noises that often make it really difficult for me to concentrate. What I do to counter this is find a space at the front so that I can minimize as much other noise as possible, and if I am still having trouble, I will close my eyes and turn my ear to the direction of the sound. This not only helps my auditory senses but also my visual senses as it reduces or eliminates visual stimuli. For moments when I am seeking stimulation in the courtroom, I tend to try and take notes as much as I can in order to remain engaged. Aside from this, I will also try to either bring a fidget or make a quick fidget so that I can focus as best I can on the hearing itself. If nothing else works, I will quickly get up, go for a quick walk or stretch and then return.

Once I am finished with court I need to regulate myself back again because of the sensory overload. This could mean many things, but for me I typically debrief with colleagues, go for walks or even go for something to eat. I find that it takes me some time to readjust or regulate back to a state of “normal,” and by engaging in these habits I am able to better look after my own sensory needs.

Michelle

Dr. Michelle Stewart is the Academic Director and has been the project lead since the start of the program in 2019. Michelle serves as a liaison between agencies, funders, students, and staff. Michelle has been involved in each of the submissions, often in writing and supporting roles. Michelle identifies as being neurodiverse and was raised as a settler. Accordingly, Michelle does not take a leadership role in interviews or guiding the narrative of the report. A key role that Michelle has is to “represent” the document in court. In this

sense, Michelle often sits in interviews, actively writing sections of the report. Michelle is involved in editing, appearing in court, and working with lawyers. They reflect on these experiences:

I think coming into a team where I no longer had to apologize for what were perceived to be frustrating characteristics has been a very welcomed change of pace. As a professional, I have been regularly chastised or had my behavior pointed out as being out of order or distracting. I am someone that needs to be able to get up and move around at times. I try to be discrete with this but it can be challenging. The fact that our interviews are done remotely allows me to move around without being distracting for the person that is being interviewed. My key job then, in the interview, is to maintain my attention. To maintain my attention, it is helpful to move at times and at other times to be able to doodle or to let myself focus on an object in the room. If I were to do these things in person, it has been my experience, that some individuals can find this behaviour to appear to be erratic or that it appears that I am not paying attention.

Normative understandings of what it means to pay attention and how that is physically demonstrated undermine our ability to find ways to be actively listening while attending to our own sensory needs. I believe that I am often sensory seeking. In the quiet space of an interview we are often on a Zoom call while Robyn or Elisabeth carefully navigate a discussion that requires someone to share their most intimate and vulnerable of memories and experiences. The space, while filled with discussion, is profoundly quiet for me. There is no music that I can attune to. There are no items that I can fiddle with to make sounds. I have to seek sensory inputs in ways that work for the primary task and participants. In that quiet I can lose attention, start to seek by turning attention away from the document I am working on. I have to put away distractions so that I am not lured away in my attempt to seek sensory input. I have come to realise that I can create the smallest of sounds by playing with my keyboard keys and receive sensory input by running my fingers along the board so that I can stay focused on what is being said and how it is being said all the while, often, appearing to stare off in space.

When I walk into court, I feel that I cannot reveal these parts of myself. I walk into court representing the report which means that I am not only wearing clothes that often do not fit with my sensory need (tags that are itchy drag my energy and increase my irritability) as well as space in which the full spectacle of colonialism is on display as we attempt to offer a small intervention. In court, I am aware of how I look, walk, speak and sit. I try to sit away from others so that if I need to doodle, it does not appear that I am making light of the work at hand. I find a place to stare off that can always look contemplative versus disengaged. I need to write but my sensory needs and my neurodiversity collide in this moment and I end up trying to take notes on everything (to keep my hand busy while also not editing what is needed to be captured and what can be left unwritten). Keeping my hands busy allows me to think on multiple registers. My notes will not only capture what is happening in court and how it feels but also a list of court decisions that are being spoken to that could have future implications. My notes will have notes within notes to remind myself other projects that I am working on or issues to follow-up with as it relates to other reports. Ideas connect in ways that might appear tangential but are inherently connected in my mind and allow me to recall and take action on multiple items concurrently. My hand stays moving and I am able to respond in real-time if an issue comes in court that needs attention (addressing the court if there is a misunderstanding of content) or speaking to individuals who might be in court on other matters and noting the need for follow-up on their files. The pen stays moving with notes, reminders, columns, notes to self, and doodles.

The net result is often an exhausted hand and, at times, incomprehensible notes. So I try to text someone right after court so the key take away is addressed: how was the report received and what was the sentencing outcome. Books upon books are filled with sensory snapshots of these courtroom moments and reminders of items for follow-up.

On Masking and Unmasking

Taken together, Robyn, Elisabeth, and Rouhullah each occupy unique social locations within the work that they do and how they sense justice accordingly. Elisabeth and Rouhullah both also note the role of “masking” and “unmasking” in different spaces. Robyn shares where masking and colonialism collide:

Masking is not a term that I use to describe my attempts / successes with normative performance. This is a relatively new term for me to use in reference to myself and I haven't yet been able to identify all the ways in which I'm masking for normative neurotypical reasons and where I'm performing “professionalism” amidst structural racism and colonial expectations. I find both to be exhausting.

Elisabeth expands on the role of masking, perception, and colonialism:

When I'm interviewing I cannot hide my neurodivergence. When I am writing I cannot hide my neurodivergence. My energy has to be focused on the person sharing their story or on whatever I am writing for the court. I cannot be focused on hiding my ticks or stims. Very often I get up from my chair, pace the room, rock back and forth, flap my hands, hit my legs with the bottoms of my palms, fidget with objects on my desk, scratch my skin with paperclips (without hurting myself), and sometimes bite on my fingers. To the majority of people, I could look erratic and upset. But this is just my nervous system focusing itself on the story. These inputs help me take in the relevant information.

My mask protects my work. The person who produces the submissions for the court would not be safe in that same court. The characteristics that make me effective and efficient at mitigating (even marginally) the violence of the settler-colonial justice system for others, through Gladue, are the same characteristics that put me at the most risk.

The majority of the work I do appeals intrinsically to my neurotype. The way my brain works is an asset, rather than a hindrance. When I am writing there is no mask. There is no need to

live in translation. It is even good to be rigidly attentive to accuracy and concrete in how we approach things. My cognitive load can be consumed by the production of something of quality and meaning – rather than consumed by a social algorithm that rarely serves a purpose other than survival in normative spaces.

Most of the people who have my disability struggle with employment. Many people who have my disability struggle with communication. Many are non-verbal and many do not read or write. I hold them close to me every time I find myself in court or deep in the weeds with a report. I recognize regularly how much it means for me to hold my space in the work I do, no matter how challenging that may be.

When I am asked to sit in court to represent the document, I will sometimes hear judges or lawyers lauding the quality of our submissions. There is certainly a part of me that finds relief in that reception. There is also another part of me that twists herself into knots. The mask is heavy. I am always afraid of it slipping, of being “found out.”

Michelle speaks about the intimacies and rupture that surround sharing spaces with one another:

A profound experience for me has been, to be honest, about what I need in a space and then to sit in space with one another as we do our work together. In an interview room, I will be sitting with Robyn or Elisabeth. In this space they are conducting a complex interview and I am attempting to outline key characteristics of the story shared. In this space, as masks come off or are pulled to the side, I see colleagues facilitate an intimate conversation in which they develop enough rapport and balance timing in such a way that they can ask about experiences of historic and intergenerational trauma, ask about experiences of neglect, abuse and assault, and experiences of systemic racism. While they attune their voice, pace, and tone to the needs of the person they are speaking to I will see them tracing out an ephemeral tattoo or engaged in somatic responses to their invisible guest.

Rouhullah notes that masking as a strategy can also come with misperceptions:

I find that masking is the only way that I am able to do my job effectively, however it also comes with a cost. When I have to constantly mask without the ability to take a break, I find that I am absolutely drained by the end of the day. Not only that, but also the fact that people typically recognize me as a cheerful individual that never has a bad day. That is not accurate, I do have bad days, and masking on these days specifically becomes even more draining. It is also draining to have to conform to every space you enter because the space is not neurodivergent friendly, or it does not feel safe to unmask. I also will mask my ADHD because in the past, when I have told people I am neurodivergent, people would often view it from a deficiency perspective and as well as undermine the quality of work I provide. Also, I find that because I am fearful of the mask slipping, I am always nervous about making mistakes and often will ask a lot of questions for clarification because of this.

I find that when I unmask, it is the most authentic version of me that is out there. It was not until I began exploring my neurodivergent brain within my current employment structure that I got to explore the strengths and areas that I required support in. Also, I find that when I do not have to hide my ADHD characteristics anymore, I feel a great sense of relief, or that a bunch of pressure has been taken off my plate. Unmasking makes the fear of making mistakes dissipate which as a result reduces my anxiety as well.

Discussion

In working on this article, and reflecting on our collective work together, we can see the extent to which social location and neurodiversity/neurodivergence deeply contextualize the work of the team. Stripping race, ability, gender, and class from the work is not possible. Moreover, the role of neurodiversity/neurodivergence enhances and directly informs our capacity to work and to support one another. Within the space of supporting one another, we are able to potentially recognize the role of depletion. When considering the masking, unmasking, and the sensory challenges of the work at hand, depletion is part of this shared story – depletion, and how much concerted effort must be used to build each other up to best support one another in our

work and our lives. Understanding depletion helps us better understand the complexity of the labour we do individually and collectively. Within the specificities of our social location, we each conduct a different type of labour, especially when we consider the compounding impacts of the multiple forms of subjugation some members experience.

Thinking about other themes in this work, we also identify the ways in which settler colonialism and ableism are intertwined. Settler colonialism operates with the imperative of displacement. The most current articulation of that displacement is the mass incarceration of Indigenous youth and adults. At the national level, the Federal Correctional Investigator of Canada, a watchdog that oversees individuals who are incarcerated for 2+ years in federal prisons, noted over-incarceration for Indigenous individuals has steadily increased, despite calls for justice reform including the Truth and Reconciliation Commission (Office of the Correctional Investigator, 2020). The Investigator noted that “tweaks around the edges of the system simply won’t cut it” (Office of the Correctional Investigator, 2020, para. 8). A press release argued:

On this trajectory, the pace is now set for Indigenous people to comprise 33% of the total federal in-mate population in the next three years. Over the longer term, and for the better part of three decades now, despite findings of Royal Commissions and National Inquiries, intervention of the courts, promises and commitments of previous and current political leaders, no government of any stripe has managed to reverse the trend of Indigenous over-representation in Canadian jails and prisons. The Indigenousization of Canada’s prison population is nothing short of a national travesty (Office of the Correctional Investigator, 2020).

The Ministry of Corrections, Policing and Public Safety in Saskatchewan provided a “one day snapshot” of incarcerated individuals in Saskatchewan that indicated 77% of those incarcerated were Indigenous, 41% of which were on remand (James, 2022).

It should also be noted that the over-incarceration of Indigenous boys and girls in Saskatchewan continues to steadily increase, such that in 2006, 70% of the male youth in correctional services were Indige-

nous and 86% of female youth were Indigenous (Prail, 2018). “A decade later, those numbers skyrocketed to 92% for boys and 98% for girls, a dramatic over-representation of the roughly 16% of the province that identifies as Indigenous” (Prail, 2018). While these statistics are from 2018, there is no indication that the numbers are coming down; there is no reason to believe they will as the structural issues surrounding settler colonialism have not changed.

Our Gladue writing team project seeks to mitigate these impacts by writing specialized court reports that are meant to counter the symptoms of settler colonialism itself – namely racialized policing and justice practices that result in the over-representation of Indigenous peoples in Canadian jails and prisons. Concurrently, many of the Indigenous individuals that we write reports for, themselves, identify as having disabilities. In the absence of court reports that speak to the impacts of colonialism and ableism, these key contexts are often not discussed in court. The language of a Gladue writing team can facilitate such discussions and, as a result of our reports, it is not uncommon to have judges and lawyers alike speaking about the impacts of colonialism and disability. However, these discussions in court may or may not result in an impact on sentencing. While we see the importance of the discussion, we nevertheless must also recognize this inherent contradiction.

The members of this team are actively aware of the masks they must wear if they are going to “fit in” in court. Behaviour on the part of the workers and those that represent court are responses to the perceived social algorithm of court. We are always aware that our behaviour in court, when representing the report, is effectively an *extension* of the report. As such, when our sensory profiles collide with court room settings, we must find strategies and adjust to the sense(s) of justice. To do otherwise makes each of us, and the report and individual, vulnerable.

While this article discusses the role of social location and neurodiversity/neurodivergence, the primary context of this work is settler colonialism. Theorists of settler colonialism often note that this form of colonialism “invasion is a structure not an event” (Wolfe, 2006). We would expand this to say that it is multiple structures. In this article, settler colonialism – and its aspirations of displacement – are facili-

tated by the structural violence of ableism. By this, we mean that those with disabilities who are also Indigenous are understood to be less than or less worthy. Court documents can actively erase the impacts of colonialism under the actuarial language of risk and recidivism. To counter these arguments, and by extension challenge ableism in the settler state, we write reports that use the language of colonialism.

Conclusion

This article is inspired by the concept of sensing justice by exploring the social location of a neurodiverse/neurodivergent team writing specialized court reports in Canada called Gladue Reports. We offer a unique perspective as each writer shares their own sensory experiences and how they attend to their sensory profile while preparing for the work at hand. This work includes intakes, interviews, writing, editing, and representing the reports in court.

This article focused on the professional who is writing specialized court reports to offer insights into the role of the senses as the reader moved between different sensory spaces and tasks, including interviewing, writing, and representing a court report. The team that shared their insights is comprised of BIPOC and settler staff, all of whom identify as being neurodiverse/neurodivergent. Prioritizing this perspective is meant to offer insight into the role of the senses in creating justice objects (like court reports) and the impacts of that work on the workers themselves. This project provides court reports to Indigenous individuals at no cost to the individual. The writers share at least one social location with whom they are writing about. Therefore, the role of social location and neurodiversity/neurodivergence deeply contextualizes this work and how the team operates alongside the impacts of doing the job and the outcomes of the work accordingly.

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